

APPENDIX D
REPORT OF THE
TASK FORCE ON COMMODITY REQUIREMENTS
TO THE EXECUTIVE COMMITTEE

JANUARY, 1987

Summary of Recommendations

The results of the Pilot Study on meat and poultry indicate that the gray area approach can be used to determine compliance of meat and poultry products. The Task Force sincerely appreciates the invaluable assistance of weights and measures inspectors, the Food Safety and Inspection Service (FSIS) of USDA, and the industry in collecting and evaluating the data needed to resolve this long-standing problem.

The gray area approach, as adopted by the Conference in July 1987 for flour, should be extended to meat and poultry products packaged at Federally-inspected plants. Specific recommendations follow.

- (1) When testing meat or poultry products that were packed at Federally-inspected plants, weights and measures officials should use:
 - (a) Category A sampling plans at retail or warehouse locations; or
 - (b) Category B sampling plans or equivalent at the packaging plant.
- (2) Weights and measures officials have several options to determine package net weights:
 - (a) wet tare (the weight of packaging materials and any free-flowing liquid after removing the product),
 - (b) unused dry tare (the weight of unused packaging materials before the product is placed in the package), or
 - (c) dried used tare.
- (3) When unused dry tare is not available at the test site, the methods to dry absorbent tare materials may be employed and the dried tare weight may be used as equivalent to unused tare.
- (4) Unused dry tare or used (but dried or wiped, as appropriate) tare should be employed for bacon, luncheon meats, and fresh sausage.
- (5) When unused dry tare or dried used tare methods are employed, moisture loss has been recognized and corrected for. If an inspection lot fails a Category A test with unused tare or dried used tare, the lot does not comply with net weight requirements, and enforcement action should be taken. The Task Force recommends that the jurisdiction contact both the FSIS Inspector-in-charge and the manufacturer to determine if other information is available on the lot in question that may influence the decision concerning noncompliance.

- (6) If wet tare is employed to determine net weights, the following gray areas should apply:
- o 2 1/2% of the labeled weight for hot dogs or franks (whether meat or poultry); or
 - o 3% of the labeled weight for fresh poultry

The Executive Committee should recommend these gray areas for wet tare tests.

- (7) When using wet tare, if packages are found short weight (as compared to the labeled weight) by more than the gray area, then the lot is out of compliance and enforcement action should be taken.
- (8) When using wet tare if packages are found short weight (as compared to the labeled weight), but are within the gray area, the weights and measure agency should contact the FSIS Inspector-in-charge and the manufacturer to determine what data is available on the lot in question. The lot is in or out of compliance depending upon the information available at the plant.
- (9) **The NCWM should adopt specific test procedures embodying the principles enumerated in items (1) through (8) above into Handbook 133 for testing meat and poultry packaged in Federally-inspected plants. (See Appendix E, Laws and Regulations Committee.)**
- (10) Weights and measures agencies should be encouraged to enter into the agreement with USDA Meat and Poultry Inspection by formally signing the "Model Agreement Between a State or Local Government and Food Safety and Inspection Service, USDA". (See Attachment B to this document.)

The Executive Committee should recommend this Agreement for adoption by the states.

The Task Force makes the following additional recommendations:

- (1) The NCWM Laws and Regulations Committee should be assigned the responsibility for handling future moisture loss issues, following the gray-area concept as far as possible, because this committee has the responsibility for additions and revisions to Handbook 133. The L&R Committee should work in close collaboration with the Liaison Committee on each request from an industry group for moisture loss recognition. The Liaison Committee should coordinate with appropriate Federal agencies and weights and measures agencies for data collection. A flow chart, presented as part of Attachment D, indicates the process that would normally be followed from identification of the problem to NCWM action.
- (2) The Task Force requests that the committee to which future moisture loss issues are assigned take up the problem of moisture loss in ice-packed bulk poultry from Federally-inspected plants.
- (3) Businesses and industries that are interested in resolving the problem of moisture loss in other packaged product areas should follow the guidelines given in Attachment D.
- (4) The Task Force should be disbanded at the 73rd Annual Meeting.

Attachment A: Report of the November 24 & 25, 1987 Task Force Meeting

Attachment B: Model Agreement Between a State or Local Government and Food Safety and Inspection Service, USDA

Executive Committee

**Attachment C: Test Procedures for Meat & Poultry Packaged in Federally-Inspected Plants
(see Appendix E Report of the Committee on Laws and Regulations for this
Attachment)**

**Attachment D: Guidelines for NCWM Resolution of Requests for Recognition of Moisture
Loss in Packaged Products**

ATTACHMENT A
TASK FORCE ON COMMODITY REQUIREMENTS
REPORT OF THE NOVEMBER 24 AND 25 MEETING

Policy and procedures for testing packages of flour were adopted at the 72nd Annual Meeting. This policy is based on the "gray-area" concept. (See 71st and 72nd Reports of the NCWM for further discussion.) Additionally, the Task Force reported on its progress in developing test methods for inspecting meat and poultry packaged at Federally-inspected plants. These test methods are also based on the gray-area concept.

The Task Force met November 24 and 25, 1987 to resolve the following remaining issues.

