

Dear Senators HARTGEN, Nichols, Semmelroth, and
Representatives ANDRUS, Raymond, Mathias:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Department of Agriculture:

IDAPA 02.02.14 - Rules for Weights and Measures - Proposed Rule (Docket No. 02-0214-2401).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 11/18/2024. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 12/16/2024.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Terri Kondoff
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Agricultural Affairs Committee and the House Agricultural Affairs Committee

FROM: Legislative Drafter - Alli Olson

DATE: October 30, 2024

SUBJECT: Department of Agriculture

IDAPA 02.02.14 - Rules for Weights and Measures - Proposed Rule (Docket No. 02-0214-2401)

Summary and Stated Reasons for the Rule

The Idaho Department of Agriculture submits notice of proposed rulemaking for the Rules for Weights and Measures, IDAPA 02.02.14. The Department states that the proposed rule updates the publication date to 2024 for the National Institute of Standards and Technology, Handbook No. 44, which is incorporated by reference at section 004.01. The proposed changes also appear to consolidate two sections into one, which reflects Section 37-2506, Idaho Code, and is in accordance with the Governor's Zero-Based Rulemaking initiative.

Negotiated Rulemaking / Fiscal Impact

The Department states that negotiated rulemaking was not conducted because the changes are to the publication dates of documents that were already incorporated into the rules. The Department also states that there are no fees associated with this rulemaking and that there is no fiscal impact to the General Fund.

Statutory Authority

The Department of Agriculture appears to have the authority to promulgate this rule pursuant to Section 69-231, Idaho Code.

cc: Department of Agriculture
Lloyd Knight

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

Paul Headlee, Deputy Director Matt Drake, Manager Keith Bybee, Manager April Renfro, Manager Norma Clark, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

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INCORPORATION BY REFERENCE SYNOPSIS

In compliance with Section 67-5223(4), Idaho Code, the following is a synopsis of the differences between the materials previously incorporated by reference in this rule that are currently of full force and effect and newly revised or amended versions of these same materials that are being proposed for incorporation by reference under this rulemaking.

The following agency of the state of Idaho has prepared this synopsis as part of the proposed rulemaking for the chapter cited here under the docket number specified:

***Idaho State Department of Agriculture
IDAPA 02.02.14 - Rules for Weights and Measures.
Proposed Rulemaking - Docket No. 02-0214-2401***

Incorporating by reference the National Institute of Standards and Technology (NIST) Handbook 44, Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices is more practical and cost effective than reproducing similar specifications in Rule. The NIST Handbook 44 is a nationally recognized standard used by weights and measures officials to test suitability and accuracy of weighing and measuring devices used in commerce. This document is also used by manufactures of weighing and measuring devices, service entities and users of weighing and measuring devices. Adopting the most current version promotes uniformity throughout the United States. The 2024 edition can be found online at the following link; <https://www.nist.gov/publications/specifications-tolerances-and-other-technical-requirements-weighing-and-measuring-15>

Listed below is an overview of changes to the 2024 edition of NIST Handbook 44 Incorporation by Reference by ISDA Weights and Measures. A brief summary follows each change, or group of related changes.

2023 Amendments

Section	Code	S&T Item No.	Paragraph	Action	Page
1.10.	General	B4: GEN-21.2	G-S.5.6. Recorded Representations.	Amended	1-8
		GEN-23.1	G-N.3. Test Methods.	Amended	1-11
		B8: GEN-19.1	G-T.5. Tolerances on Tests When Type 2 Transfer Standards Are Used.	Added	1-11
2.20.	Scales	SCL-22.1	S.1.15. Recorded Representations, Multi-Independent Platform Vehicle Scale Systems.	Added	2-15
		SCL-23.2	Table S.6.3.b. Notes for Table S.6.3.a. Marking Requirements Note 28. Weigh-in-Motion Vehicle Scales; Vehicle Restriction	Added	2-24
3.30.	Liquid-Measuring Devices	B4: LMD-21.2	S.1.6.5.6.(d) Display of Quantity of Total Price, Aviation Refueling Applications	Amended	3-10
			S.1.6.7. Recorded Representations.	Amended	3-11
			S.1.6.8. Recorded Representations for Transactions Where a Post-Delivery Discounts(s) is Provided.	Amended	3-11
		LMD-23.2	N.3.5. Wholesale Devices	Amended (Adopted language moved to new paragraph N.3.5.1. by LMD-23.4)	3-17
		LMD-23.4	N.3.5. Wholesale Devices	Amended	3-17
		B1: LMD-23.1	N.3.5.3. Field Standard Meter Test.	Added	3-18
		B4: LMD-21.2	UR.3.3.(b)(1) Computing Device	Amended	3-23
		B4: LMD-21.2	UR.3.4. Recorded Representations.	Amended	3-24
3.31.	Vehicle-Tank Meters	B4: VTM-21.1	S.1.1.1. General.	Amended	3-31
			S.1.1.1. General; Note	Deleted	3-31
			S.1.4.2. Recorded Representation.	Amended	3-33

