



# RULE-MAKING ORDER

**R-103 (June 2004)**  
(Implements RCW 34.05.360)

Agency: Dept. of Agriculture

- Permanent Rule
- Emergency Rule

**Effective date of rule:**

**Permanent Rules**

- 31 days after filing.
- Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Effective date of rule:**

**Emergency Rules**

- Immediately upon filing.
- Later (specify) \_\_\_\_\_

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- Yes
  - No
- If Yes, explain:

**Purpose:** This rulemaking order amends chapter 16-662 WAC (Weights and Measures – National Handbooks) by adopting the National Institute of Standards and Technology (NIST) handbooks as follows:

- (1) the 2005 edition of NIST Handbook 44 (Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices) as required by RCW 19.94.195;
- (2) the 2005 edition of NIST Handbook 130 (Uniform Laws and Regulations in the area of legal metrology and engine fuel quality);
- (3) the fourth edition (January 2005) of NIST Handbook 133 (Checking the Net Contents of Packaged Goods); and
- (4) modifications to NIST Handbook 44 and NIST Handbook 130.

In addition, this rulemaking order:

- (1) outlines the process for conducting inspections of the net contents of packaged goods under NIST Handbook 133;
- (2) describes when the department will take enforcement action when conducting price verification inspections under NIST Handbook 130; and
- (3) rewrites the entire chapter to increase its clarity and readability.

**Citation of existing rules affected by this order:**

Repealed:  
 Amended: WAC 16-662-100, 105, 110, & 115  
 Suspended:

**Statutory authority for adoption:** Chapter 19.94 and 34.05 RCW

**Other authority :**

**PERMANENT RULE ONLY (Including Expedited Rule Making)**

Adopted under notice filed as WSR 05-06-111 on March 2, 2005.  
 Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: \_\_\_\_\_ phone ( ) \_\_\_\_\_  
 Address: \_\_\_\_\_ fax ( ) \_\_\_\_\_  
 e-mail \_\_\_\_\_

**EMERGENCY RULE ONLY**

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

**DATE ADOPTED**

May 4, 2005

**NAME (TYPE OR PRINT)**

Valoria H. Loveland

**SIGNATURE**

**TITLE**

Director

**CODE REVISER USE ONLY**

7:59 am  
WSR 05-10-088

CODE REVISER'S OFFICE  
STATE OF WASHINGTON

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Federal rules or standards:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Recently enacted state statutes:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

**The number of sections adopted at the request of a nongovernmental entity:**

	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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**The number of sections adopted in the agency's own initiative:**

	New	<u>2</u>	Amended	<u>4</u>	Repealed	<u>0</u>
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Pilot rule making:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Other alternative rule making:</b>	New	<u>2</u>	Amended	<u>4</u>	Repealed	<u>0</u>

AMENDATORY SECTION (Amending WSR 03-08-017, filed 3/25/03, effective 4/25/03)

WAC 16-662-100 What is the purpose((-)) of this chapter?  
~~((The purpose of this rule is to establish))~~ (1) This chapter establishes requirements for the state of Washington that are reasonably consistent with the uniform ((state)) rules ((that have been)) adopted by the National Conference on Weights and Measures and that are in effect in other states.

(2) This chapter applies specifically to ((subject areas for)) the:

~~((+1))~~ (a) Uniform specifications, tolerances and other technical requirements for weighing and measuring devices addressed in the National Institute of Standards and Technology (NIST) NIST Handbook 44;

~~((+2))~~ (b) Uniform procedures for checking the net contents of packaged goods addressed in ((the National Institute of Standards and Technology,)) NIST Handbook 133;

~~((+3))~~ (c) Uniform packaging and labeling ((requirements)) regulation addressed in NIST Handbook 130;

~~((+4))~~ (d) Uniform regulation for the method of sale of commodities ((requirements)) addressed in NIST Handbook 130; and

~~((+5))~~ (e) Uniform examination procedure((s)) for price verification addressed in ((the National Institute of Standards and Technology)) NIST Handbook 130.

~~((The publications cited in this chapter,))~~ (3)(a) NIST Handbook 44, NIST Handbook 130 and NIST Handbook 133, may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. ((The handbooks)) They are also available on the National Institute of Standards and Technology website at <http://ts.nist.gov/ts/htdocs/230/235/owmhome.htm>.