- Determine the size of the gray area for hot dogs and franks.
- Determine the size of the gray area for fresh poultry.
- Develop procedures the NCWM should follow to handle other products subject to moisture loss.

In addition, the Task Force completed its study in other areas.

- Two laboratory intercomparisons (round robins) have been completed for flour moisture determination, with 22 state weights and measures and flour miller laboratories participating. For the American Association of Cereal Chemists, National Check Sample Service results, see Figures 1 and 2.

The standard deviation in moisture content for all laboratories is about 0.1%. These results indicate that moisture content values provided by the miller for flour at the time of pack can generally be relied upon as equivalent to values obtained by weights and measures laboratories. Samples should be exchanged between individual state laboratories and mills on a periodic basis to maintain confidence in equivalent results.

- A letter from Mr. John Taylor, Associate Commissioner for Regulatory Affairs, Food and Drug Administration, was reviewed. Mr. Taylor endorsed the work of the National Conference on Weights and Measures and pledged that his agency would implement NCWM recommendations for flour, and would support future efforts for other products. (See letter, Figure 3)

Meat and Poultry

Many types of meat and poultry products are packaged at Federally-inspected plants.

At the beginning of its work in 1984, the Task Force limited its work by deciding that it would not study the following:

Executive Committee

- Moisture loss in frozen poultry or water-added hams. These products are packaged at Federally-inspected plants, but the net weights are labeled predominantly at the retail store. The control of net weight is therefore in the hands of the retail establishment.
- Cryovac-packed corned beef. Whether the pickling brine is part of the net weight or part of the tare is now in legal contention, and may be more a matter of definition of the product, rather than a question of moisture lost into the packaging materials.
- Moisture loss of whole, air-dried sausages, for example, pepperoni or hard salami. These products are usually labeled at the retail store. They are subject more to evaporative moisture loss (like flour) than to loss of moisture into the packaging materials.
- Fresh raw meat, which is labeled at the retail store at the present time. Experimental test markets for fresh raw product in consumer-sized packages labeled at Federally-inspected plants are being established; therefore, this type of product may need to be studied in the future.
- Ice-packed bulk poultry or other raw meats shipped from Federally-inspected plants for packaging into consumer sizes at the retail store. This decision was made because the Task Force realized that a large amount of data would have to be collected. The Task Force decided to focus first on consumer-sized packages. The Task Force recommends that the NCWM take up this issue next in its deliberations.

The Task Force focussed its attention on:

- fresh raw poultry products that are packaged and labeled in consumer-sized packages at Federally-inspected plants, and
- processed meat products packaged and labeled in consumer-sized packages at Federally-inspected plants, such as bacon, luncheon meats, fresh sausage, hot dogs, and franks.

Weights and measures inspection at retail or wholesale locations of products that have the net weights labeled at Federally-inspected plants is complicated by several factors.

1. Short weight at retail may be a result of the following:
 - a. Weights and measures inspectors may be using a wet tare weight, as contrasted to the unused dry tare weight used by the packager to determine the net weight of the product.
 - b. Weights and measures inspectors at retail locations do not have access to the unused dry tare that is used by the packager. When dried used tare has been compared with the tare weights printed on the shipping containers, the printed tare weights have not always been found to be accurate.
 - c. Federal inspection and approved net weight plant quality control requires that the net weight of a sample from as much as 8 hours continuous production equal or exceed the labeled net weight. Weights and measures officials at retail test subportions of production lots.
2. When weights and measures officials find short weight at retail, it is difficult to correct the problem at the plant. Discrepancies may result from different definitions of tare and of inspection lot used by the plant and by weights and measures inspectors. There is no formal mechanism to review USDA net weight data taken at the plant on

the lot in question. Potentially, USDA Meat and Poultry Inspection may dispute the validity of net weight test results obtained by weights and measures enforcement officials.

The Task Force has therefore:

1. devised test procedures that eliminate the potential discrepancies between weights and measures results and USDA test results (by using Category A sampling plans and used dried tare, for example);
2. determined the size of the gray area for jurisdictions that use wet tare to test meat and poultry from Federally-inspected plants (2 1/2% for hot dogs and 3% for all fresh poultry); and
3. recommended procedures to resolve and correct other problems at the plant as set forth in the Model Agreement Between a State or Local Government and Food Safety and Inspection Service, USDA.

The procedures are detailed in Attachments B and C. (For Attachment C, see Appendix E of the Laws and Regulations Committee Report.)

In the Report of the 72nd NCWM, 1987, (page 89) the Task Force concluded that:

BACON: There should be no free flowing liquid in bacon; therefore, used dry tare would be equivalent to wet tare for these packages.

FRESH SAUSAGE: In the Pilot Study, the moisture loss for fresh sausage (the net weight using used dry tare minus the net weight using wet tare) was found to be less than 1/4% for a 1-lb package. This is of the order of magnitude of one scale division on the equal-arm package-checking scale often used by the weights and measures inspector. Therefore, the Task Force recommends allowing no moisture loss. A "wiped" used tare should be used for all net weight determinations.

LUNCHEON MEATS Using bologna as the model for this category, the Pilot Study results indicated a moisture loss of less than 1/2% for packages up to 2 months in distribution. Therefore, the Task Force recommends allowing no moisture loss for these products. Tare materials should be carefully wiped and cleaned for all net weight determinations.

