

Laws and Regulations (L&R) Committee 2021 Interim Meeting – New Carryover Items

Mr. John McGuire, Committee Chair
New Jersey

INTRODUCTION

The L&R Committee (hereinafter referred to as the “Committee”) submits this Committee Interim Report for consideration by National Conference on Weights and Measures (NCWM). This report contains the items discussed and actions proposed by the Committee during its Interim Meeting in Riverside, California, January 26-29, 2020. The report will address the items in Table A during the Interim Meeting. Table A identifies the agenda items by reference key, title of item, page number and the appendices by appendix designations. The acronyms for organizations and technical terms used throughout the agenda are identified in Table B. The headings and subjects apply to NIST Handbook 130, *Uniform Laws and Regulations in the Areas of Legal Metrology an Engine Fuel Quality, 2020 Edition*, and NIST Handbook 133, *Checking the Net Contents of Packaged Goods, 2020 Edition*. The first three letters of an item’s reference key are assigned from the Subject Series List. The status of each item contained in the report is designated as one of the following: **(V) Voting Item:** the committee is making recommendations requiring a vote by the active members of NCWM; **(I) Informational Item:** the item is under consideration by the Committee but not proposed for Voting; **(A) Assigned Item:** the committee has assigned development of the item to a recognized subcommittee or task group within NCWM. **(D) Developing Item:** the Committee determined the item has merit; however, the item was returned to the submitter or other designated party for further development before any action can be taken at the national level; **(W) Withdrawn Item:** the item has been removed from consideration by the Committee.

Some Voting Items are considered individually; others may be grouped in a consent calendar. Consent calendar items are Voting Items that the Committee has assembled as a single Voting Item during their deliberation after the Open Hearings on the assumption that the items are without opposition and will not require discussion. The Voting Items that have been grouped into consent calendar items will be listed on the addendum sheets. Prior to adoption of the consent calendar, the Committee will remove specific items from the consent calendar upon request to be discussed and voted upon individually.

Committees may change the status designation of agenda items (Developing, Informational, Assigned, Voting and Withdrawn) up until the report is adopted, except that items which are marked Developing, Informational, Assigned or Withdrawn cannot be changed to Voting Status. Any change from the Committee Interim Report (as contained in this publication) or from what appears on the addendum sheets will be explained to the attendees prior to a motion and will be acted upon by the active members of NCWM prior to calling for the vote.

An “Item under Consideration” is a statement of proposal and not necessarily a recommendation of the Committee. Suggested revisions are shown in **bold face print** by ~~striking out~~ information to be deleted and **underlining** information to be added. Requirements that are proposed to be nonretroactive are printed in **bold faced italics**. Please refer to <http://www.ncwm.com/publication-16> to review these documents.

All sessions are open to registered attendees of the conference. If the Committee must discuss any issue that involves proprietary information or other confidential material; that portion of the session dealing with the special issue may be closed if (1) the Chairman or, in his absence, the Chairman-Elect approves; (2) the Executive Director is notified; and (3) an announcement of the closed meeting is posted on or near the door to the meeting session and at the registration desk. If possible, the posting will be done at least a day prior to the planned closed session.

Note: It is policy to use metric units of measurement in publications; however, recommendations received by NCWM technical committees and regional weights and measures associations have been printed in this publication as submitted. Therefore, the report may contain references to inch-pound units.

Subject Series List

NIST Handbook 130 – General	GEN Series
Uniform Laws	
Uniform Weights and Measures Law	WAM Series
Uniform Weighmaster Law	WMR Series
Uniform Fuels and Automotive Lubricants Inspection Law	FLL Series
Uniform Regulations	
Uniform Packaging and Labeling Regulation	PAL Series
Uniform Regulation for the Method of Sale of Commodities	MOS Series
Uniform Unit Pricing Regulation	UPR Series
Uniform Regulation for the Voluntary Registration of Servicepersons and Service Agencies for Commercial Weighing and Measuring Devices	RSA Series
Uniform Open Dating Regulation	ODR Series
Uniform Regulation for National Type Evaluation	NTP Series
Uniform Fuels and Automotive Lubricants Regulation	FLR Series
Examination Procedure for Price Verification.....	PPV Series
NCWM Policy, Interpretations, and Guidelines.....	POL Series
NIST Handbook 133.....	NET Series
Other Items	OTH Series

**Table A
Table of Contents**

Reference Key	Title of Item	L&R Page
ITEM BLOCK 3 (B3)	METHOD OF SALE, SECTION 2.33. OIL. FUELS & AUTOMOTIVE REGS. SECTIONS 2.14. ENGINE (MOTOR OIL), 3.13. OIL, AND 7.2. REPRODUCIBILITY LIMITS	14
B3: MOS-18.1 I	Section 2.33. Oil	14
B3: FLR-18.1 I	Sections 2.14. Engine (Motor) Oil, 3.13. Oil and 7.2. Reproducibility Limits.	16
FLR – UNIFORM FUELS AND AUTOMOTIVE LUBRICANTS REGULATION.....		24
FLR-20.5 I	Section 2.1.2.(a). Gasoline-Ethanol Blends.	24

**Table B
Glossary of Acronyms and Terms**

Acronym	Term	Acronym	Term
ASTM	ASTM International	NEWMA	Northeastern Weights and Measures Association
API	American Petroleum Institute	NIST	National Institute of Standards and Technology
CFR	Code of Federal Regulations	OWM	Office of Weights and Measures
CWMA	Central Weights and Measures Association	PALS	Packaging and Labeling Subcommittee
FALS	Fuels and Lubricants Subcommittee	S&T	Specifications and Tolerances
FDA	Food and Drug Administration	SAE	SAE International
FPLA	Fair Packaging and Labeling Act	SWMA	Southern Weights and Measures Association
FTC	Federal Trade Commission	UPLR	Uniform Packaging and Labeling Regulation
HB	Handbook	USNWG	U.S. National Work Group
L&R	Laws and Regulations	WWMA	Western Weights and Measures Association

Details of All Items
(In order by Reference Key)

1 **ITEM BLOCK 3 (B3) METHOD OF SALE, SECTION 2.33. OIL. FUELS &**
2 **AUTOMOTIVE REGS. SECTIONS 2.14. ENGINE (MOTOR OIL), 3.13.**
3 **OIL, AND 7.2. REPRODUCIBILITY LIMITS**

4 B3: MOS-18.1 I Section 2.33. Oil

5 B3: FLR-18.1 I Sections 2.14. Engine (Motor) Oil, 3.13. Oil and 7.2. Reproducibility Limits.

6 **Source:**

7 Independent Lubricant Manufacturers Association (ILMA)

8 **Purpose:**

9 Provide information to protect consumers from purchasing obsolete motor oils that can harm modern engines.

10 **B3: MOS-18.1 I Section 2.33. Oil**

11 **Item Under Consideration:**

12 Amend NIST Handbook 130, Uniform Method of Sale of Commodities Regulation as follows:

13 **2.33. Oil.**

14 **2.33.1. Labeling of Vehicle Engine (Motor) Oil.** – Vehicle engine (motor) oil shall be labeled.

15 **2.33.1.1. Viscosity.** –The label on any vehicle engine (motor) oil container, receptacle, dispenser, or storage
16 tank, and any invoice or receipt from service on an engine that includes the installation of vehicle engine
17 (motor) oil dispensed from a receptacle, dispenser, or storage tank, shall contain the viscosity grade
18 classification preceded by the letters “SAE” in accordance with SAE International’s latest version of
19 SAE J300, “Engine Oil Viscosity Classification.”

