

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice of Intended Action

Proposing rule making related to adoption by reference of section of NIST Handbook and providing an opportunity for public comment

The Agriculture and Land Stewardship Department hereby proposes to amend Chapter 85, “Weights and Measures,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 189.2 and 215.24.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 189 and 215.

Purpose and Summary

This proposed rule making is limited in scope to adoption by reference of the National Institute of Standards and Technology (NIST) Handbook 130, (2020), Part IV, Section G, 2.1.2, specifically that section and not the entire manual. The Environmental Protection Agency (EPA) issued an amended administrative rule making that withdrew the “vapor pressure” prohibition on the retail marketing of motor fuel containing 15 percent ethanol from June 1 through September 15 of a calendar year. While the EPA made the regulatory change, the NIST had not yet completed its process to alter the requirements in the NIST Handbook. The lag created a regulatory inconsistency between the EPA’s regulations and the Department’s administrative rules that incorporate by reference the NIST standard that contains the “vapor pressure” seasonal sales prohibition. The Department issued a waiver of the rule from June 1, 2019, to September 15, 2019, to address this discrepancy.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 21—Chapter 8.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 22, 2020. Comments should be directed to:

Maison Bleam
Iowa Department of Agriculture and Land Stewardship
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Email: maison.bleam@iowaagriculture.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

January 22, 2020
1 to 2 p.m.

Second Floor Conference Room
Wallace State Office Building
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Amend rule 21—85.39(189,215) as follows:

21—85.39(189,215) Weights and measures.

85.39(1) The specifications, tolerances and regulations for commercial weighing and measuring devices, together with amendments thereto, as recommended by the National Institute of Standards and Technology and published in National Institute of Standards and Technology Handbook 44 amended or revised as of July 1, 2013, shall be the specifications, tolerances and regulations for commercial weighing and measuring devices in the state of Iowa, except as modified by state statutes, or by rules adopted and published by the Iowa department of agriculture and land stewardship and not rescinded.

85.39(2) The National Institute of Standards and Technology (NIST) Handbooks 130 and 133: Weights and Measures Law, Packaging and Labeling, Method of Sale, Type Evaluation, Checking the Net Contents of Packaged Goods, and Uniform Engine Fuels and Automotive Lubricants Regulation, and all supplements, as published by the National Institute of Standards and Technology amended or revised as of July 1, 2013, are adopted in their entirety by reference except as modified by state statutes, or by rules adopted and published by the Iowa department of agriculture and land stewardship.

a. The National Institute of Standards and Technology (NIST) Handbook 130, Part IV, Section G, Section 2. Standard Specifications, 2.1.2. Gasoline-Ethanol Blends, as of November 1, 2020, is adopted in its entirety by reference except as modified by state statutes, or by rules adopted and published by the Iowa department of agriculture and land stewardship.

b. Reserved.

This rule is intended to implement Iowa Code sections 189.9, 189.13, 189.17, 215.14, 215.18 and 215.23.