Franks and Hot Dogs

Preliminary data on only 17 lots collected in the spring of 1987 seemed to indicate a relationship between moisture loss and the elapsed time between date of pack and date of test. Based on their own experience, some hot dog manufacturers questioned these results. Weights and measures officials collected more data on meat and poultry franks in the fall of 1987, and industry also collected moisture loss (free liquid) data. The overall results of the two sets of data agreed:

1. There appears to be no relationship between moisture loss and elapsed time after the first week from the date of packaging.
2. The data is quite scattered; moisture loss may exceed 4 1/2 % (see Figure 4).
3. A maximum moisture loss of 2 1/2% would provide a compliance rate with wet tare comparable to that achieved with dried used tare (approximately 80% compliance rate).

Therefore, the Task Force recommends a gray area of 2 1/2% for wet tare tests of franks and hot dogs.

Fresh Poultry

Meat and Poultry Inspection (FSIS) of the USDA, together with members of the National Broiler Council and state weights and measures agencies, collected data on many different types of product at the processing plants of 10 fresh chicken packagers to determine the amount of moisture loss that occurs in the plant from the time the poultry is placed in the package (usually on an absorbent pad) to the time it leaves the plant. The data indicate an industry average of 1.8% moisture loss (data for 6 plants are shown in Figure 5) occurring in the plant. The Task Force did not believe that breaking the broad category of fresh poultry into individual cuts or styles would be workable for field inspection use. The Pilot Study conducted last spring (1987) had found moisture loss of over 5%, including the moisture lost in the plant.

The Task Force recommends that a gray area of 3% be applied to all fresh poultry when using wet tare. This figure will require some overpack by the manufacturer in order to compensate for moisture lost during the manufacturing process but before distribution occurs.

The Task Force expresses its sincerest appreciation for the assistance of all the individuals and organizations involved in this latest data collection effort.

Figure 1

AMERICAN ASSOCIATION OF CEREAL CHEMISTS
NATIONAL CHECK SAMPLE SERVICE

DATE 6/15/87

IDENT MAC- 1

CUL MOISTURE

001	13.010
002	13.080
003	13.070
004	12.870
005	13.150
006	13.000
007	13.060
008	12.900
009	13*270
010	13.140
011	12.990
012	12.800
013	13.050
014	12.920
015	12.850
016	13.000
018	13.100
019	13.050
020	13.100
022	13.170

COUNT 19
 MEAN 13.016
 LOW 12.800
 HIGH 13.170
 S.D. .103

AN * REPLACING THE DECIMAL OF ANY RESULT INDICATES THAT RESULT IS GREATER THAN TWO STANDARD DEVIATIONS FROM MEAN AND IS NOT USED IN THE FINAL RESULT.

Figure 2

DATE 7/13/87
AMERICAN ASSOCIATION OF CEREAL CHEMISTS
NATIONAL CHECK SAMPLE SERVICE

COL MOISTURE
IDENT MAC- 2

001	13.220
002	13.000
003	13.150
004	13.040
005	13.250
006	13.000
007	13.123
008	13.200
009	13.200
010	13.116
011	13.204
012	13.000
013	12.980
014	12.960
015	13.000
016	13.200
019	13.160
020	13.150
022	12*850

COLUNT 18
 MEAN 13.109
 LOW 12.960
 HIGH 13.250
 S.D. .095

AN * REPLACING THE DECIMAL OF ANY RESULT INDICATES THAT RESULT IS GREATER THAN TWO STANDARD DEVIATIONS FROM MEAN AND IS NOT USED IN THE FINAL RESULT.

Figure 3



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Food and Drug Administration
Rockville MD 20857

JUL 16 1987

Mr. Richard L. Thompson
Weights and Measures
Department of Agriculture
50 Harry S. Truman Parkway
Annapolis, Maryland 21401

Dear Dick:

Since I was the original FDA representative on the National Conference on Weights and Measures (NCWM) Task Force on Commodity Requirements, I have followed its deliberations with interest. I am now informed that the task force has arrived at a recommendation for a net weight procedure on flour, making allowances for weight variations due to moisture loss or gain, which is to be presented for adoption by the NCWM at its annual meeting in July. I further understand that the task force believes the conference will be interested in FDA's attitude toward the recommendation.

You may assure the conference that FDA will initiate appropriate proceedings to adopt those provisions of the task force's recommendation concerning flour that are consistent with our own legal requirements, testing methods, and resources.

You may also assure the conference that FDA is willing to participate in future deliberations for purposes of establishing moisture loss allowances for other foods.