20 *NOTE: If an invoice or receipt from service on an engine has limited room for identifying the viscosity,*
21 *brand, and service category, then abbreviated versions of each may be used on the invoice or receipt and the*
22 *letters “SAE” may be omitted from the viscosity classification.*

23 (Note added 2014)

24 (Amended 2014)

25 **2.33.1.2. Brand.** –The label on any vehicle engine (motor) oil container and the invoice or receipt from
26 service on an engine that includes the installation of bulk vehicle engine (motor) oil dispensed from a
27 receptacle, dispenser, or storage tank shall contain the name, brand, trademark, or trade name of the vehicle
28 engine (motor) oil.

29 (Amended 2014)

30 **2.33.1.3. Engine Service Category.** –The label on any vehicle engine (motor) oil container, receptacle,
31 dispenser, or storage tank and the invoice or receipt from service on an engine that includes the installation
32 of bulk vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank shall contain the
33 engine service category, or categories, displayed in letters not less than 3.18 mm ($\frac{1}{8}$ in) in height, as defined
34 by the latest version of SAE J183, “Engine Oil Performance and Engine Service Classification (Other than
35 “Energy Conserving”),” API Publication 1509, “Engine Oil Licensing and Certification System,” European
36 Automobile Manufacturers Association (ACEA), “European Oil Sequences,” or other Vehicle or Engine
37 Manufacturer standards as approved in Section 2.33.1.3.1. Vehicle or Engine Manufacturer Standard.

38 (Amended 2014)

1 **2.33.1.3.1. Vehicle or Engine Manufacturer Standard.** –The label on any vehicle engine (motor) oil
2 container, receptacle, dispenser, or storage tank and the invoice or receipt from service on an engine
3 that includes the installation of vehicle engine (motor) oil dispensed from a receptacle, dispenser, or
4 storage tank shall identify the specific vehicle or engine manufacturer standard, or standards, met in
5 letters not less than 3.18 mm (1/8 in) in height. If the vehicle (motor) oil only meets a vehicle or engine
6 manufacturer standard, the label must clearly identify that the oil is only intended for use where
7 specifically recommended by the vehicle or engine manufacturer.

8 (Added 2014)

9 **2.33.1.3.2. Inactive or Obsolete Service Categories.** ~~The label on any vehicle engine (motor) oil~~
10 ~~container, receptacle, dispenser, or storage tank and the invoice or receipt from service on an~~
11 ~~engine that includes the installation of bulk vehicle engine (motor) oil dispensed from a receptacle,~~
12 ~~dispenser, or storage tank shall bear a plainly visible cautionary statement in compliance with~~
13 ~~the latest version of SAE J183, Appendix A, Whenever the any vehicle engine (motor) oil in the a~~
14 ~~container, receptacle, dispenser, storage tank, or in bulk does not meet an active API service category~~
15 ~~as defined by the latest version of SAE J183, “Engine Oil Performance and Engine Service~~
16 ~~Classification (Other than “Energy Conserving”):” the front or forward facing-label of such vehicle~~
17 ~~engine (motor) oil container, receptacle, dispenser, or storage tank and the invoice or receipt from~~
18 ~~service on an engine that includes the installation of bulk vehicle engine (motor) oil dispensed~~
19 ~~from a receptacle, dispenser, or storage tank shall bear the plainly-visible, cautionary statement~~
20 ~~set forth in the latest version of SAE J183, Appendix A. Whenever any vehicle engine (motor) oil~~
21 ~~is declared obsolete by a vehicle or engine manufacturer, the front or forward-facing label of such~~
22 ~~vehicle engine (motor) oil container, receptacle, dispenser, or storage tank and the invoice or~~
23 ~~receipt from service on an engine that includes the installation of bulk vehicle engine (motor) oil~~
24 ~~dispensed from a receptacle, dispenser, or storage tank shall bear the plainly-visible, cautionary~~
25 ~~statement required by the vehicle or engine manufacturer. If a vehicle engine (motor) oil is~~
26 ~~identified as only meeting a vehicle or engine manufacturer standard, the labeling requirements~~
27 ~~in Section 2.33.1.3.1. Vehicle or Engine Manufacturer Standard applies.~~

28 (Amended 2014 and 20XX)

29 **2.33.1.4. Tank Trucks or Rail Cars.** –Tank trucks, rail cars, and other types of delivery trucks that are used
30 to deliver bulk vehicle engine (motor) oil are not required to display the SAE viscosity grade and service
31 category or categories on such tank trucks, rail cars, and other types of delivery trucks. In lieu of such
32 display requirements, the documentation defined in Section 2.33.1.5. Documentation shall be readily
33 available for inspection.

34 (Amended 2013, ~~and~~ 2014 and 20XX)

35 **2.33.1.5. Documentation.** –When the engine (motor) oil is sold in bulk, an invoice, bill of lading, shipping
36 paper, or other documentation must accompany each delivery. This document must identify the quantity of
37 bulk engine (motor) oil delivered as defined in Sections 2.33.1.1. Viscosity, grade as defined by SAE J300
38 “Engine Oil Viscosity Classification,” 2.33.1.2. Brand; 2.33.1.3. Engine Service Category; the name and
39 address of the seller and buyer; and the date and time of the sale. For inactive or obsolete service categories,
40 the documentation shall also bear a the plainly visible cautionary statements as required in Section 2.33.1.3.2.
41 Inactive or Obsolete Service Categories. Documentation must be retained at the retail establishment for a
42 period of not less than one year.

43 (Added 2013) (Amended 2014 and 20XX)

44 (Added 2012) (Amended 2013, ~~and~~ 2014 and 20XX)

1 **B3: FLR-18.1 I Sections 2.14. Engine (Motor) Oil, 3.13. Oil and 7.2. Reproducibility Limits.**

2 **Item Under Consideration:**

3 Amend NIST Handbook 130, Uniform Fuels and Automotive Lubricants Regulation as follows:

4 **Section 2. Standard Specification**

5 **2.14. Engine (Motor) Oil.** – Shall not be sold or distributed for use unless the product conforms to the following
6 specifications:

7 (a) performance claims made regarding active performance categories, as listed on the label shall be
8 evaluated against the latest version of SAE J183, “Engine Oil Performance and Engine Service
9 Classification,” API 1509 “Engine Oil Licensing and Certification System,” European Automobile
10 Manufacturers’ Association (ACEA), “European Oil Sequences,” or other “Vehicle or Engine
11 Manufacturer Standards” as applicable; **and**

12 **(b) performance claims made regarding any obsolete performance categories, as listed on the label, shall**
13 **be determined to meet the requirements of Section 3.13.1.3.2. “Inactive or Obsolete Service**
14 **Categories” by displaying the appropriate cautionary labeling and**

15 (c) the product shall meet its labeled viscosity grade specification as specified in the latest version of
16 SAE J300, “Engine Oil Viscosity Classification.”

17 (Added 2004) (Amended 2014 **and 20XX**)

18 **Section 3. Classification, Identification, and Labeling for Sale**

19 **3.13. Oil.**

20 **3.13.1. Labeling of Vehicle Engine (Motor) Oil Required.**

21 **3.13.1.1. Viscosity.** –The label on any vehicle engine (motor) oil container, receptacle, dispenser, or storage
22 tank and the invoice or receipt from service on an engine that includes the installation of bulk vehicle engine
23 (motor) oil dispensed from a receptacle, dispenser, or storage tank shall contain the viscosity grade
24 classification preceded by the letters “SAE” in accordance with the SAE International’s latest version of
25 SAE J300, “Engine Oil Viscosity Classification.”