(b) For information regarding the contents and application of these publications, contact the weights and measures ((in)) program at the Washington State Department of Agriculture, P.O. Box 42560, Olympia, Washington 98504-2560, telephone number 360-902-1857, or e-mail [wts&measures@agr.wa.gov](mailto:wts&measures@agr.wa.gov).

AMENDATORY SECTION (Amending WSR 04-12-025, filed 5/26/04, effective 6/26/04)

WAC 16-662-105 ~~((Adoption--Weighing and measuring equipment requirements--Package checking--Packaging and labeling--Method of~~

~~sale--Price verification.))~~ What national weights and measures standards are adopted by the Washington state department of agriculture (WSDA)? ((1) ~~The specifications, tolerances, and other technical requirements for the design, manufacture, installation, performance test, and use of weighing and measuring equipment shall be those contained in the 2004 Edition of the National Institute of Standards and Technology (NIST) Handbook 44, published by the U.S. Department of Commerce, entitled the *National Institute of Standards and Technology Handbook 44 - Specifications, Tolerances, and Other Technical Requirements for Commercial Weighing and Measuring Devices.*~~

(2) ~~The procedures for checking the accuracy of the net contents of packaged goods shall be those contained in the Fourth Edition of National Institute of Standards and Technology (NIST) Handbook 133 published by the United States Department of Commerce, entitled *NIST Handbook 133 - Fourth Edition - Checking the Net Contents of Packaged Goods - Fourth Edition, 2003 Edition.*~~

(3) ~~The requirements for packaging and labeling, method of sale of commodities, and the examination procedures for price verification shall be those contained in the 2004 Edition of National Institute of Standards and Technology Handbook 130, entitled the *NIST Handbook 130 - Uniform Laws And Regulations in the areas of legal metrology and motor fuel quality, specifically:*~~

(a) ~~Weights and measures requirements for all food and nonfood commodities in package form shall be the *Uniform Packaging and Labeling Regulation* requirements as adopted by the National Conference on Weights and Measures and published in NIST (National Institute of Standards and Technology) Handbook 130, 2004 Edition.~~

(b) ~~Weights and measures requirements for the method of sale of food and nonfood commodities shall be those found in the *Uniform Regulation for the Method of Sale of Commodities* as adopted by the National Conference on Weights and Measures and published in NIST (National Institute of Standards and Technology) Handbook 130, 2004 Edition.~~

(c) ~~Weights and measures requirements for price verification shall be the *Examination Procedures for Price Verification* as adopted by the National Conference on Weights and Measures and published in NIST (National Institute of Standards and Technology) Handbook 130, 2004 Edition.))~~ The WSDA adopts the following national standards:

<u>National standard for:</u>	<u>Contained in the:</u>
(1) <u>The specifications, tolerances, and other technical requirements for the design, manufacture, installation, performance test, and use of weighing and measuring equipment</u>	2005 Edition of <i>NIST Handbook 44 - Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices</i>

<b>National standard for:</b>	<b>Contained in the:</b>
<u>(2) The procedures for checking the accuracy of the net contents of packaged goods</u>	Fourth Edition (January 2005) of <i>NIST Handbook 133 - Checking the Net Contents of Packaged Goods</i>
<u>(3) The requirements for packaging and labeling, method of sale of commodities, and the examination procedures for price verification</u>	2005 Edition of <i>NIST Handbook 130 - Uniform Laws and Regulations in the area of legal metrology and engine fuel quality</i> , specifically:
<u>(a) Weights and measures requirements for all food and nonfood commodities in package form</u>	<i>Uniform Packaging and Labeling Regulation</i> as adopted by the National Conference on Weights and Measures and published in <i>NIST Handbook 130, 2005 Edition</i>
<u>(b) Weights and measures requirements for the method of sale of food and nonfood commodities</u>	<i>Uniform Regulation for the Method of Sale of Commodities</i> as adopted by the National Conference on Weights and Measures and published in <i>NIST Handbook 130, 2005 Edition</i>
<u>(c) Weights and measures requirements for price verification</u>	<i>Examination Procedure for Price Verification</i> as adopted by the National Conference on Weights and Measures and published in <i>NIST Handbook 130, 2005 Edition</i>

