

64th Annual Southern Weights and Measures Association Conference October 4 – 7, 2009

Final Report of the Laws and Regulations Committee

Joe Benavides, Chairman
Austin, TX

Reference
Key Number

200 INTRODUCTION

The Laws and Regulations (L&R) Committee submits its final report of the 64th Annual Southern Weights and Measures Association (SWMA) Association Conference. The report consists of the L&R Committee Agenda and this Addendum. Page numbers in tables below refer to pages in the Agenda.

All voting items presented to the general membership were approved and are presented as recommendations of the SWMA for consideration by the National Conference on Weights and Measures at its Interim meeting scheduled for January 24-27, 2010 in Nashville, TN.

This report contains recommendations to amend National Institute of Standards and Technology (NIST) Handbook 130, 2009 Edition with 2010 amendment, "Uniform Laws and Regulations," or NIST Handbook 133, "Checking the Net Contents of Packaged Goods," Fourth Edition (January 2005). Proposed revisions to the handbook(s) are shown in **bold face print** by ~~striking out~~ information to be deleted and underlining information to be added. New items proposed for the handbooks are designated as such and shown in **bold face print**. Text presented for information only is shown in *italic* print. When used in this report, the term "weight" means "mass."

Note: The policy of NIST is to use metric units of measurement in all of its publications; however, recommendations received by the NCWM technical committees have been printed in this publication as they were submitted and, therefore, some may contain only reference to inch-pound units.

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232 METHOD OF SALE REGULATION

232-1 V Method of Sale for Fireplace and Stove Wood, Flavoring Chips and Packaged Natural Wood

Discussion: An industry representative commented that there are two legal units of measurement but only one unit is being proposed. Clearly more work is needed on this item.

Committee Recommendation: The Committee recommends moving this forward as a Voting item to the NCWM L&R Committee.

260 NIST HANDBOOK 133

260-1 V Guidance on Allowing for Moisture Loss and Other Revisions

Discussion: No discussion was heard at the open hearings on this item.

Committee Recommendation: The Committee recommends moving this forward as a Voting item to the NCWM L&R Committee.

270 OTHER ITEMS – DEVELOPING ITEMS

270-1 D Amend Section 2.2.1. in Handbook 130, Uniform Engine Fuels Regulation – Premium Diesel Lubricity

Discussion: No discussion was heard at the open hearings.

Committee Recommendation: Committee recommends keeping this as a Developing item.

270-2 D Fuels and Lubricants Subcommittee (FALS)

Discussion: No discussion was heard at the open hearings.

Committee Recommendation: Committee recommends keeping this as a Developing item.

270-3 V Pelletized Ice Cream

Discussion: No discussion was heard at the open hearings.

Committee Recommendation: The Committee recommends moving this item forward to the NCWM L&R Committee Agenda as a Voting item.

270-4 V Method of Sale and Engine Fuel Quality Requirements for Hydrogen

Source: Western Weights and Measures Association (WWMA)

Discussion: Randy Jennings recommended that as the test methods are developed, that they do get published. Randy would also like to see documentation on the effects of hydrogen if they exceed certain property values printed in the table “Hydrogen Fuel Quality Specification”, and why this is important in the testing of hydrogen.

Committee Recommendation: The Committee recommends moving this item forward to the NCWM L&R Committee Agenda as a Voting item.

Proposal 1: V NCWM Form 15: Uniform Regulation for Method of Sale of Commodities: Packaged Printer Ink and Toner Cartridges.

Discussion: Over the past several years there has been a change in the marketplace on inkjet and toner cartridges net content statements. Currently there is little uniformity in the marketplace on this item and we are seeing some labels with a net content or with only a page yield count (ex. prints 1000 pages). The NIST WMD follows guidelines printed in HB130 from the Weights and Measures Law, Section 19 “information required on packages” that these products are required to have the net contents of the ink (and toner) labeled, but manufacturers have resisted, claiming an exemption under the Fair Packaging and Labeling Act. The purpose of this proposal is to specifically clarify the requirements for industry, consumers and weights and measures officials.

A Lexmark representative commented that they do not believe that a net content statement should be required, and that a page yield is sufficient. He read the main points of a letter from Lexmark to Max Gray, dated March 17, 2009. The main points within the letter were: The ink associated with a cartridge is a small fraction of the total cost of the print cartridge mechanism; a page yield can provide a meaningful comparison to a consumer if all manufacturers employ the same estimating assumptions and techniques; ISO studied this issue for years and has rejected reliance on ink volume or quantity, instead ISO has develop a yield estimating and claiming methodology that permits cartridges to be compared using a consistent yardstick. Unlike ink volume measurements, page yield measurements provide a consumer with a reliable way to compare the amount of printing that can be expected. Lexmark also stated that ink is expressly exempt from labeling as provided by the U.S. Fair Packaging and Labeling Act (FPLA) 16 CFR 503.2(a).