26 (Amended 2012 and 2014)

27 **3.13.1.2. Brand.** –The label on any vehicle engine (motor) oil container and the invoice or receipt from
28 service on an engine that includes the installation of bulk vehicle engine (motor) oil dispensed from a
29 receptacle, dispenser, or storage tank shall contain the name, brand, trademark, or trade name of the vehicle
30 engine (motor) oil.

31 (Added 2012 and 2014)

32 **3.13.1.3. Engine Service Category.** –The label on any vehicle engine (motor) oil container, receptacle,
33 dispenser or storage tank and the invoice or receipt from service on an engine that includes the installation
34 of bulk vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank shall contain the
35 engine service category, or categories, displayed in letters not less than 3.18 mm ($\frac{1}{8}$ in) in height, as defined
36 by the latest version of SAE J183, “Engine Oil Performance and Engine Service Classification (Other than
37 “Energy Conserving”)” API Publication 1509, “Engine Oil Licensing and Certification System,” European
38 Automobile Manufacturers Association (ACEA), “European Oil Sequences,” or other “Vehicle or Engine
39 Manufacturer Standards” as provided in Section 3.13.1.3.1.

40 (Amended 2012 and 2014)

1 **3.13.1.3.1. Vehicle or Engine Manufacturer Standard.** –The label on any vehicle engine (motor) oil
2 container, receptacle, dispenser, or storage tank and the invoice or receipt from service on an engine that
3 includes the installation of vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage
4 tank shall identify the specific vehicle or engine manufacturer standard, or standards, met in letters not
5 less than 3.18 mm (1/8 in) in height. If the vehicle (motor) oil only meets a vehicle or engine manufacturer
6 standard, the label must clearly identify that the oil is only intended for use where specifically
7 recommended by the vehicle or engine manufacturer.

8 (Added 2014)

9 **3.13.1.3.2. Inactive or Obsolete Service Categories.** ~~–The label on any vehicle engine (motor) oil~~
10 ~~container, receptacle, dispenser, or storage tank and the invoice or receipt from service on an~~
11 ~~engine that includes the installation of vehicle engine (motor) oil dispensed from a receptacle,~~
12 ~~dispenser, or storage tank shall bear a plainly visible cautionary statement in compliance with the~~
13 ~~latest version of SAE J183, “Engine Oil Performance and Engine Service Classification (Other~~
14 ~~than “Energy Conserving”)” Appendix A, Whenever the any vehicle engine (motor) oil in the a~~
15 ~~container receptacle, dispenser, storage tank or in bulk does not meet an active API service category~~
16 ~~as defined by the latest version of SAE J183, “Engine Oil Performance and Engine Service Classification~~
17 ~~(Other than “Energy Conserving”), the front or forward-facing label If a of such vehicle engine~~
18 ~~(motor) oil container, receptacle, dispenser, or storage tank and the invoice or receipt from service~~
19 ~~on an engine that includes the installation of bulk vehicle engine (motor) oil dispensed from a~~
20 ~~receptacle, dispenser or storage tank shall bear the plainly-visible cautionary statement set forth~~
21 ~~in the latest version of SAE J183, Appendix A. Whenever any vehicle engine (motor) oil is declared~~
22 ~~obsolete by a vehicle or engine manufacturer, the front of forward-facing label of such vehicle~~
23 ~~engine (motor) oil container, receptacle, dispenser or storage tank and the invoice or receipt from~~
24 ~~service on an engine that includes the installation of bulk vehicle engine (motor) oil dispensed from~~
25 ~~a receptacle, dispenser, or storage tank shall bear the plainly-visible cautionary statement~~
26 ~~required by the vehicle or engine manufacturer.~~

27 (Added 2012) (Amended 2014 and 20XX)

28 **3.13.1.4. Tank Trucks or Rail Cars.** Tank trucks, rail cars, and types of delivery trucks that are used to
29 deliver bulk vehicle engine (motor) oil are not required to display the SAE viscosity grade and service
30 category or categories on such tank trucks, rail cars, and other types of delivery trucks. In lieu of such
31 display requirements the documentation defined in Section 3.13.1.5. Documentation shall be readily
32 available for inspection.

33 (Added 2012) (Amend 2013, ~~and~~ 2014 and 20XX)

34 **3.13.1.5. Documentation.** – When the engine (motor) oil is sold in bulk, an invoice, bill of lading, shipping
35 paper, or other documentation must accompany each delivery. This document must identify the quantity of
36 bulk engine (motor) oil delivered as defined in Sections 3.13.1.1. Viscosity, grade as defined by the latest
37 version of SAE J300 “Engine Oil Viscosity Classification”; 3.13.1.2. Brand; 3.13.1.3. Engine Service
38 Category; the name and address of the seller and buyer; and the date and time of the sale. For inactive or
39 obsolete service categories, the documentation shall also bear a plainly visible cautionary statement as
40 required in Section 3.13.1.3.2. Inactive or Obsolete Service Categories. Documentation must be retained at
41 the retail establishment for a period of not less than one year.

42 (Added 2013) (Amended 2014)

43 (Amended 2012, 2013, and 2014)

1 **3.13.2. Labeling of Recreational Motor Oil.**

2 **3.13.2.1. Viscosity.** The label on each container of recreational motor oil shall contain the viscosity grade
3 classification preceded by the letters “SAE” in accordance with the SAE International’s latest version of
4 SAE J300, “Engine Oil Viscosity Classification.”

5 **3.13.2.2. Intended Use.** –The label on each container of recreational motor oil shall contain a statement of
6 its intended use in accordance with the latest version of SAE J300, “Engine Oil Viscosity Classification.”

7 **3.13.3. Labeling of Gear Oil.**

8 **3.13.3.1. Viscosity.** –The label on each container of gear oil shall contain the viscosity grade classification
9 preceded by the letters “SAE” in accordance with the SAE International’s latest version of SAE J306,
10 “Automotive Gear Lubricant Viscosity Classification” or SAE J300, “Engine Oil Viscosity Classification.”

11 **3.13.3.1.1. Exception.** –Some automotive equipment manufacturers may not specify an SAE viscosity
12 grade requirement for some applications. Gear oils intended to be used only in such applications are not
13 required to contain an SAE viscosity grade on their labels.

14 **3.13.3.2. Service Category.** –The label on each container of gear oil shall contain the service category, or
15 categories, in letters not less than 3.18 mm ($\frac{1}{8}$ in) in height, as defined by the latest version of SAE J308,
16 “Axle and Manual Transmission Lubricants.”

17 (Added 2004)

18 **Section 7. Test Methods and Reproducibility Limits**

19 **7.2. Reproducibility Limits.**

20 **7.2.1. AKI Limits.** – When determining the antiknock index acceptance or rejection of a gasoline sample, the
21 AKI reproducibility limits as outlined in the latest version of ASTM D4814, “Standard Specification for
22 Automotive Spark-Ignition Engine Fuel,” Appendix X1 shall be acknowledged for enforcement purposes.

23 **7.2.2. Reproducibility.** – The reproducibility limits of the standard test method used for each test performed
24 shall be acknowledged for enforcement purposes, except as indicated in Section 2.2.1. Premium Diesel Fuel and
25 Section 7.2.1. AKI Limits. No allowance shall be made for the precision of the test methods for aviation gasoline
26 or aviation turbine fuels.