Sincerely yours,

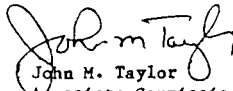

John M. Taylor
Associate Commissioner
for Regulatory Affairs

Figure 4

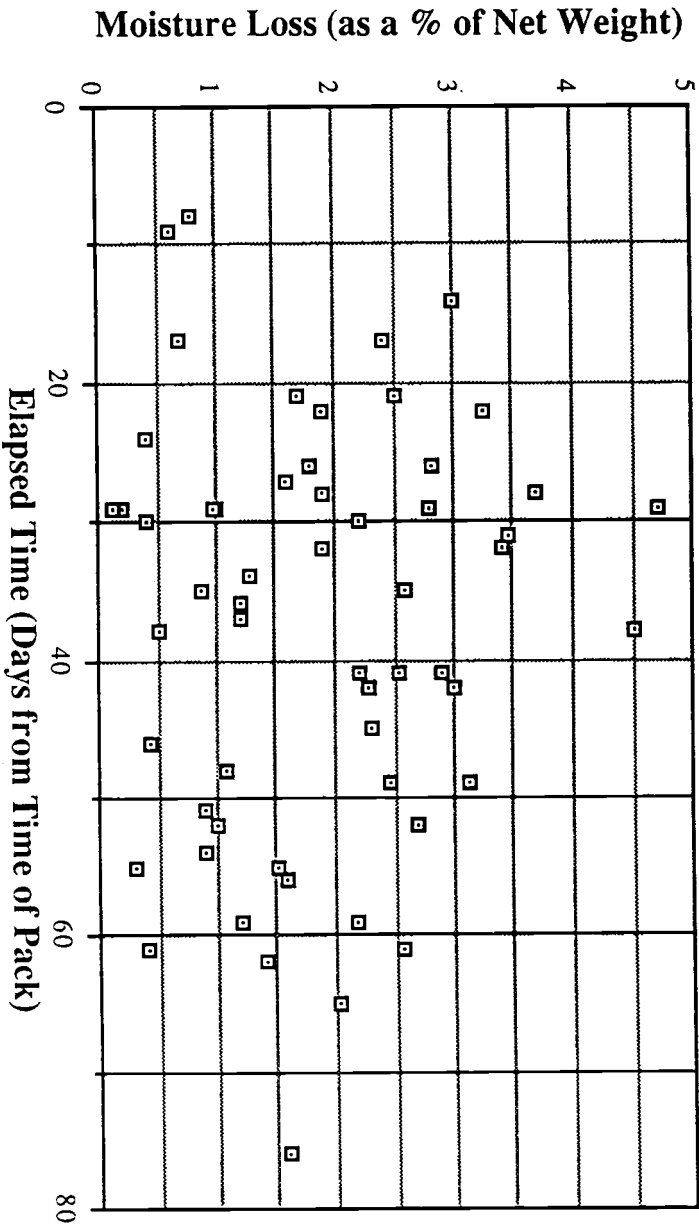
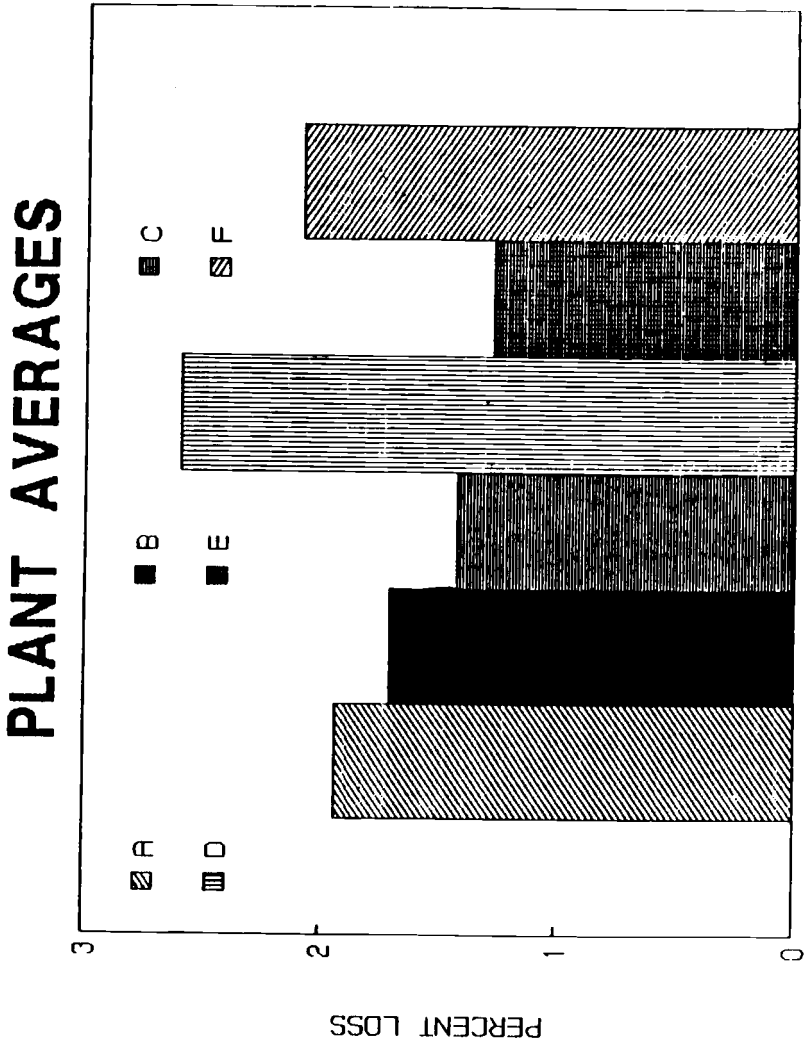


Figure 5



ATTACHMENT B

(Changes to Report of the 71st NCWM, 1986, pages 91-101,
are shown underlined and crossed out, as appropriate.)

