# **Rules and Regulations**

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## DEPARTMENT OF AGRICULTURE

#### Food Safety and Inspection Service

### 9 CFR Parts 317 and 381

[Docket No. 94-012F]

## Incorporation by Reference; Updating of Text; Net Weight Labeling of Meat and Poultry Products

**AGENCY:** Food Safety and Inspection Service, USDA.

ACTION: Direct final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the Federal meat and poultry products inspection regulations to update references to the National Institute of Standards and Technology (NIST) Handbook 133, "Checking the Net Contents of Packaged Goods" and NIST Handbook 44, "Specifications, Tolerances and Other Technical Requirements for Measuring Devices." A 1994 edition of NIST Handbook 44 was published in October 1993 and four supplements to NIST Handbook 133 were published in September 1990, October 1991, October 1992, and October 1994, subsequent to their incorporation by reference in certain sections of the Federal meat and poultry products inspection regulations. FSIS is amending the provisions in its regulations that reference the publications to reflect the most recent edition of NIST Handbook 44 and the supplements to NIST Handbook 133. DATES: This rule will be effective on May 8, 1995 unless we receive written adverse comments or written notice of intent to submit adverse comments on or before April 10, 1995.

ADDRESSES: Adverse comments or notice of intent to submit adverse comments should be sent in triplicate to Regulations Development, Policy, Evaluation and Planning Staff, Attention: Diane Moore, FSIS Docket Clerk, Food Safety and Inspection Service, Room 3171, South Agriculture Building, U.S. Department of Agriculture, Washington, DC 20250. Comments should reference Docket No. 94–012F. All comments will be available for public inspection from 8:30 a.m. to 1 p.m. and 2 p.m. to 4:30 p.m., Monday through Friday, in Room 3171, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Dr. Paula M. Cohen, Director, Regulations Development, Policy, Evaluation and Planning Staff, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 720–7164.

#### SUPPLEMENTARY INFORMATION:

#### Background

Title 1 of the Code of Federal Regulations (1 CFR Part 51) requires that an Agency seeking approval of a change to a publication that is approved for incorporation by reference in the Code of Federal Regulations publish a notice of the change in the **Federal Register** and amend the Code of Federal Regulations. The Agency must also ensure that a copy of the amendment or revision is on file at the Office of the Federal Register and notify the Director of the Federal Register in writing that the change is being made.

Accordingly, FSIS has reviewed the most recent publications, NIST Handbook 44 and supplements to NIST Handbook 133, pertaining to meat and meat food products and poultry and poultry products and FSIS' regulations that reference the Handbooks.

The following is a summary of the changes to NIST Handbooks 44 and 133 applicable to meat and poultry products.

## NIST Handbook 44

The changes to the General Scales Codes of NIST Handbook 44 from 1990 through 1993 primarily recognize new features and capabilities of scales. These changes have the effect of giving scale manufacturers more flexibility in scale design and the ability to incorporate features that better meet the needs of the users. Although NIST Handbook 44 addresses a wide range of scales, the following summary describes the most significant changes to the Handbook as it applies to scales used to weigh meat and poultry products produced in meat and poultry establishments.

The most significant change is recognition of the use of electronic forms of audit trails to provide security to scale adjustments rather than requiring the use of a physical security seal to indicate when access to metrological parameters has occurred. Another change allows scales to incorporate an "initial zero-setting mechanism." The mechanism allows different types of scale platforms to be used while continuing to allow the scale to weigh to capacity. Marking requirements have been combined into a table format to make them more understandable and easily referenced. Additionally, automatic and semiautomatic calibration of scales using an internal calibration weight are permitted provided the calibration mechanism or the calibration process do not facilitate inaccurate adjustments to the scale. Finally, tolerances for scales manufactured before 1986 have been consolidated, in table format, for easy reference.

## NIST Handbook 133

The changes to NIST Handbook 133 pertaining to meat and poultry products are primarily for clarification and consistency with the meat and poultry products inspection regulations. The following is a summary of the more significant changes to NIST Handbook 133 pertaining to meat and poultry products. The remaining changes were strictly editorial.

1. The definition of "used tare" and "dried used tare" were made consistent with procedures for meat and poultry products that permit drying in a microwave oven.

2. A reference to product for which no gray area has yet been determined was added.

3. The reference to bacon with freeflowing liquid as "subquality" was deleted.

4. Group 5 Lower Limits for Individual Weights was changed to 1 percent of labeled weight. The lower limit of 1.5 ounces for the largest weight of 160 ounces in Group 4 is equivalent to 0.94 percent of the labeled weight. A fixed lower limit of 2 ounces (or 4 ounces, depending upon the scale being used) in Group 5 (with labeled weight of 160 ounces and up) is too small as a percentage of the labeled weights. For example, a lower limit of 2 ounces for