27 (Amended 2008)

28 **7.2.3. SAE Viscosity Grades for Engine Oils.** – ~~All values are critical specifications as defined in the latest~~
29 ~~version of ASTM D3244, “Standard Practice for Utilization of Test Data to Determine Conformance with~~
30 ~~Specifications.” The product shall be considered to be in conformance if the Assigned Test Value (ATV)~~
31 ~~is within the specification. With the exception of the low-temperature cranking viscosity, all values~~
32 ~~required to define SAE Viscosity Grades, as defined in the latest version of SAE J300, “Engine Oil Viscosity~~
33 ~~Classification”, are critical specifications as defined by the latest version of ASTM D3244, “Standard~~
34 ~~Practice for Utilization of Test Data to Determine Conformance with Specifications”.~~

35 (Added 2008) (Amended 20XX)

36 **7.2.4. Dispute Resolution.** – In the event of a dispute over a reported test value, the guidelines presented in the
37 latest version of ASTM D3244, “Standard Practice for Utilization of Test Data to Determine Conformance with
38 Specifications,” shall be used to determine the acceptance or rejection of the sample.

39 **7.2.5. Additional Enforcement Action.** – The Director may initiate enforcement action in the event that, based
40 upon a statistically significant number of samples, the average test result for products sampled from the same

1 source location is greater than the legal maximum or less than the legal minimum limits (specification value),
2 posted values, certified values, or registered values.
3 (Added 2008) (Amended 2018)

4 **Background/Discussion:**

5 Consumers are being misled and are not being adequately informed under existing Handbook 130 provisions about
6 the performance of “obsolete” oils in the engines of their vehicles. Many of these obsolete oils can damage modern
7 engines. The submitter recognizes that there may be as many as 14 million vehicles that can use pre-1988 motor oils.

8 At the 2018 NCWM Interim Meeting, Mr. Bill Striejewski (FALS Chair), indicated that FALS is recommending this
9 as a Voting item. In addition, support was heard from ILMA, API, and several regulators recommending this item as
10 a Voting item. However, many commenters stated that editorial and minor changes were still needed for the item to
11 be fully developed. Mr. Tim Elliot (WA) recommended that this item have streamlined language to use a generic
12 warning statement. Suggestions were also provided on the ultimate placement of the label. Due to lack of consensus,
13 potentially non-editorial changes, and lack of specific details on proposed changes, the L&R Committee recommends
14 this item be “Assigned” to FALS for further development to address the issues mentioned in this write-up.

15 At the 2018 NCWM Annual, Mr. Striejewski remarked that FALS received modified language from the submitter
16 and FALS is recommending this item remain Assigned with the updated.

17 At the 2019 NCWM Interim Meeting comments were heard from members of FALS stating that the level of discussion
18 desired was not had regarding this item due to the absence of the submitter at the FALS meeting that was held Sunday,
19 January 13, 2019. There were several comments regarding the term “modern” not being defined in the cautionary
20 statements. Several stakeholders and regulators feel these items need further review and clarification. A Kansas
21 regulator stated that the caution statement is incorrect and should be modified because it is oil being sold, not an
22 engine. After consideration the committee recommends this item remain Assigned to FALS.

23 At the 2019 NCWM Annual Meeting Mr. Striejewski (FALS Chair) commented that the submitter has a revision
24 (May 10, 2019) under the L&R supporting documents. This is the language that the Committee has moved forward
25 for consideration.

26 Prior to the 2020 NCWM Interim Meeting, the submitter provided an updated proposal dated January 18,
27 2020. During the FALS meeting they recommended changes to Item FLL-18.1 Section 8, Prohibited Acts. The
28 change to FLL-18.1 was presented by Mr. Striejewski (FALS Chair) on the screen for memberships review during
29 open hearing and posted January 27, 2020. FALS believes the language is fully developed and sent it back to the
30 L&R Committee.

31 During the open hearings, several members voiced their support for the block as amended by FALS and for it to move
32 forward as a Voting Item: Kevin Schnepf (CA), Jeff Harmening (API), Joanna Johnson (AOCA), Kurt Floren (Los
33 Angeles County, CA). Matthew Levetown (ILMA, representing submitter) supported the changes made by FALS but
34 with 2 edits; “Automotive motor oil” not “Automotive lubricants” and the inclusion of a comma after “as applicable
35 to purchaser”.

36 There was concern from a member that Publication 15 did not provide the latest language for this Block and that
37 modifications are being sent in at the last minute. This has occurred for several items and this situation needs to be
38 addressed. One solution maybe for the submitter to provide printed copies. Lisa Warfield (NIST OWM) stated she
39 understands the frustration, but updated proposals can all be found on the NCWM website listed as supporting
40 documents.

41 The Committee moved this item forward as a Voting item with minor editorial changes.

1 **Section 8. Prohibited Acts**

2 It shall be unlawful to:

3 **8.6.** Misrepresent automotive lubricants with an S.A.E. (Society of Automotive Engineers) viscosity grade or API
4 (American Petroleum Institute) service classification other than those **specified** by the intended purchaser.

5 (Added 1996) (Amended 20XX)

6 **Regional Association Comments:**

7 WWMA 2019 Annual Meeting: Within both regulations Section 2.33.1.3.2. and 3.13.1.3.2. the term “statement”
8 needs to be inserted after the word “cautionary.” With the inclusion of this word the FALS Chair and API believed
9 that B3: MOS-18.1 and B3 FLR-18.1 are fully developed. The Committee is recommending this block be provided a
10 Voting status.

11 The modified language in each paragraph is shown below in response to a request during the voting session:

12 **2.33.1.3.2. Inactive or Obsolete Service Categories.** ~~The label on any vehicle engine (motor) oil~~
13 ~~container, receptacle, dispenser, or storage tank and the invoice or receipt from service on an engine~~
14 ~~that includes the installation of bulk vehicle engine (motor) oil dispensed from a receptacle, dispenser,~~
15 ~~or storage tank shall bear a plainly visible cautionary statement in compliance with the latest version~~
16 ~~of SAE J183, Appendix A, Whenever the any vehicle engine (motor) oil in the a container, receptacle,~~
17 ~~dispenser, storage tank, or in bulk does not meet an active API service category as defined by the latest~~
18 ~~version of SAE J183, “Engine Oil Performance and Engine Service Classification (Other than “Energy~~
19 ~~Conserving”);” the front or forward-facing-label of such vehicle engine (motor) oil container,~~
20 ~~receptacle, dispenser, or storage tank and the invoice or receipt from service on an engine that includes~~
21 ~~the installation of bulk vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage~~
22 ~~tank shall bear the plainly-visible, cautionary statement set forth in the latest version of SAE J183,~~
23 ~~Appendix A. Whenever any vehicle engine (motor) oil is declared obsolete by a vehicle or engine~~
24 ~~manufacturer, the front or forward-facing label of such vehicle engine (motor) oil container,~~
25 ~~receptacle, dispenser, or storage tank and the invoice or receipt from service on an engine that includes~~
26 ~~the installation of bulk vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage~~
27 ~~tank shall bear the plainly-visible, cautionary statement required by the vehicle or engine~~
28 ~~manufacturer. If a vehicle engine (motor) oil is identified as only meeting a vehicle or engine~~
29 ~~manufacturer standard, the labeling requirements in Section 2.33.1.3.1. Vehicle or Engine~~
30 ~~Manufacturer Standard applies.~~

31 (Amended 2014 and 20XX)