		VTM-18.1	S.3.1.(b)(2) Diversion of Measured Liquid.	Amended	3-36
			S.3.1.1.(f),(g) Means for Clearing the Discharge Hose, Multi-Product, Single Product, Single-Discharge Hose Metering Systems	Amended	3-36
		B5: VTM-23.2	N.3. Test Drafts.	Amended	3-39
		B1: VTM-23.1	N.3.1. Field Standard Meter Test.	Added	3-39
		B4: VTM-21.1	UR.2.2. Recording Element.	Amended	3-42
		VTM-18.1	UR.2.6.1. Clearing the Discharge Hose, General	Added	3-43
			UR.2.6.2. Minimizing Cross Contamination.	Added	3-43
			UR.2.6.3. Records	Renumbered from UR.2.6.1.	3-43
		3.32.	Liquefied Petroleum Gas and Anhydrous Ammonia Liquid-Measuring Devices	B4: LPG-21.1	S.1.1.1. General, Note
S.1.1.6. Recorded Representation	Amended				3-51
	S.1.5.5. Recorded Representations for Transactions Where a Post-Delivery Discount(s) is Provided.			Amended	3-54
LPG-23.2	S.2.6.1. Electronic Stationary (Other than Stationary Retail Motor-Fuel Dispensers).			Amended	3-54
	S.2.6.3. Electronic Vehicle-Mounted Meters.			Added	3-54
LPG-15.1	N.3.1. Minimum Test.			Amended	3-56
	N.3.2. Field Standard Meter Test.			Added	3-56
B4: LPG-21.1	UR.2.6. Recorded Representation			Amended	3-59
	UR.2.7.2.(b)(1) Computing Device.			Amended	3-60
3.34	Cryogenic Liquid-Measuring Devices	B4: CLM-21.1	S.1.4.1. Recorded Representation	Amended	3-79
		B7: CLM-22.1	T.3. On Tests Using Type 2 Transfer Standards	Amended	3-84

		B4: CLM-21.1	UR.2.6.2. Recorded Representation Based on Automatic Compensator Readings	Amended	3-86
			UR.2.6.3. Recorded Representation for Computing Devices	Amended	3-86
3.35.	Milk Meters	B4: MLK-21.1	S.1.4.2. Recorded Representation	Amended	3-91
		B1: MLK-23.1	N.3.1. Test Drafts.	Amended	3-93
			N.3.2. Field Standard Meter Test.	Added	3-94
		B4: MLK-21.1	UR2.2. Recorded Representation	Amended	3-95
3.37.	Mass Flow Meters	B4: MFM-21.2	S.6.(b), (c), (e), and (f) Recording Element	Amended	3-117
			S.6.1. Recorded Representation	Amended	3-117
		MFM-15.1	N.3.1. Minimum Test.	Amended	3-117
			N.3.2. Field Standard Meter Test.	Added	3-117
		B4: MFM-21.2	UR.3.3. Recorded Representation, Vehicle-Mounted Measuring Systems	Amended	3-121
			UR.3.4. Recorded Representation for Computing Devices	Amended	3-121
3.38.	Carbon Dioxide Liquid-Measuring Devices	B4: CDL-21.1	S.1.4.1. Recorded Representation.	Amended	3-127
			UR.2.4.2. Recorded Representation.	Amended	3-137
		B7: CDL-22.1	T.3. On Tests Using Type 2 Transfer Standards.	Amended	3-136
3.39.	Hydrogen Gas-Measuring Devices	B4: HGM-21.1	S.2.6. Recorded Representations, Point of Sale Systems	Amended	3-143
			S.6. Recording Element	Amended	3-146
			S.6.1. Recorded Representation.	Amended	3-146
		B7: HGH-22.1	T.4. Tolerance Application on Tests Using Type 2 Transfer Standard Test Method.	Amended	3-148