**MODEL AGREEMENT BETWEEN A STATE OR LOCAL GOVERNMENT AND
FOOD SAFETY AND INSPECTION SERVICE,
U.S. DEPARTMENT OF AGRICULTURE**

for the determination of net contents of
federally-inspected meat and poultry products

Preamble to the Memorandum of Understanding

This agreement is between the US Department of Agriculture and the state or local government that has signed the document. Nothing in this document is intended to interfere with the rights of privacy that private businesses now enjoy. This agreement is intended to provide an orderly process for obtaining information by state and local officials from Federal meat and poultry establishments when there is a reasonable need for the information.

MEMORANDUM OF UNDERSTANDING

Between the

FOOD SAFETY AND INSPECTION SERVICE

And the

STATE OF _____

Or

LOCAL GOVERNMENT OF _____

The Food Safety and Inspection Service and the State or Local Government of ____ hereby jointly agree to the following terms and conditions with respect to the enforcement of certain provisions of the Federal Meat Inspection Act and the Poultry Products Inspection Act and State and local laws regulating net content labeling of meat and poultry products.

I. PURPOSE

To permit full implementation of concurrent jurisdiction, as provided by law, by the Food Safety and Inspection Service (FSIS) and State and local weights and measures agencies engaged in regulatory functions concerning the declared net content of Federally-inspected meat and poultry products. To maximize the exchange of net content information between FSIS and State and local agencies for the determination of label accuracy on Federally-inspected meat and poultry products. To encourage the use of quality control programs by establishments operating under Federal inspection, and to encourage the use of quality control documentation by state and local agencies in their regulatory programs.

II. STATUTES RELATING TO THE AGREEMENT

Nothing in this agreement shall lessen the responsibilities of the Food and Safety and Inspection Service under the Federal Meat Inspection Act or the Poultry Products Inspection Act, nor of the state and local agencies operating under their respective statutes.

- A. The Food Safety and Inspection Service of the U.S. Department of Agriculture is primarily responsible for enforcing the Federal Meat Inspection Act and the Poultry Products Inspection Act. In carrying out its responsibilities, the Food Safety and Inspection Service has inspectors ~~stationed full time in large meat and poultry establishments while one inspector on patrol assignment will be responsible for daily visits to several smaller establishments, who inspect meat and/or poultry processing plants to ensure that products are not adulterated or misbranded. The type and intensity of inspection is determined by criteria defined by the Secretary. In addition, FSIS has compliance personnel that conduct activities primarily outside of the establishment.~~ The sections of the Code of Federal Regulations that concern net content compliance are 9 CFR 317.2(h)(2) for meat and 9 CFR 381.121(c)(6) for poultry. FSIS net content inspection is accomplished by the FSIS inspector in the establishment through observing the establishment's process control and by verifying the product's net contents by

selecting and measuring samples from lots of labeled product. Federally approved quality control programs are establishment-operated control procedures for tare determination, sample selection, sample measuring, recordkeeping, and taking action against noncomplying product. The FSIS inspector monitors the application of the quality control program, evaluates records, and conducts verification sampling and measuring to determine continued Federal acceptance of the establishment's quality control program and the accuracy of its net content labeling on the establishment's product.

- B. For the purpose of preventing the distribution of adulterated or misbranded articles, state and local agencies have concurrent jurisdiction to enforce the provisions of the Federal Meat Inspection Act and the Poultry Products Inspection Act regarding net content labeling of Federally-inspected meat and poultry products within their geographic area, that when those products are located outside of Federally-inspected establishments. In the event that representatives of state or local agencies wish to inspect products in an official Federally-inspected establishment, they may do so with permission of an appropriate FSIS official for that establishment. FSIS permission is not required for state and local agency examination of establishment scales and weighing systems. Also, state and local agencies may impose on such establishments, recordkeeping ~~access~~, and other requirements within the scope of section 202 of the Federal Meat Inspection Act and section 11(b) of the Poultry Products Inspection Act. (See 21 U.S.C. 467 et. seq. and 678). The state and local agencies conduct unannounced evaluations at sites other than at Federally-inspected establishments, of declared net contents on all products including Federally-inspected meat and poultry products. The actions available to the state and local agencies vary depending upon their respective laws. However, typically, state and local agencies may take one or more of the following actions whenever noncompliant products are found: (1) Require noncompliant products to be removed from the market; (2) Relabel to the correct content; (3) Prepare documentation of findings and give it to the owner and/or producer of the product; (4) Contact FSIS if it is Federally-inspected product; and (5) Pursue regulatory action through the administrative or judicial system. (Cite here any additional state appropriate and or local law(s) or regulations if desired deemed appropriate for this MOU.)