32 **3.13.1.3.2. Inactive or Obsolete Service Categories.** ~~The label on any vehicle engine (motor) oil~~
33 ~~container, receptacle, dispenser, or storage tank and the invoice or receipt from service on an engine~~
34 ~~that includes the installation of vehicle engine (motor) oil dispensed from a receptacle, dispenser, or~~
35 ~~storage tank shall bear a plainly visible cautionary statement in compliance with the latest version of~~
36 ~~SAE J183, “Engine Oil Performance and Engine Service Classification (Other than “Energy~~
37 ~~Conserving”)” Appendix A, Whenever the any vehicle engine (motor) oil in the a container receptacle,~~
38 ~~dispenser, storage tank or in bulk does not meet an active API service category as defined by the latest~~
39 ~~version of SAE J183, “Engine Oil Performance and Engine Service Classification (Other than “Energy~~
40 ~~Conserving”);” the front or forward-facing label If a of such vehicle engine (motor) oil container,~~
41 ~~receptacle, dispenser, or storage tank and the invoice or receipt from service on an engine that includes~~
42 ~~the installation of bulk vehicle engine (motor) oil dispensed from a receptacle, dispenser or storage~~
43 ~~tank shall bear the plainly-visible cautionary statement set forth in the latest version of SAE J183,~~
44 ~~Appendix A. Whenever any vehicle engine (motor) oil is declared obsolete by a vehicle or engine~~
45 ~~manufacturer, the front of forward-facing label of such vehicle engine (motor) oil container, receptacle,~~
46 ~~dispenser or storage tank and the invoice or receipt from service on an engine that includes the~~
47 ~~installation of bulk vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank~~
48 ~~shall bear the plainly-visible cautionary statement required by the vehicle or engine manufacturer.~~

49 (Added 2012) (Amended 2014 and 20XX)

1 **FLL-18.1 I Engine Fuels & Automotive Lubricants Inspection Law, Section 8.6 Prohibited Acts**

2 It was noted within background information in the report that the submitter did not address the concern with Section
3 8.6. as to why the term “specified” is being stricken. In addition, the sentence is not complete and the Committee
4 questions “what is the meaning of the sentence, it appears to place the burden on the purchaser?” The Committee
5 recognizes this is a preexisting regulation but would like it addressed by FALS.

6 Based on comments and uncertainty of FLL-18.1 we recommend that the submitter continue to work with FALS to
7 develop this item.

8 SWMA 2019 Annual Meeting: In previous reports Section 2.14 had been included. The Committee reached out to
9 Mr. Jeff Leiter (ILMA) confirmed that in error this Section is still under consideration and needs to be added into the
10 reporting.

11 **2.14. Engine (Motor) Oil.** – Shall not be sold or distributed for use unless the product conforms to the following
12 specifications:

13 (a) performance claims **made regarding active performance categories, as** listed on the label shall be
14 evaluated against the latest version of SAE J183, “Engine Oil Performance and Engine Service
15 Classification,” API 1509 “Engine Oil Licensing and Certification System,” European Automobile
16 Manufacturers’ Association (ACEA), “European Oil Sequences,” or other “Vehicle or Engine
17 Manufacturer Standards” as applicable;

18 **(b) performance claims made regarding any obsolete performance categories, as listed on the label,**
19 **shall be determined to meet the requirements of Section 3.13.1.3.2. “Inactive or Obsolete Service**
20 **Categories” by displaying the appropriate cautionary labeling and**

21 (c) the product shall meet its labeled viscosity grade specification as specified in the latest version of
22 SAE J300, “Engine Oil Viscosity Classification.”

23 (Added 2004) (Amended 2014 **and 20XX**)

24 In addition, the header file for B3: FLR-18.1. should read 18.5 and B3: MOS-18.1 should read 18.4.

25 For Section 8. Prohibited Act the first word should “misrepresent” and not “represent.” This is being addressed
26 editorially in NIST Handbook 130 (2020).

27 The word “statement” should be added after the term “cautionary” throughout the proposal.

28 In B3: FLL-18.1 Section 8.6. needs clarification as to what the submitter is intending.

29 The Committee is recommending this remain at FALS and the concerns be addressed.

30 NEWMA 2019 Interim Meeting: Mr. Jeff Leiter (ILMA) commented that this proposal follows language that was
31 recently adopted in California that addresses non-compatible or “obsolete” oils in the marketplace. This effort is
32 intended to address current litigation being considered in multiple states. Ultimately, this current language is a product
33 of further work with regulators as well as additional language which was inadvertently left out of the regional agenda
34 proposals. The Committee recommends the item is ready for voting as amended.

35 The Committee recommends the following amendment:

1 **Section 8. Prohibited Act**

2 It shall be unlawful to:

3 **8.6. Mi**represent automotive lubricants with an S.A.E. (Society of Automotive Engineers) viscosity grade or API
4 (American Petroleum Institute) service classification ~~other than those specified by~~ to the intended purchaser/
5 **consumer**.

6 (Added 1996) (Amended 20XX)

7 CWMA 2020 Interim Meeting: Mr. Jeffrey Harmening (API) commented that his organization supports the
8 modifications in general, but has a recommendation that Sections 2.33.1.3.2. and 3.13.1.3.2. Inactive or Obsolete
9 Service Categories (both sections) be revised to include the list of organizations and specifications listed in 2.33.1.3.
10 and 3.13.1.3. Engine Service Category (both sections) to minimize the potential for improper use in engines. Mr.
11 Charlie Stutesman (Kansas) commented that he agrees that the NCWM L&R Committee consider this be
12 downgraded so that API’s concept can be fully vetted. He believes it makes a great deal of difference whether the
13 new language references only the API service category or other organizations and specifications.

14 Another concept received from Mr. Jeff Leiter, ILMA (the original submitter) is to reinstate the last sentence of the
15 section: *If a vehicle engine (motor) oil is identified as only meeting a vehicle or engine manufacturer standard, the*
16 *labeling requirements in Section 2.33.1.3.1. Vehicle or Engine Manufacturer Standard applies.* The Committee
17 considered these changes and had a very comprehensive discussion regarding 1) which proposal would best address
18 the concerns of the industry, and 2) if the concept of either proposal had been vetted enough to allow the item to
19 move forward with voting status. The Committee opted to provide both concepts to the NCWM L&R Committee
20 to further vet both proposals. Consequently, the CWMA L&R Committee opts to not make a specific
21 recommendation.

22 **API Revision (Concept 1):**

23 **2.33.1.3.2. Inactive or Obsolete Service Categories.** ~~The label on any vehicle engine (motor) oil container,~~
24 ~~receptacle, dispenser, or storage tank and the invoice or receipt from service on an engine that includes the~~
25 ~~installation of bulk vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank shall~~
26 ~~bear a plainly visible cautionary statement in compliance with the latest version of SAE J183, Appendix A,~~
27 ~~Whenever the any vehicle engine (motor) oil in the a container, receptacle, dispenser, storage tank, or in bulk~~
28 ~~does not meet an active API service category as defined by the latest version of SAE J183, “Engine Oil Performance~~
29 ~~and Engine Service Classification (Other than “Energy Conserving”),” API Publication 1509, “Engine Oil~~
30 ~~Licensing and Certification System,” European Automobile Manufacturers Association (ACEA),~~
31 ~~“European Oil Sequences,” or other Vehicle or Engine Manufacturer standards as approved in Section~~
32 ~~2.33.1.3.1., the front or forward facing-label of such vehicle engine (motor) oil container, receptacle,~~
33 ~~dispenser, or storage tank and the invoice or receipt from service on an engine that includes the installation~~
34 ~~of bulk vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank shall bear the~~
35 ~~plainly-visible, cautionary statement set forth in the latest version of SAE J183, Appendix A. Whenever any~~
36 ~~vehicle engine (motor) oil is declared obsolete by a vehicle or engine manufacturer, the front or forward-~~
37 ~~facing label of such vehicle engine (motor) oil container, receptacle, dispenser, or storage tank and the invoice~~
38 ~~or receipt from service on an engine that includes the installation of bulk vehicle engine (motor) oil dispensed~~
39 ~~from a receptacle, dispenser, or storage tank shall bear the plainly-visible, cautionary statement required by~~
40 ~~the vehicle or engine manufacturer. If a vehicle engine (motor) oil is identified as only meeting a vehicle or~~
41 ~~engine manufacturer standard, the labeling requirements in Section 2.33.1.3.1. Vehicle or Engine~~
42 ~~Manufacturer Standard applies.~~