		B4: HGM-21.1	UR.3.2. Vehicle-Mounted Measuring Systems Recording Element	Amended	3-150
			UR.3.2.1. Recording Element	Amended	3-150
			UR.3.3. Recorded Representation.	Amended	3-150
3.40.	Electric Vehicle Fueling Systems	EVF-23.1	S.2.5.1. Money-Value Division Digital	Amended	3-155
			S.5.2.(b) EVSE Identification and Marking Information; maximum current deliverable	Amended	3-159
			S.5.3.(d) Abbreviations and Symbols; joule	Amended	3-159
			S.8. Minimum Measured Quantity (MMQ)	Amended	3-160
			N.1. No Load Test	Deleted	3-160
			N.2. Starting Load Test	Deleted	3-160
			T.5. No Load Test	Deleted	3-161
			T.6. Starting Load	Deleted	3-161
5.56.(a)	Grain Moisture Meters	GMA-23.1	N.1.3. Meter to Like-Type Meter Method Transfer Standards.	Amended	5-55
			T.2.2. Note	Added	5-56
Appendix A.	Fundamental Considerations	B8: OTH-22.1	3.1.1. Essential Elements of Traceability	Added	A-4
			3.1.2. Specifications for Standards.	Added	A-5
			3.1.3. Authority for Approving Field Test Standards and/or Equipment	Added	A-5
			3.2. Tolerances for Standards.	Amended	A-5
			3.3. Accuracy of Field Standards	Amended	A-6
			Footnote 2; Recommendation for Suitable Field Standards	Deleted	A-6

		B8: GEN-19.1	field standard	Added	D-15
	Definitions	EVF-23.1	megajoule (MJ)	Deleted	D-20

Appendix D.	B4: OTH-21.2	recorded representation.	Amended	D-27
		recording element.	Amended	D-27
	B8: GEN-19.1	standard, transfer, Type 1 and Type 2	Added	D-30

2023 Editorial Changes

Section	Code	Paragraph	Action	Page
Introduction		A. Source	Updated NCWM street address and zip code	1
		Form 15	updated	4
1.10	User Requirements	U.R.3.4.	Recorded Representations.	1-13
2.23	Weights	N.1. Testing Procedures	Updated text because of a modification to the title of Appendix A, Fundamental Considerations' paragraph 3.3. Accuracy of Field Standards as a result of the adoption of B8: OTH-22.1.	2-94
3.30	Specifications	S.1.6.7. Recorded Representation	In 2018, subparagraph (e) <i>the dispenser designation by either an alphabetical or numerical description.</i> ** **[Nonretroactive as of January 1, 2021] was adopted and appeared in HB44 (2019). In error, it did not appear in HB44 editions 2019 and 2021.	3-11
		S.1.6.8. Recorded Representations for Transactions Where a Post-Delivery Discount(s) is Provided	In 2018, subparagraph (e) <i>the dispenser designation by either an alphabetical or numerical description.</i> [Nonretroactive as of January 1, 2021] was adopted and appeared in HB44 (2019). In error, it did not appear in HB44 editions 2019 and 2021.	3-11
		N.4.1. Normal Tests.	For clarity added a formula <u>As a formula, this is stated as:</u> $\frac{MDFR + RMDFR}{2}$ <u>= minimum discharge flow rate for additional tests</u>	3-18
3.31	Specifications	S.1.1.1. General	Note: Vehicle-mounted metering systems shall be equipped with a primary recording element as required by paragraph UR.2.6. <u>Recorded Representations.</u>	3-31
3.34	User Requirements	UR.2.5. Conversion Factors	All sales of cryogenics shall be based on either kilograms or pounds, liters or gallons of liquid at <u>Normal Boiling Point (NBP)</u> , cubic meters of gas	3-85

			or cubic feet of gas at Normal Temperature and Pressure (NTP) .	
3.35	Specifications	S.1.4.2.	Recorded Representations.	3-91
	User Requirements	UR.2.2.	Recorded Representations. – Any recorded representation created issued by a device of the computing type which includes the total computed price, the total quantity, or the price per unit of quantity, shall also include the other two values and shall comply with G-S.5.6. Recorded Representations.	3-95