III. SUBSTANCE OF AGREEMENT:

A. The Food Safety and Inspection Service will:

1. Instruct all its ~~processing~~-food inspectors in the procedures that will be used when cooperating with the state or local officials who are reviewing the records or control procedures, and in assisting state or local officials in identifying the establishment personnel responsible for reviewing establishment-maintained records within the framework of this Memorandum of Understanding.
2. Inform the state and local officials who are reviewing the records of the procedures if the establishment is operating under a Federally-approved Total or Partial Quality Control Program.
3. Assist state and local officials by making its records of the evaluation of tare weights and net contents of meat and poultry products at any Federally-inspected establishment available to state and local officials for those lots that they identify as well as any scale records. With respect to any establishment operating under a Federally-approved Quality Control Program, such records will include: the date of the evaluation, the product evaluated, the code markings if any, the label used, the individual product contents in the sample, the range of measurements, the sample average, scale records, and the inspector's signature.

4. ~~Maintain a system for evaluating and verifying tare weights, and will make these records available to state and local officials.~~
54. Be responsible for monitoring the accuracy and suitability of scales in Federally-inspected establishments used to establish the net content of Federally-inspected meat and poultry products. FSIS will require the scales to be maintained in accordance with the requirements set forth in the ~~current~~ latest edition of the National Bureau of Standards Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices" approved by FSIS. This handbook is for sale by the Superintendent of Documents, U.S. Printing Office Washington DC 20408.
65. Maintain its role as exclusive authority for net content of packages at Federally-inspected establishments while cooperating with the state and local authorities.
76. Review the records and its decisions in the event of a disagreement by state and local officials over net contents of Federally-inspected meat and poultry products. The FSIS personnel to settle such disagreements will be the Regional Director of the region in which the Federally-inspected establishment is located. ~~The Inspector-in-charge at the plant~~ appropriate FSIS official for the establishment will be responsible for arranging an appeal to the Regional Director. ~~The Regional Director or his designee will identify the appropriate FSIS or USDA official for the establishment.~~ In the event agreement is not reached in the regional meeting, the disagreement can be appealed to the Administrator, FSIS.
7. Grant permission to the state or local weights and measures authorities to enter the Federal establishment for any purpose other than the inspection and certification of weighing devices. When the request for entry is to examine a suspect lot, FSIS may decide to conduct its own evaluation on the lot or process in question and, in that case, will issue a report in 10 days. In the event that perishable product is on hold, a response will be provided in two days.
8. ~~Define specific sampling procedures for determining the compliance of a lot of meat or poultry products; at sites other than official meat and poultry establishments. These are defined as Category A Sampling Procedures in the latest edition of National Bureau of Standards Handbook 133 approved by FSIS. At sites that are in the Federally-inspected establishments. These are defined as Category B Sampling Procedures in the latest edition of the National Bureau of Standards Handbook 133 "Checking the Net Contents of Packaged Goods," approved by FSIS, only if the management of the official Federal establishment has authorized the state or local official to sample and test product.~~
9. Define specific sampling procedures for determining the compliance of a lot of meat or poultry product at sites other than Federally-inspected meat and poultry establishments. These are defined as Category A Sampling Procedures in the latest edition of the National Bureau of Standards Handbook 133 approved by FSIS.
910. Agree to support the action of the state or local official if the actions are in agreement with the procedures in this Memorandum of Understanding, including the procedures in Annex A, Appendix E, Laws and Regulations Committee Report, 1988 NCWM Announcement Book, pages 2-73 through

2-83, which summarizes the net weight requirements in 9 CFR part 317 and 9 CFR part 381.

B. States and local agencies will:

1. Instruct their officials to use only those statistical methods defined by FSIS for determining the compliance of a FSIS-inspected and passed-production Federally-inspected lot, but examined at the site other than the official Federally-inspected establishment. These are defined as Category A Sampling Procedures in the latest edition of National Bureau of Standards Handbook 133, approved by FSIS. Wet tare or dry tare tests may be used outside the Federal establishment.
 - a. If wet tare tests are conducted on products that have an established gray area, the procedures in Appendix E, Laws and Regulations Committee Interim Report, 1988 NCWM Announcement Book, pages 2-73 through 2-83 apply.
 - b. If wet tare tests are conducted on products that do not have an established gray area, reasonable variations as permitted in the USDA regulations apply.

~~or Category B Sampling Procedures in the latest edition of National Bureau of Standards Handbook 133 approved by FSIS, for product sampled inside an official Federal establishment.~~

2. Instruct their officials to use only those statistical methods defined by FSIS for determining the compliance for Federally-inspected product samples inside the Federally inspected establishment. These are defined as Category B sampling procedures in the latest edition of National Bureau of Standards Handbook 133 approved by FSIS. Only dry tare tests are to be conducted in the Federally-inspected establishment except for products that are packed in non-nutritious media, in which case the net weight is the drained weight; e.g., vienna sausage.
- ~~2-3.~~ Instruct their officials to take action on lots of products outside of the Federally inspected establishment only if in agreement with the contents of this Memorandum of Understanding, including the procedure in Annex A Appendix E, Laws and Regulations Committee Interim Report, 1988 NCWM Announcement Book, pages 2-73 through 2-83.
3. Instruct its officials when using dry tare and when a lot of a product is out of compliance to proceed with whatever action is appropriate. (However, the weights and measures agency is encouraged to contact the FSIS Inspector in charge at the producing establishment to determine if additional information is available.) When using the wet tare procedure on product outside a Federally inspected establishment and the product (lot) value is within the "no decision area" as defined in Annex A, additional information is required.