43 (Amended 2014 and 20XX)

44
45 **3.13.1.3.2. Inactive or Obsolete Service Categories.** ~~The label on any vehicle engine (motor) oil container,~~
46 ~~receptacle, dispenser, or storage tank and the invoice or receipt from service on an engine that includes the~~
47 ~~installation of vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank shall bear a~~
48 ~~plainly visible cautionary statement in compliance with the latest version of SAE J183, “Engine Oil~~
49 ~~Performance and Engine Service Classification (Other than “Energy Conserving”)” Appendix A, Whenever~~

1 ~~the any~~ vehicle engine (motor) oil in ~~the a~~ container **receptacle, dispenser, storage tank** or in bulk does not meet
 2 an active API service category as defined by the latest version of SAE J183, “Engine Oil Performance and Engine
 3 Service Classification (Other than “Energy Conserving”).” **API Publication 1509, “Engine Oil Licensing and
 4 Certification System,” European Automobile Manufacturers Association (ACEA), “European Oil
 5 Sequences,” or other Vehicle or Engine Manufacturer standards as approved in Section 2.33.1.3.1.,” the front
 6 or forward-facing label ~~if a of such~~ vehicle engine (motor) oil **container, receptacle, dispenser, or storage tank
 7 and the invoice or receipt from service on an engine that includes the installation of bulk vehicle engine
 8 (motor) oil dispensed from a receptacle, dispenser or storage tank shall bear the plainly-visible cautionary
 9 statement set forth in the latest version of SAE J183, Appendix A. Whenever any vehicle engine (motor) oil
 10 is declared obsolete by a vehicle or engine manufacturer, the front of forward-facing label of such vehicle
 11 engine (motor) oil container, receptacle, dispenser or storage tank and the invoice or receipt from service on
 12 an engine that includes the installation of bulk vehicle engine (motor) oil dispensed from a receptacle,
 13 dispenser, or storage tank shall bear the plainly-visible cautionary statement required by the vehicle or
 14 engine manufacturer.****

15 (Added 2012) (Amended 2014 **and 20XX**)

16 **ILMA Revision (Concept 2):**

17 **2.33.1.3.2. Inactive or Obsolete Service Categories.** ~~The label on any vehicle engine (motor) oil container,
 18 receptacle, dispenser, or storage tank and the invoice or receipt from service on an engine that includes the
 19 installation of bulk vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank shall
 20 bear a plainly visible cautionary statement in compliance with the latest version of SAE J183, Appendix A,
 21 Whenever ~~the any~~ vehicle engine (motor) oil in ~~the a~~ container, **receptacle, dispenser, storage tank,** or in bulk
 22 does not meet an active API service category as defined by the latest version of SAE J183, “Engine Oil Performance
 23 and Engine Service Classification (Other than “Energy Conserving”).” **the front or forward facing-label of such
 24 vehicle engine (motor) oil container, receptacle, dispenser, or storage tank and the invoice or receipt from
 25 service on an engine that includes the installation of bulk vehicle engine (motor) oil dispensed from a
 26 receptacle, dispenser, or storage tank shall bear the plainly-visible, cautionary statement set forth in the
 27 latest version of SAE J183, Appendix A. Whenever any vehicle engine (motor) oil is declared obsolete by a
 28 vehicle or engine manufacturer, the front or forward-facing label of such vehicle engine (motor) oil container,
 29 receptacle, dispenser, or storage tank and the invoice or receipt from service on an engine that includes the
 30 installation of bulk vehicle engine (motor) oil dispensed from a receptacle, dispenser, or storage tank shall
 31 bear the plainly-visible, cautionary statement required by the vehicle or engine manufacturer. ~~If a vehicle
 32 engine (motor) oil is identified as only meeting a vehicle or engine manufacturer standard, the labeling
 33 requirements in Section 2.33.1.3.1. Vehicle or Engine Manufacturer Standard applies. (Reinstate the last
 34 sentence).~~**~~

35 (Amended 2014 **and 20XX**)

36 Additional letters, presentation and data may have been submitted for consideration with this item. Please refer to
 37 <https://www.ncwm.com/publication-16> to review these documents.

1 **FLR – UNIFORM FUELS AND AUTOMOTIVE LUBRICANTS REGULATION**

2 **FLR-20.5 V Section 2.1.2.(a). Gasoline-Ethanol Blends.**

3 **This item appeared as part of FLR-20.2 on the NCWM 2020 Interim Agenda. Part of the original “Item Under**
4 **Consideration” was not moved forward as a Voting item and now appears in Block 4 of this Agenda.**

5 **Source:**

6 American Petroleum Institute (API)

7 **Purpose:**

8 More comprehensively align Handbook 130 Uniform Fuels and Automotive Lubricants Regulations with the U.S.
9 EPA’s rule that grants a 1-psi vapor pressure waiver to E15 for summertime (June 1 to September 15) and to help
10 ensure consumers receive a consistent E15 blend. The proposed changes to HB 130 reflect the important information
11 that an inspector will need to ensure that E15 is properly blended and that the potential harm to the consumer and the
12 environment will be minimized.

13 **Item Under Consideration:**

14 Amend NIST Handbook 130, Uniform Fuels and Automotive Lubricants Regulation as follows:

15 **2.1. Gasoline and Gasoline-Oxygenate Blends**

16 **2.1.1. Gasoline and Gasoline-Oxygenate Blends** (as defined in this regulation). – Shall meet the latest version
17 of ASTM D4814, “Standard Specification for Automotive Spark-Ignition Engine Fuel” except for the permissible
18 offsets for ethanol blends as provided in Section 2.1.2. Gasoline-Ethanol Blends.

19 (a) The maximum concentration of oxygenates contained in gasoline-oxygenate blends shall not exceed
20 those permitted by the EPA under Section 211 of the Clean Air Act and applicable waivers.

21 (Added 2009) (Amended 2018)

22 **2.1.2. Gasoline-Ethanol Blends.** – When gasoline is blended with denatured fuel ethanol, the denatured fuel
23 ethanol shall meet the latest version of ASTM D4806, “Standard Specification for Denatured Fuel Ethanol for
24 Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel,” and the blend shall meet the latest
25 version of ASTM D4814, “Standard Specification for Automotive Spark-Ignition Engine Fuel,” with the
26 following permissible exceptions:

27 (a) The maximum vapor pressure shall not exceed the latest edition of ASTM D4814, “Standard
28 Specification for Automotive Spark-Ignition Engine Fuel,” limits by more than 1.0 psi for blends
29 containing at least 9 and not more than 15 volume percent ethanol from June 1 through
30 September 15 as allowed by EPA per 40 CFR 80.27(d).

