

Dear Senators RICE, Den Hartog, Jordan, and
Representatives BOYLE, Dayley, Erpelding:

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

IDAPA 02.02.14 - Rules for Weights and Measures - Proposed Rule (Docket No. 02-0214-1801).

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 06/29/2018. 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 07/30/2018.

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 334-4834, or send a written request to the address on the
memorandum attached below.



Eric Milstead
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: Deputy Division Manager - Katharine Gerrity

DATE: June 12, 2018

SUBJECT: Idaho State Department of Agriculture

IDAPA 02.02.14 - Rules for Weights and Measures - Proposed Rule (Docket No. 02-0214-1801)

The Idaho State Department of Agriculture submits notice of proposed rule at IDAPA 02.02.14 - Rules for Weights and Measures. According to the department, the purpose of the rule is to incorporate by reference the 2019 edition of the National Institute of Standard and Technology Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices" as well as the 2019 edition of the National Institute of Standard and Technology Handbook 133, "Checking the Net Contents of Packaged Goods." The department notes that negotiated rulemaking was not conducted due to the simple nature of the proposed changes. The rulemaking appears to be authorized pursuant to Section 71-111, Idaho Code.

cc: Department of Agriculture
Brian J. Oakey

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.02.14 – RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-1801

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 Section 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 June 20, 2018.

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:

To incorporate by reference the 2019 edition of the National Institute of Standards and Technology Handbook 44, Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices. And, to incorporate by reference the 2019 edition of the National Institute of Standards and Technology Handbook 133, Checking the Net Contents of Packaged Goods. NIST documents are available online at <https://www.nist.gov/pml/weights-and-measures/publications>.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

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: IDSA does not anticipate any fiscal impact from the changes to be made to the Rule during this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the proposed amendments. These incorporations by reference are routinely updated to reflect the most current versions.

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: These documents are recognized nationally as primary reference documents. Incorporating the most current versions promotes uniformity throughout the United States.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kevin Merritt, Section Manager at (208) 332-8690.

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 June 27, 2018.

DATED this 30th day of April, 2018.

Brian Oakey, Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Rd.
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8550
Fax: (208) 334-2710

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0214-1801
(Only Those Sections With Amendments Are Shown.)

004. INCORPORATION BY REFERENCE.

01. Required Reference Materials. The 201~~8~~⁹ 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, shall be the specifications, tolerances and other technical requirements for commercial weighing and measuring devices, unless otherwise stated in these rules. (3-28-18)()

02. Required Reference Materials for Checking Prepackaged Commodities. The ~~4th~~ 2019 ~~E~~^e 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, shall be the authority in checking packaged commodities, unless otherwise stated in these rules. (2-13-04)()

03. Specifications for Diesel Fuel and Biodiesel Fuel. American Society of Testing and Materials (ASTM) D975-16a, “Standard Specification for Diesel Fuel Oils,” and ASTM D6751-15ce¹, “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). (3-28-18)

04. Specifications for Gasoline. American Society of Testing and Materials (ASTM) D4814-16ce¹, “Standard Specification for Automotive Spark-Ignition Engine Fuel”, dated November 15, 2016, is hereby incorporated by reference and is the specification for gasoline. (3-28-18)

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>. 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. (4-7-11)

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. 02-0214-1801***

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.

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

Summary of Changes

Code	Title	Changes	Impact on Idaho
S.3.1.	Diversion of Measured Liquid	Clarification	Minimal

- This change makes minor clerical changes and adds clarification identifying where this item does not apply to equipment used exclusively for fueling aircraft, or multiple product single discharge hose metering systems that are equipped with systems designed to flush the discharge hose, provided the flushing system complies with the provisions of section S.3.1.1. This change will impact manufacturers of metering systems and weights and measures officials.