This information is to be obtained by contacting the FSIS Inspector in charge at the producing establishment. If the product (lot) value is less than the "no decision area" as defined in Annex A, the state or local official is instructed to proceed with whatever action is appropriate.
4. If they wish to test product at the Federal establishment, instruct their officials to contact the appropriate FSIS Inspector in charge official for that establishment prior to entering the establishment. to determine what

~~information is available at that establishment, e.g., additional lot information, scale programs, total or partial quality control programs, etc.~~ A current FSIS Directory of official establishments is maintained at the FSIS regional offices as well as the identities of the appropriate FSIS or USDA official for that establishment.

REGIONAL DIRECTORS

STATES OR TERRITORIES

Western Regional Office
620 Central Avenue, Bldg. 2C
Alameda, CA 94501
(415) 273-7402

Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana Nevada, Oregon, Utah, Washington Wyoming, North Dakota, South Dakota, Samoa, and Guam

Southwestern Regional Office
1100 Commerce Street
Dallas, TX 75242
(214) 767-9116

Arkansas, Kansas, Louisiana, Missouri, New Mexico, Texas, and Oklahoma

North Central Regional Office
607 E. Second Street
Des Moines, IA 50309
(515) 284-4042

Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, Wisconsin, and Ohio

Southeastern Regional Office
1718 Peachtree Street, NW
Atlanta, GA 30309
(404) 881-3911

Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, West Virginia, Puerto Rico, and the Virgin Island

Northeastern Regional Office
1421 Cherry St., 7th Floor
Philadelphia, PA 19102
(215) 597-4217

Connecticut, Maine, Maryland, Massachusetts, Delaware, New Hampshire, New Jersey, New York Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia

5. ~~Instruct their officials, in the event that they wish to visit the establishment for any purpose except for examining, testing, and or certifying scales, to provide to the appropriate FSIS Inspector-in-charge official in writing, a statement of the purpose of the visit. If the purpose is to investigate suspect lots, then the State or local official needs to provide the identification of lots of products that include the sampling, tare, and compliance procedures used for the lots that they believe to be suspect due to low net contents; in addition to providing the plant management with the same information.~~
6. Optionally, instruct ~~Provide independent authority for~~ their officials to enter a Federally-inspected establishment at least once each calendar year in order to ~~review records of net contents of Federally inspected products, to examine, test and certify scales and service records for accuracy and suitability. The technical requirements of the scales are as defined by the latest current edition of National Bureau of Standards Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices." This handbook is for sale by the Superintendent of Document, U.S. Printing Office, Washington DC 20408.~~ and to discuss results of their review, examinations, and recommendations with FSIS inspection personnel.

- 7. Instruct their officials to determine what tare and net content records are needed from FSIS records for the suspect lots. These FSIS records may be copied, distributed, and removed from the establishment.
- 8. Instruct their officials to ask to review establishment-maintained net content records and to recognize that the information on the establishment operation and the species of the approved Total or Partial Quality Control Program are proprietary information and are not for copying, distribution, or removal from the site without permission of the producer's establishment manager. An establishment that is not operating under an approved net content Quality Control Program is not required to share its net content records with FSIS personnel. Such information may be reviewed, copied, distributed, and removed from the plant site only with the permission of the producer's establishment manager.
- 9. In those situations where the state or local official and appropriate FSIS official ~~Inspector in charge~~ disagree on what action to take, agree to direct the disagreement in writing to the FSIS Regional director in whose region the establishment is located. In the event agreement is not reached in the regional meeting, the disagreement can be appealed to the Administrator, FSIS by the state or local official.

IV. NAME AND ADDRESS OF PARTICIPATING AGENCIES

Food Safety And Inspection Service
U.S. Department of Agriculture
14th and Independence Avenue, SW
Washington, DC 20250

State of _____
or
Local Government of _____

V. LIAISON OFFICERS:

Deputy Administrator
Meat and Poultry Inspection Technical Services
Food Safety and Inspection Service

Director _____
Weights and Measures
_____, _____

VI. PERIOD OF AGREEMENT:

This Agreement, when accepted by both parties, covers an indefinite period of time and may be modified by mutual consent of both parties or terminated by either party upon thirty (30) days written notice to the other party.

APPROVED AND ACCEPTED
FOR THE
FOOD SAFETY AND
INSPECTION SERVICE

APPROVED AND ACCEPTED
FOR THE
STATE OF _____
OR
LOCAL GOVERNMENT OF

ATTACHMENT C

**TEST PROCEDURES FOR MEAT AND POULTRY
PACKAGED IN FEDERALLY-INSPECTED PLANTS**

See Appendix E of the Report of the Committee on Laws and Regulations

ATTACHMENT D
GUIDELINES FOR
NCWM RESOLUTION OF REQUESTS FOR
RECOGNITION OF MOISTURE LOSS IN OTHER PACKAGED PRODUCTS

The Task Force on Commodity Requirements limited its work to only a few product categories, using these categories as models for addressing moisture loss. The gray-area concept is the result of this work.