31 (Amended 2016, ~~and~~ 2018, 2019 and 20XX)

32 *NOTE 1: The values shown above appear only in U.S. customary units to ensure that the values are identical to*
33 *those in ASTM standards and the Environmental Protection Agency regulation.*

34 (Added 2009) (Amended 2012 and 2016)

1 **Background/Discussion:**

2 Aligning Handbook 130 with the important parts of the U.S. EPA rule that grants a 1-psi vapor pressure waiver during
3 the summer months for E15 is important to ensure that E15 has the correct vapor pressure during these months and
4 provides comprehensive information to aid in ensuring compliant E15 gasoline is provided to consumers. FLR
5 Sections 2.1.2. and 1.23. are modified to address these issues.

6 **Amendments to FLR paragraph 2.1.2.(a)**, specify that the range of ethanol in the gasoline-ethanol blends qualifying
7 for the 1-psi waiver shall only be from 9 to 15 volume percent as per 40 CFR 80.27(d). The change is unambiguous
8 and does not require the inspector to access the federal rule to understand the applicable range of the waiver.

9 **EPA Final rule**, “Modifications to Fuel Regulations To Provide Flexibility for E15; Modifications to RFS RIN
10 Market Regulations” June 10, 2019, www.govinfo.gov/content/pkg/FR-2019-06-10/pdf/2019-11653.pdf

11 U.S. EPA “Modifications to Fuel Regulations to Provide Flexibility for E15; Modifications to RFS RIN Market
12 Regulations: Response to Comments.” June 10, 2019. Added in total with an example provided below.

13 www.regulations.gov/document?D=EPA-HQ-OAR-2018-0775-1174

14 p. 53 (Response to comments) E15 is allowed to be blended at blender pumps as long as **only certified**
15 **components** are used (sic) Cases where blender pumps introduce uncertified components into gasoline
16 continue to be illegal and may result in fuel that exceeds gasoline quality standards. Parties that blend
17 uncertified components into previously certified gasoline are considered fuel manufacturers under the
18 regulations at 40 CFR part 79 and refiners under 40 CFR part 80. [emphasis added]

19 The following quotes from the U.S. EPA proposal provide additional information:

- 20 • EPA provided the following comments in its final rule on the recent E15 1-psi waiver related to Section G,
21 2.1.2. and 1.23.:
- 22 ○ “[U.S. EPA] note that for E15 produced at blender pumps using E85 made with natural gas liquids, **use**
23 **of the deemed to comply provision to demonstrate compliance would not be available.** This is
24 because the RVP of natural gas liquids can be as high as 15.0 psi and even a small amount of natural gas
25 liquids could cause the gasoline portion of the blend to not comply with the applicable RVP limitations
26 established under CAA sec. 211(h), which is required under CAA sec. 211(h)(4)(A) to be deemed in
27 compliance. Parties that make E15 at a blender pump using **E85 made with previously certified**
28 **gasoline can take advantage of the ‘deemed to comply’ provision** and associated affirmative defense
29 at 40 CFR 80.28 if all applicable requirements in 80.28 are met.” (84 FR 27008)
- 30 ○ (emphasis added)
- 31 • “As discussed in the [U.S. EPA] proposal, E15 made at blender pumps is often made with certified E10 (or
32 CBOB) and E85 (made with denatured fuel ethanol and uncertified hydrocarbon blendstocks, i.e., natural gas
33 liquids). While data is limited, we believe that approximately 50 percent of stations offering E15 make E15
34 in this manner. (84 FR 27010)
- 35 • **40 CFR 80.27(d) Special provisions for alcohol blends.**

36 (1) Any gasoline which meets the requirements of paragraph (d)(2) of this section shall not be in violation of
37 this section if its Reid vapor pressure does not exceed the applicable standard in paragraph (a) of this section
38 by more than one pound per square inch (1.0 psi).

39 (2) In order to qualify for the special regulatory treatment specified in paragraph (d)(1) of this section,
40 gasoline must contain denatured, anhydrous ethanol. **The concentration of the ethanol, excluding the**
41 **required denaturing agent, must be at least 9% and no more than 15% (by volume) of the gasoline.**
42 The ethanol content of the gasoline shall be determined by the use of one of the testing methodologies

1 specified in § 80.47. The maximum ethanol content shall not exceed any applicable waiver conditions under
2 section 211(f) of the Clean Air Act.

3 **(3) Each invoice, loading ticket, bill of lading, delivery ticket and other document which accompanies**
4 **a shipment of gasoline containing ethanol shall contain a legible and conspicuous statement that the**
5 **gasoline being shipped contains ethanol and the percentage concentration of ethanol.**

6 (emphasis added)

7 • **40 CFR 80.28(g) Defenses.**

8 (8) In addition to the defenses provided in paragraphs (g)(1) through (6) of this section, in any case in
9 which an ethanol blender, distributor, reseller, carrier, retailer, or wholesale purchaser-consumer would
10 be in violation under paragraph (b), (c), (d), (e), or (f) of this section, as a result of gasoline which contains
11 between 9 and 15 percent ethanol (by volume) but exceeds the applicable standard by more than one
12 pound per square inch (1.0 psi), the ethanol blender, distributor, reseller, carrier, retailer or wholesale
13 purchaser-consumer **shall not be deemed in violation if such person can demonstrate, by showing**
14 **receipt of a certification from the facility from which the gasoline was received or other evidence**
15 **acceptable to the Administrator, that:**

16 **(i) The gasoline portion of the blend complies with the Reid vapor pressure limitations of §**
17 **80.27(a); and**

18 **(ii) The ethanol portion of the blend does not exceed 15 percent (by volume); and**

19 **(iii) No additional alcohol or other additive has been added to increase the Reid vapor pressure**
20 **of the ethanol portion of the blend.**

21 In the case of a violation alleged against an ethanol blender, distributor, reseller, or carrier, if the
22 demonstration required by paragraphs (g)(8)(i), (ii), and (iii) of this section is made by a certification, it
23 must be supported by evidence that the criteria in paragraphs (g)(8)(i), (ii), and (iii) of this section have
24 been met, such as an oversight program conducted by or on behalf of the ethanol blender, distributor,
25 reseller or carrier alleged to be in violation, which includes periodic sampling and testing of the gasoline
26 or monitoring the volatility and ethanol content of the gasoline. Such certification shall be deemed
27 sufficient evidence of compliance provided it is not contradicted by specific evidence, such as testing
28 results, and provided that the party has no other reasonable basis to believe that the facts stated in the
29 certification are inaccurate. **In the case of a violation alleged against a retail outlet or wholesale**
30 **purchaser-consumer facility, such certification shall be deemed an adequate defense for the retailer**
31 **or wholesale purchaser-consumer, provided that the retailer or wholesale purchaser-consumer is able**
32 **to show certificates for all of the gasoline contained in the storage tank found in violation, and,**
33 **provided that the retailer or wholesale purchaser-consumer has no reasonable basis to believe that the**
34 **facts stated in the certifications are inaccurate.**

35 (emphasis added)

36 On January 17, 2020 Mr. Prentiss Searles (API) submitted modified language for Section 2.1.2.(a). Gasoline-Ethanol
37 Blends. There were over ten letters received in opposition for MOS-20.2. Documentation for Dispenser Labeling
38 Purposes and FLR 20.3. Section 1.23. Ethanol Flex Fuel language. Many were opposed due to its duplication with
39 the EPA compliance program for this subject

40 At the 2020 NCWM Interim Meeting Mr. Searles did provide a presentation and requested from the floor that Section
41 2.1.2.(a) Gasoline -Ethanol Blends be considered as a Voting Item and he volunteered to chair a workgroup to further
42 develop the remaining items. Many rose in support and opposition of this block of items. It was addressed by Ms.
43 Warfield (NIST OWM) that FALS was tasked by the Committee in July 2019 to review the EPA language and its
44 impact on the regulations within the Fuels Regulations within NIST Handbook 130. Mr. Striejewske (FALS Chair)

1 remarked that he has created a focus group but needs additional clarification from the Committee on what specifically
2 they should address.