An industry representative feels this issue does need to be discussed and reviewed further. Ink jet cartridges are expensive and consumers should know what they are getting. If it is determined that page count would be the identity, then the page print standard should be reviewed and have tighter standards.

Max Gray feels that more data is needed from manufacturers on this issue. Max’s submittal of this proposal is to specifically clarify the requirements for the industry, consumers and weights and measures officials.

Committee Recommendation: The Committee recommends moving this item forward with the language written below to the NCWM L&R Committee Agenda as a Voting item.

2.XX Printer Ink and Toner Cartridges.**2.XX.1 Definitions**

2.XX.1.1. Printer ink cartridges - Any cartridge or module that contains ink or a similar substance in liquid form employed in the printing of documents, papers, pictures, etc., that is used in a printing device and designed to be replaced when no longer able to supply its contents in printing.

2.XX.1.2. Toner cartridges – Any cartridge or module that contains toner, powder, or similar non-liquid substance employed in the copying or printing of documents, papers, pictures, etc. that is used in a copying device and designed to be replaced when no longer able to supply its contents in printing and/or copying.

2.XX.2. Method of Sale and Labeling

2.XX.2.1. Method of sale, printer ink cartridges. – All printer ink cartridges kept, offered, or exposed for sale or sold shall be sold in terms of the count of such cartridges and the fluid volume of ink in each cartridge stated in terms of milliliters or fluid ounces.

2.XX.2.2. Method of Sale, toner cartridges. – All toner cartridges kept, offered, or exposed for sale or sold shall be sold in terms of the count of such cartridges and the net weight of toner substance

Proposal 2: V NCWM Form 15: Amend Section 3.15 Biodiesel and Biodiesel Blends of the Engine Fuels and Automotive Lubricants Regulation.

Discussion: Biodiesel is blended at terminals in concentrations up to 5 %. There is an issue of over blending because marketers were not aware that any percentage of biodiesel was in the fuel. This amended proposal will remove the exemption declaration of biodiesel content on product transfer documents for biodiesel blends up to 5 %. Randy Jennings felt it was important to start this recommendation and have the FALS Chairperson vet the proposal out to all members of the FALS committee and for their comments before the NCWM Interim meeting in January 2010.

Committee Recommendation: The Committee recommends moving this item forward to the NCWM L&R Committee Agenda as a Voting item.

Proposal 3: D NCWM Form 15: HB 133 - Method of Measurement of the Volume of Bagged Mulch.

Discussion: Mr. Tomlinson from Amerigrow was unable to attend the SWMA. Max Gray briefed the conference on this proposal. Some issues with mulch is this type of product suffers from decomposition and desiccation and turns to dirt as it ages. However; no lot number or expiration date is being placed onto bags. Amerigrow recommends adding languages within HB133 stating that the purchase date of the product needs to be proven so that reasonable adjustments can be made to reflect the decomposition since the “purchase date”. Issue two, states that it is easy to tamper with the bags (open and reseal). In order to resolve issue two Amerigrow recommends a chain of custody beginning with the purchase date in order to determine the age of the mulch and the conditions in which it was stored. Issue three is that bags of mulch with different grind can produce different fill rates when measured in the measuring box specified in HB 133 table 3-4. Finer mulch does not benefit from rolling the bags and fluffing the mulch. Amerigrow has provided the SWMA with new specifications for the measuring box.

Committee Recommendation: Move forward as a Developmental item to the NCWM L&R Committee. This Committee would like industry to be notified on this proposal and seeks additional information and comments.

Proposal 4: V NCWM Form 15: HB 130 Amend Method of Sale for Section 2.23 – Animal Bedding.

Discussion: Currently this product is sold by volume at the retail level. This proposal addresses concerns of the sale of animal bedding consisting of granular, pelletized and other non-compressible, dry laboratory animal bedding materials sold to commercial (non-retail) end users. The correct maximum moisture content is 10 % or less.

Committee Recommendation: The Committee recommends moving this item forward to the NCWM L&R Committee Agenda as a Voting item.

Proposal 5: V NCWM Form 15: HB 133 - National Pasta Association: Amend to incorporate moisture allowance for pasta products.

Discussion: The committee feels that the data submitted by a representative from the National Pasta association was well established to incorporate a 3 % moisture allowance.

The Committee Recommendation: The Committee recommends moving this forward as a Voting item to the NCWM L&R Committee.

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Laws and Regulations Committee