

## § 381.121a

### § 381.121a Quantity of contents labeling.

Sections 381.121a through 381.121e of this part prescribe the procedures to be followed for determining net weight compliance and prescribe the reasonable variations from the declared net weight on the labels of immediate containers of products in accordance with § 381.121 of this part.

[55 FR 49835, Nov. 30, 1990]

### § 381.121b Definitions and procedures for determining net weight compliance.

(a) For the purpose of § 381.121b of this part, the reasonable variations allowed, definitions, and procedures to be used in determining net weight and net weight compliance are described in the National Institute of Standards and Technology (NIST) Handbook 133, "Checking the Net Contents of Packaged Goods," Third Edition, September 1988, and Supplements 1, 2, 3, and 4 dated September 1990, October 1991, October 1992, and October 1994, respectively, which are incorporated by reference, with the exception of the NIST Handbook 133 and Supplements 1 and 3 requirements listed in paragraphs (b) and (c) of this section. Those provisions, incorporated by reference herein, are considered mandatory requirements. This incorporation was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. (These materials are incorporated as they exist on the date of approval.) Copies may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(b) The following NBS Handbook 133 requirements are not incorporated by reference.

#### Chapter 2—General Considerations

- 2.13.1 Polyethylene Sheeting and Film
- 2.13.2 Textiles
- 2.13.3 Mulch

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### Chapter 3—Methods of Test for Packages Labeled by Weight

- 3.11. Aerosol Packages
- 3.14. Glazed Raw Seafood and Fish
- 3.15. Canned Coffee
- 3.16. Borax
- 3.17. Flour

### Chapter 4—Methods of Test for Packages Labeled by Volume

- 4.7. Milk
- 4.8. Mayonnaise and Salad Dressing
- 4.9. Paint, Varnish, and Lacquers—Nonaerosol
- 4.11. Peat Moss
- 4.12. Bark Mulch
- 4.15. Ice Cream Novelties

### Chapter 5—Methods of Test for Packages Labeled by Count, Length, Area, Thickness, or Combinations of Quantities

- 5.4. Polyethylene Sheeting
- 5.5. Paper Plates
- 5.6. Sanitary Paper Products
- 5.7. Pressed and Blown Glass Tumblers and Stemware

### Appendix D: Package Net Contents Regulations

- D.1.1 U.S. Department of Health and Human Services, Food and Drug Administration
- D.1.2 U.S. Department of Agriculture, Food Safety and Inspection Service
- D.1.3 Federal Trade Commission
- D.1.4 Environmental Protection Agency
- D.1.5 U.S. Department of the Treasury, Bureau of Alcohol, Tobacco, and Firearms

(c) The following requirements of Supplement 1 dated September 1990, Supplement 3 dated October 1992, and Supplement 4 dated October 1994, of NIST Handbook 133 are not incorporated by reference.

#### Supplement 1

#### Chapter 2 General Considerations

- 2.13.1. Polyethylene Sheeting and Film
- 2.13.2. Textiles
- 2.13.3. Mulch

### Chapter 3 Methods of Test for Packages Labeled by Weight

- 3.11.4. Exhausting the Aerosol Container

### Chapter 4 Methods of Test for Packages Labeled by Volume

- 4.6.4. Method D: Determining the Net Contents of Compressed Gas in Cylinders
- 4.7. Milk
- 4.16. Fresh Oysters Labeled by Volume

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Chapter 5 Methods of Test for Packages Labeled by Count, Length, Area, Thickness, or Combinations of Quantities

### 5.4. Polyethylene Sheeting

#### Supplement 3

Chapter 3 Methods of Test for Packages Labeled by Weight

### 3.17. Flour and Dry Pet Food

Chapter 5 Methods of Test for Packages Labeled by Count, Length, Area, Thickness, or Combinations of Quantities

### 5.4. Polyethylene Sheeting

### 5.5. Paper Plates

### 65.8. Baler Twine

#### Appendix A. Forms and Worksheets

#### Supplement 4

### 3.11 Aerosol Packages

#### 3.11.1 Equipment

#### 3.11.2 Preparation for Test

#### 3.11.3 The Determination of Net Contents: Part 1

#### 3.11.4 Exhausting the Aerosol Container

#### 3.11.5 The Determination of Net Contents: Part 2

[55 FR 49835, Nov. 30, 1990, as amended at 60 FR 12885, Mar. 9, 1995]

### **§381.121c Scale requirements for accurate weights, repairs, adjustments, and replacement after inspection.**

(a) All scales used to weight poultry products sold or otherwise distributed in commerce in federally inspected poultry plants shall be installed, maintained, and operated to insure accurate weights. Such scales shall meet the applicable requirements contained in National Institute of Standards and Technology (NIST) Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices", 1999 Edition, November 1998, which is incorporated by reference. This incorporation was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. (These materials are incorporated as they exist on the date of approval.) A notice of any change in the Handbook cited herein will be published in the FEDERAL REGISTER. Copies may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. It is also available for inspection at the National Archives and Records Administration (NARA).

For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(b) All scales used to weigh poultry products sold or otherwise distributed in commerce or in State designated under section 5(c) of the Poultry Products Inspection Act, shall be of sufficient capacity to weigh the entire unit and/or package.

(c) No scale shall be used at a federally inspected establishment to weigh poultry products unless it has been found upon test and inspection as specified in NIST Handbook 44 to provide accurate weight. If a scale is inspected or tested and found to be inaccurate, or if any repairs, adjustments or replacements are made to a scale, it shall not be used until it has been reinspected and retested by a USDA official, or a State or local government weights and measures official, or a State registered or licensed scale repair firm or person, and it must meet all accuracy requirements as specified in NIST Handbook 44. If a USDA inspector has put a "Retain" tag on a scale it can only be removed by a USDA inspector. As long as the tag is on the scale, it shall not be used.

[55 FR 49836, Nov. 30, 1990, as amended at 60 FR 12885, Mar. 9, 1995; 64 FR 53188, Oct. 1, 1999]

### **§381.121d Scales; testing of.**

(a) The operator of each official establishment that weighs poultry food products shall cause such scales to be tested for accuracy in accordance with the technical requirements of NIST Handbook 44, at least once during the calendar year. In cases where the scales are found not to maintain accuracy between tests, more frequent tests may be required and monitored by an authorized USDA program official.

(b) The operator of each official establishment shall display on or near each scale a valid certification of the scale's accuracy from a State or local government's weights and measures authority or from a State registered or licensed scale repair firm or person, or shall have alternative documented procedures showing that the scale has