3 During Committee work session they concurred that Section 2.1.2.(a). Gasoline-Ethanol Blends will proceed as a
4 Voting item. All the remaining items will be merged into Block 4 and be assigned to FALS for further development.

5 **Regional Association Comments:**

6 WWMA 2019 Annual Meeting: There was a presentation that was provided by Mr. Joe Sorena (representing API).
7 Mr. Steven Harrington (OR) recommended this be assigned to FALS for review and he concurs with the modification
8 to 2.1.2.(a) in adding the language “containing at least 9 and not more than 15 volume percent ethanol.” Mr. Kevin
9 Adlaf (ADM) felt that the proposal provided too much information that was not necessary. Mr. Adlaf asked if there
10 was any data to support this proposal. Ms. Cadence Matijevich (NV) remarked that Section 2.1.2.(b), the first sentence
11 has grammar issues. Ms. Jacki Fee (Cargill) remarked that several items were left out of the language. Ms. Kristy
12 Moore (Growth Energy) remarked that the item was addressed at the 2019 NCWM Annual meeting and recommends
13 this item be withdrawn. The Committee is recommending this be Assigned to FALS for further review. It was noted
14 that the formatting was not correct within the agenda and it should appear as:

15 **2.1.2. Gasoline-Ethanol Blends.** – When gasoline is blended with denatured fuel ethanol, the denatured fuel
16 ethanol shall meet the latest version of ASTM D4806, “Standard Specification for Denatured Fuel Ethanol for
17 Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel,” and the blend shall meet the latest
18 version of ASTM D4814, “Standard Specification for Automotive Spark-Ignition Engine Fuel,” with the
19 following permissible exceptions:

20 (a) The maximum vapor pressure shall not exceed the latest version of ASTM D4814, “Standard
21 Specification for Automotive Spark-Ignition Engine Fuel,” limits by more than 1.0 psi for blends
22 **containing at least 9 and not more than 15 volume percent ethanol** from June 1 through September
23 15 as allowed by EPA per 40 CFR 80.27(d).

24 (Amended 2016, 2018, ~~and~~ 2019, and 20XX)

25 (b) **An ethanol blender, distributor, reseller, carrier, retailer, or wholesale purchaser-consumer who**
26 **exceeds the applicable standard by more than 1.0 psi, shall demonstrate, by showing receipt of a**
27 **certification from the facility from which the gasoline, gasoline-ethanol blend or ethanol flex fuel**
28 **blend was received, that the hydrocarbon portion of the blend complies with the Reid vapor**
29 **pressure and other limitations of 40 CFR 80.27(a), as required in 40 CFR 80.28(g)(8). The**
30 **certification shall be supported by evidence that the above criteria have been met, such as an**
31 **oversight program which includes periodic sampling and testing of the gasoline or monitoring the**
32 **volatility and ethanol content of the gasoline.**

33 **(Added 20XX)**

34 *NOTE 1: The values shown above appear only in U.S. customary units to ensure that the values are identical to*
35 *those in ASTM standards and the Environmental Protection Agency regulation.*

36 (Added 2009) (Amended 2012, ~~and~~ 2016, and 20XX)

37 SWMA 2019 Annual Meeting: The Committee believes there could be misuse of Section 2.1.2(b). Once the sample
38 is tested it could be in violation for being substandard. The responsible party would be the retailer. How does this
39 responsibility change when they are showing a certification where the product is coming from and is the product in
40 the tank? It would be difficult for the inspector for following the quality and oversight of that product. During work
41 session, clarification was provided that if there is documentation that certified product is within the tank the retailer
42 does not need to test for conformance. There must be a documentation and traceability of the certification. However,
43 if no certification then testing would need to be done to be verified. The Committee does not concur that with the
44 language and the clarification that was provided. They believe that someone needs to be responsible even if
45 certification is provided. There were too many questions concerning this issue and the Committee is requesting this
46 be assigned to FALS for additional work and a recommendation to the National L&R Committee.

1 NEWMA 2019 Interim Meeting: Mr. Bill Hornbach (representing Chevron and API) made a brief presentation as to
2 the details of the proposal. Mr. Hornbach supports the item. Ms. Kristy Moore submitted written comments and
3 believes the item should be withdrawn. Ms. Jackie Fee (Cargill) opposes the item. She indicated that the word
4 “certification” is misleading and recommends withdrawal of this item. The Committee recommended this item be
5 assigned to FALS for further technical review and clarification.

6 CWMA 2019 Interim Meeting: Mr. Prentiss Searles (API) commented that this item adds back and updates the waiver
7 limitations that were provided in the 2019 version of NIST Handbook 130. The 2019 version specified the range of a
8 gasoline-ethanol blend that was granted the 1-psi waiver as “containing 9 to 10 volume percent ethanol.” In June 2019,
9 the U.S. EPA extended the range to 15 volume percent ethanol and during last year’s annual meeting (July 2019), a
10 vote to adopt that modification was made and the applicable range of the waiver was lost. This proposal adds the range
11 for the waiver of 9 to 15% ethanol back in the text. This proposed change realigns NIST Handbook 130 with the
12 language that was there before, is unambiguous and provides necessary contextual information to the user of the
13 Handbook. Having this information available is consistent with the labeling requirements in the NIST Handbook that
14 refer to E15.

15 Mr. Charlie Stutesman (Kansas) commented he prefers to leave the NIST Handbook 130 as it is with reference
16 language rather than specifics. He believes the item is ready for voting status. Mr. Chuck Corr (Iowa Renewable Fuels
17 Association) commented that if Handbook 130 is amended to include all the federal rules, it would become too lengthy
18 to be useful for field inspectors. Ms. Beverly Michaels (BP) commented that she believes this reference is important
19 to include in NST Handbook 130 and should be amended as presented by API. She believes a lack of specificity in
20 the NIST Handbook could be problematic and confusing for those in the field. Regardless of members’ positions on
21 the topic, the item has been fully vetted and is ready for voting status. Mr. Mike Harrington (Iowa) commented that
22 he heard from many industry representatives and constituents that it would be best to leave the Handbook as a general
23 reference to EPA language. He believes the item should be withdrawn.

24 The Committee discussed the question of publishing protocols passed recently by the membership that references
25 other documents without specific numbers cited in NIST Handbook 130. Another point that was made was that

26 the industry is rapidly changing, and it is difficult to keep pace in the Handbook as changes happen in the referenced
27 materials. Based on these points, the CWMA L&R Committee recommends this item be Withdrawn.

28 Additional letters, presentation and data may have been submitted for consideration with this item. Please refer to
29 <https://www.ncwm.com/publication-16> to review these documents.

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- 30 Mr. Ethan Bogren, Westchester County, New York | Committee Chair
31 Mr. Mauricio Mejia, Florida | Member
32 Mr. John McGuire, New Jersey | Member
33 Mr. Doug Rathbun, Illinois | Member
34 Mr. Tim Elliott, Washington | Member
35 Mr. Prentiss Searles, American Petroleum Institute | AMC Representative
36 Mr. Lance Robertson, Measurement Canada | Canadian Technical Advisor
37 Ms. Lisa Warfield, NIST OWM | Technical Advisor
38 Mr. David Sefcik, NIST OWM | Technical Advisor

Laws and Regulations Committee