Code	Title	Changes	Impact on Idaho
S.3.1.1.	Means for Clearing Discharge Hose	Addition	Minimal
	<ul style="list-style-type: none"> This change outlines the requirements of a metering system when equipped with a means that allows flushing of product from the discharge hose after the meter. This change outlines how diversion valves can be installed to temporarily divert product from the measuring chamber to a storage tank. This change will impact users of metering systems that meter multiple products through single discharge hose and weights and measures officials. 		
U.R.2.6.	Clearing Discharge Hose	Addition	Minimal
	<ul style="list-style-type: none"> This addition requires a record of the delivery be created when product is pumped through a discharge hose to avoid contamination. This change will impact users of metering systems that meter multiple products through a single discharge hose and weights and measures officials. 		
S.2.1.	Vapor Elimination	Addition	Minimal
	<ul style="list-style-type: none"> This addition requires all metering systems to have “effective” means to prevent vapor elimination lines from becoming obstructed. This change will impact manufacturers of metering systems and weights and measures officials. 		
S.1.6.7.	Recorded Representations	Clarification	Minimal
	<ul style="list-style-type: none"> This change clarifies what types of devices are required to print receipts showing post-delivery discounts. Sale promotions that offer discounts, example; 10 cents off per gallon of gas if you purchase a car wash. The receipt must show the discount provided the device has the capability to print the receipt. This change will impact manufacturers of metering systems and weights and measures officials. 		
S.2.1.	Provisions for Sealing	Addition	Minimal
	<ul style="list-style-type: none"> This change allows digital water meters the capability of being security sealed electronically. This change will impact manufacturers of metering systems and weights and measures officials. 		

Code	Title	Changes	Impact on Idaho
S.1.2.2	Taxi Meters	Addition	Minimal
	<ul style="list-style-type: none"> This change allows taxi meter manufactures time to develop technology to meet the requirements when disabling or suspending the use of distance measurements for the calculation of fare charges. This corrects an earlier oversight of the conference that made this requirement non-retroactive. This change will impact manufacturers of metering systems and weights and measures officials. 		

**NIST Handbook 133
Checking the Net Contents of Packaged Goods**

Listed below is an overview of changes to NIST Handbook 133 Incorporation by Reference by ISDA Weights and Measures. A brief summary follows each change, or group of related changes. Note that several years of changes to this document have transpired from the 2004 Incorporation by Reference. The changes to this document only effect weights and measures officials.

Incorporating by reference the National Institute of Standards and Technology (NIST) Handbook 133, Checking the Net Contents of Packaged Goods is more practical and cost effective than reproducing similar specifications in Rule. The NIST Handbook 133 is a nationally recognized procedural guide for compliance testing of net content statements of packaged goods. This handbook is used primarily by weights and measures officials, commercial and industrial establishments in the areas of packaging, distribution, and sale of commodities. Adopting the most current version promotes uniformity in testing throughout the United States.

Summary of Changes

Code	Title	Changes	Impact on Idaho
3.3.	Test Procedures	Addition/Procedural	Minimal
	<ul style="list-style-type: none"> This change allows for use of a volumetric measuring flask equal or less than the labeled declaration when testing milk. 		
Tables 2-10		Clerical	Minimal

- This change amends SI units' value to more closely correspond to inch pound values and adjusts the table to reflect the inspection lot size.

Code	Title	Changes	Impact on Idaho
Appendix E		Addition	Minimal
		<ul style="list-style-type: none"> • This change amends the Standard Package report title to match the Random Package Report title. 	
1.1.	Scope	Clerical	Minimal
		<ul style="list-style-type: none"> • This change removes the word "standard" and replaces it with "Laws and Regulations" and describes weights and measures as the jurisdiction to monitor packaging procedures and to detect problems. 	
1.2.	Package Requirements	Clerical and Procedural	Minimal
		<ul style="list-style-type: none"> • These changes allow for applying moisture loss before or after determining package errors. Also amends the procedure to apply moisture loss before adjusting the nominal gross weight. 	
1.2.1.	Inspection Lot	Update	Minimal
		<ul style="list-style-type: none"> • This change defines the definition of "inspection lot". 	
1.7.	Good Measurement Practices	Update Reference	Minimal
		<ul style="list-style-type: none"> • This change defines the document and web link used for testing standards. 	
2.2.	Measurement Standards	Procedural	Minimal
		<ul style="list-style-type: none"> • This change outlines the performance test conducted on the scale used for testing. 	
2.3.5.	Tare Procedures	Procedural	Minimal
		<ul style="list-style-type: none"> • This change identifies what type of tare may be used for testing and the number of samples needed to determine accurate tare. • Updates procedure for testing vacuum packed items (coffee). 	
2.3.6.	Nominal Gross Weight	Procedural	Minimal
		<ul style="list-style-type: none"> • Updates procedure for computing package error. 	
2.3.8	Wet Tare Procedure	Procedural	Minimal

- Establishes definition of wet tare and prohibits the use of wet tare procedures when testing packages of meat and poultry packed in USDA inspection sites.