Section	Code	Paragraph	Action	Page
3.37	Specifications	S.6.1.	Recorded Representations.	3-117
	User Requirements	UR.3.4.	Recorded Representations.	3-121
3.38	User Requirements	UR.2.4.3.	Recorded Representations.	3-137
3.39	Specifications	S.6.1.	Recorded Representations.	3-146
5.56.(a)		Note below the title.	Section 5.56. was reorganized into two sections beginning with the 1997 Edition of NIST Handbook 44. This Section, 5.56.(a), applies to all NTEP grain moisture meters. It also applies to any grain moisture meter manufactured or placed into service on or after January 1, 1998.	5-49
Appendix D	Definitions	recorded representation	recorded representation, EVSE . – The printed, electronically recorded, or other representation that retains a copy of the quantity and any other required information generated by a weighing or measuring device. [3.40]	D-28
		recording element	recording element, EVSE . – An element incorporated, connected to, or associated with a weighing or measuring device by means of which its performance relative to quantity or money value is permanently recorded in a printed or electronic form. [3.40]	D-28

End of Document

IDAPA 02 – IDAHO STATE DEPARTMENT OF AGRICULTURE

02.02.14 – RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-2401

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 71-111, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2024.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule updates the publication date for the document Incorporated by Reference at Section 004.01. The publication edition is updated to 2024 for the National Institute of Standards and Technology, Handbook No. 44. This handbook contains the specifications, tolerances, and other technical requirements for commercial weighing and measuring devices.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:
There is no change in fee or charge

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:
There is no fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000).

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because these changes are to the publication dates of documents that were already incorporated into these rules.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The referenced NIST Handbook 44 has been updated to the 2024 edition.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The following sections of the rule are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

This rule regulates an activity that is not regulated by the federal government; therefore the entire rule is broader in scope or more stringent than federal law.

The detailed 22-101A analysis can be found on the agency's website at www.agri.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lloyd Knight at lloyd.knight@isda.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2024.

DATED this 2nd day of October, 2024.

Lloyd Knight
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8615
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0214-2401
(Only Those Sections With Amendments Are Shown.)

02.02.14 – RULES FOR WEIGHTS AND MEASURES

004. INCORPORATION BY REFERENCE.

01. Required Reference Materials. The 2023~~4~~ edition of Handbook No. 44 of the National Institute of Standards and Technology, United States Department of Commerce, “Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices,” hereby incorporated by reference, is the specifications, tolerances and other technical requirements for commercial weighing and measuring devices, unless otherwise stated in these rules. (7-1-24)()

02. Required Reference Materials for Checking Prepackaged Commodities. The 2020 edition of Handbook No. 133 of the National Institute of Standards and Technology, United States Department of Commerce, “Checking the Net Contents of Packaged Goods,” hereby incorporated by reference, is the authority in checking packaged commodities, unless otherwise stated in these rules. (3-15-22)

~~**03. Specifications for Diesel Fuel and Biodiesel Fuel.** American Society of Testing and Materials (ASTM) D975-20e, “Standard Specification for Diesel Fuel Oils,” and ASTM D6751-20a, “Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels,” intended for blending with diesel fuel are hereby incorporated by reference and are the specifications for diesel fuel and biodiesel fuel blend stock (B100 biodiesel). (3-15-22)~~

~~**04. Specifications for Gasoline.** American Society of Testing and Materials (ASTM) D4814-21, “Standard Specification for Automotive Spark Ignition Engine Fuel”, dated November 15, 2016, is hereby incorporated by reference and is the specification for gasoline. (3-15-22)~~

05. Local Availability. Copies of the incorporated documents are on file with the Idaho State Department of Agriculture, 2216 Kellogg Lane, Boise, Idaho 83712. Copies of NIST documents may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies are available for downloading at <https://www.nist.gov/pml/weights-and-measures/publications> <https://www.nist.gov/publications/specifications-tolerances-and-other-technical-requirements-weighing-and-measuring-15>. Copies of ASTM specifications are on file with the Idaho State Department of Agriculture or may be purchased from <http://www.astm.org>, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA, 19428. (3-15-22)()

~~**06. Three Year Tier Fee Table.** Copy may be found online at <https://agri.idaho.gov/main/i-need-to-see-lawsrules/ag-inspections-law-and-rules>. (3-15-22)~~

005. DIESEL, BIODIESEL, AND GASOLINE STANDARDS.

Per Section 37-2506, Idaho Code, the latest specifications adopted by the American Society for Testing and Materials is the required standard for all diesel, biodiesel, and gasoline fuels. The standards can be accessed at <https://www.astm.org/products-services/standards-and-publications/standards/petroleum-standards.html>. ()

0056. -- 009. (RESERVED)