AMENDATORY SECTION (Amending WSR 03-08-017, filed 3/25/03, effective 4/25/03)

WAC 16-662-110 (~~(Modifications to)~~) Does the WSDA modify NIST Handbook 44 (-)? (~~(The following modifications are made to Handbook 44, identified in WAC 16-662-105:~~

(1) ~~General Code: Section G-UR. User Requirements. In the last sentence of subsection G-UR.4.1. "Maintenance of Equipment," change "device user" to "device owner or operator."~~

(2) ~~Scale Code: Section UR.3. Use Requirements. At the end of subsection UR.3.7.(a) add "and homeowner refuse.")~~ The WSDA

adopts the following modifications to NIST Handbook 44, which is identified in WAC 16-662-105(1):

<u>Modified Section:</u>	<u>Modification:</u>
<u>(1) General Code: Section G-UR.4.1. Maintenance of Equipment</u>	<p><u>In the last sentence of G-UR.4.1., Maintenance of Equipment, change the words "device user" to "device owner or operator." As a result of this modification, the last sentence of G-UR.4.1. will read:</u></p> <p><u>"Equipment in service at a single place of business found to be in error predominantly in a direction favorable to the device owner or operator shall not be considered "maintained in a proper operating condition."</u></p>
<u>(2) Scales: Section UR.3.7. Minimum Load on a Vehicle Scale</u>	<p><u>At the end of UR.3.7.(a) add "and homeowner refuse." As a result of this modification, UR.3.7.(a) will read:</u></p> <p><u>"10 d when weighing scrap material for recycling and homeowner refuse;"</u></p>

AMENDATORY SECTION (Amending WSR 03-08-017, filed 3/25/03, effective 4/25/03)

WAC 16-662-115 ((~~Modifications to~~)) Does the WSDA modify NIST Handbook 130((-))? The WSDA adopts the following modifications ((are made)) to the Uniform Regulation for the Method of Sale of Commodities requirements published in NIST Handbook 130, identified in WAC 16-662-105 (3) (b):

~~((1) Section 2.20. Gasoline-Oxygenate Blends. Delete Section 2.20. The requirements for this subject are addressed in RCW 19.94.505 and chapter 16-657 WAC.~~

~~(2) Section 2.23. Animal Bedding. Add a new subsection 2.23.1. Sawdust, Barkdust, Decorative Wood Particles, and Similar Products. As used in this subsection, "unit" means a standard volume equal to 200 cubic feet. Quantity representations for sawdust, barkdust, decorative wood particles, and similar loose bulk materials when advertised, offered for sale, or sold within~~

~~the state of Washington shall be in terms of cubic measure or units and fractions thereof.) )~~

<u>Modified Section:</u>	<u>Modification:</u>
<u>(1) Section 2.20 Gasoline-Oxygenate Blends</u>	<u>Delete Section 2.20 because the requirements for this subject are addressed in RCW 19.94.505 and chapter 16-657 WAC</u>
<u>(2) Section 2.23 Animal Bedding</u>	<u>Add a new subsection, which reads as follows: 2.23.1 Sawdust, Barkdust, Decorative Wood Particles, and Similar Products. -- As used in this subsection, "unit" means a standard volume equal to 200 cubic feet. When advertised, offered for sale, or sold within Washington state, quantity representations for sawdust, barkdust, decorative wood particles, and similar loose bulk materials must be in cubic measures or units and fractions thereof.</u>

NEW SECTION

WAC 16-662-120 How does the WSDA conduct inspections of the net contents of packaged goods under *NIST Handbook 133*? WSDA inspects packages using the Used Dry Tare procedures outlined in *NIST Handbook 133*.

NEW SECTION

WAC 16-662-125 When does WSDA take enforcement action when conducting price verification inspections under *NIST Handbook 130*? WSDA uses *NIST Handbook 130*, Examination Procedure For Price Verification, Paragraph 11.2., Model Enforcement Levels. Overcharges will be used to determine price accuracy for enforcement actions under chapter 19.94 RCW. WSDA may issue a

civil penalty after failure of the third price accuracy inspection