Code	Title	Changes	Impact on Idaho
2.3.9	Moisture loss	Procedural	Minimal
	<ul style="list-style-type: none"> • Procedure for determining moisture allowance prior to determining package errors. How to sample moisture allowance in “gray” areas and what to do when moisture loss causes reasonable deviations in the net quantity. 		
2.4.	Borax	Procedural	Minimal
	<ul style="list-style-type: none"> • This addition allows an audit test for testing packages of borax due to severe moisture loss. Testing equipment is identified in handling borax during the testing process and the procedure is updated to promote safety to the inspector and allow for moisture loss during the testing procedure. 		
2.6.	Ice Glazed Products	Procedural	Minimal
	<ul style="list-style-type: none"> • Updates the procedure in determining net weight on packages that are encased in ice or ice glazed. 		
2.7.	Frozen Chitterlings	Addition/Procedural	Minimal
	<ul style="list-style-type: none"> • This addition outlines the testing procedure, worksheet examples, and evaluation of test results of frozen packages of chitterlings. 		
2.8.	Moisture Allowance	Clerical and Procedural	Minimal
	<ul style="list-style-type: none"> • Instructs inspectors to use jurisdiction guidelines when making determinations on acceptable moisture allowance when no predetermined allowance is found in Handbook 133 tables 2-3. • Identifies acceptable moisture loss allowances in Table 2-3 for flour, dry pet food, borax, fresh poultry, hotdogs, and Bacon, fresh sausage, pasta, and luncheon meats. 		
3.1.	Scope	Clerical	Minimal
	<ul style="list-style-type: none"> • Updates reference temperatures for liquids, example; beer, distilled spirits, frozen foods, petroleum, milk, and other liquids sold in a refrigerated state. 		
3.11.	Ice Cream Novelties	Procedural	Minimal
	<ul style="list-style-type: none"> • Updates procedure to test ice cream novelties and excludes pelletized ice cream beads. 		

Code	Title	Changes	Impact on Idaho
3.12.	Fresh Oysters	Procedural	Minimal
		<ul style="list-style-type: none"> • Updates testing procedure by adding equation for factoring free liquid. • Allows use of smaller strainers when testing small containers. 	
3.14.	Firewood	Definitions	Minimal
		<ul style="list-style-type: none"> • Adds definitions for firewood to include boxed firewood, stacked firewood, bundles and bags. • Updates the procedure for evaluating test results. 	
3.2.	Gravimetric Test	Procedural	Minimal
		<ul style="list-style-type: none"> • Updates procedure for testing liquids gravimetrically. 	
3.4.	Volumetric Procedures	Procedural	Minimal
		<ul style="list-style-type: none"> • Updates testing procedures for volumetrically testing liquids. 	
3.8.	Viscous Materials	Procedural	Minimal
		<ul style="list-style-type: none"> • Updates ASTM reference document 	
3.9.	Peat Moss, Mulch and Soil, Animal Bedding	Procedural	Minimal
		<ul style="list-style-type: none"> • Updates procedure for testing materials compressed and uncompressed by volume and updates the specifications for test measures used for testing compressed and uncompressed volumes. • Adds a procedure for determining usable material by volume specific to animal bedding. 	
4.4.	Packages labeled by count, linear measure, area, thickness or a combination of quantities	Clerical and Procedural	Minimal
		<ul style="list-style-type: none"> • Updates the American Society of Testing Materials (ASTM) reference standards. • Updates procedure for testing polyethylene sheeting. 	
4.5.	Polyethylene Sheeting	Update	Minimal
		<ul style="list-style-type: none"> • Update references from “inch pound” to U.S. customary units. • Updated the minimum density for polyethylene plastics from 0.92 g/cm³ to 0.93 g/cm³. • Updates testing procedure of polyethylene bags, liners, and sheeting. 	

Code	Title	Changes	Impact on Idaho
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4.8. & 4.9.	Test Procedure for linear or square area measures, and baler twine.		
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Procedural

Minimal

- Updates the procedure for testing packages labeled by linear or square measure and baler twine test procedure for length.
- Updates Table 2 correction factors for maximum allowable variations.
- Updates the sample correction factor formula in calculating the sample error limit

Appendix C	General Tables		
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Clerical

Minimal

- Added abbreviations for “short ton”

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