Recognizing several candidates for future work in moisture loss, the Task Force recommends that the following guidelines for moisture loss be followed as far as possible by any industry requesting consideration:

1. There should be reasonable uniformity in the moisture content of the product category. For example, since pet food has final moisture contents ranging from very moist to very dry, some subcategorization of pet food needs to be defined by industry before NCWM study of the issue.
2. The predominant type of moisture loss (whether into the atmosphere or into the packaging materials) must be specified.
3. Different types of packaging might make it necessary to subcategorize the product. For example, pasta is packaged in cardboard, in polyethylene, or other packaging more impervious to moisture loss. The industry should define the domain of packaging materials to be considered.
4. "Real-world" data is needed on the product as found in the retail marketing chain - not just laboratory moisture-loss data.
5. The industry requesting consideration of moisture loss for its product should collect data on an industry-wide basis (rather than from only one or two companies).

Information concerning the relative fractions of imported and domestically produced product should be available, for example, in order to assess the feasibility of interacting with the manufacturer on specific problem lots.

6. Moisture loss may occur either:
 - during manufacturing; or
 - during distribution.

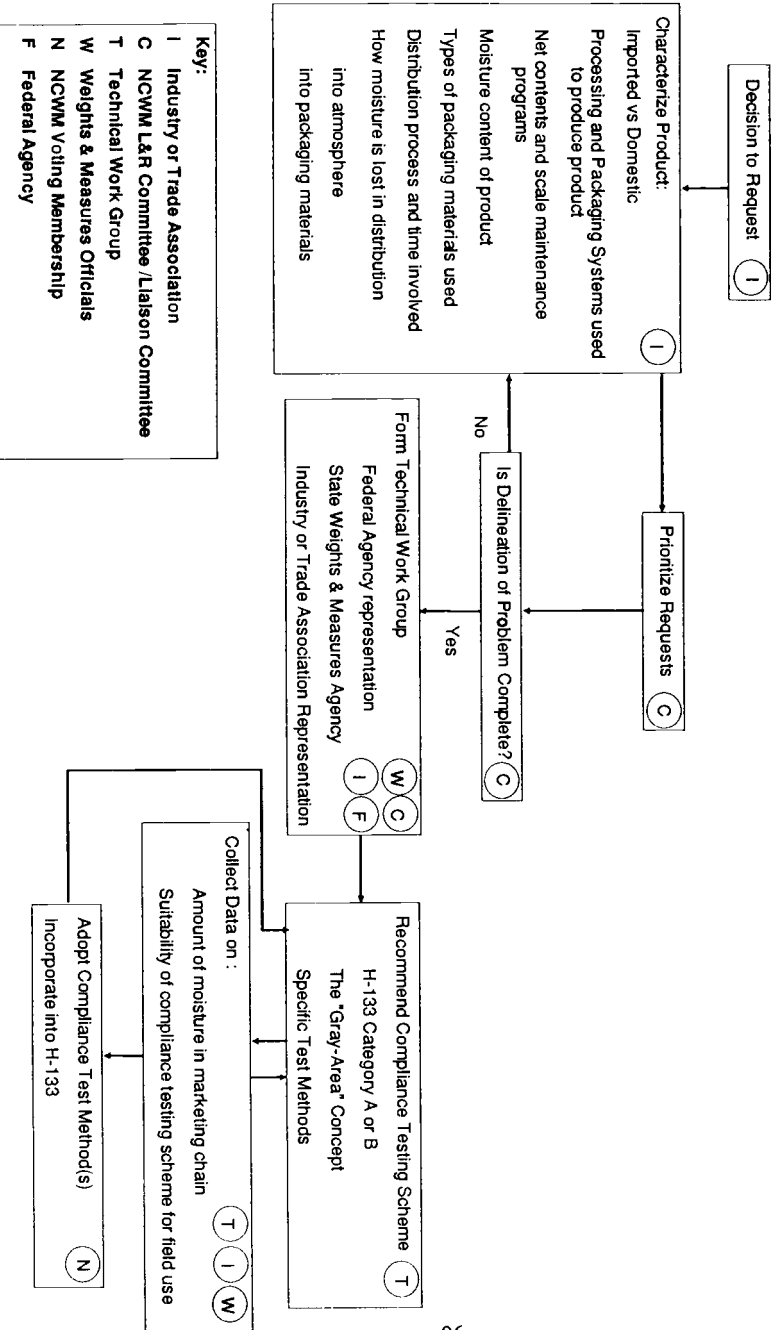
Data will be needed to show the relative proportion of moisture loss in these different locations, since moisture loss is permitted only under good distribution practices. Geographical and seasonal variations may apply.

7. A description of the processing and packaging methods in use in the industry will be of great value, as will a description of the distribution system and time for manufacturing and distribution. A description of the existing net quantity control programs in place should be given, together with information on how compliance with Handbook 133 is obtained. A description of maintenance and inspection procedures for the scales should be provided, together with information on suitability of equipment and other measurements under Handbook 44.
8. A description of Federal and local agency jurisdiction and test should be given, as well as any regulatory history with respect to moisture loss and short weight. Has weights and measures enforcement generated the request? What efforts have addressed the moisture loss issue prior to approaching the NCWM? Are the appropriate Federal agencies aware of the industry's request to NCWM?
9. The industry should propose the type of compliance system and/or moisture determination methodology to be used. The compliance scheme, if it contains industry data components, should be susceptible to verification (as examples: USDA net weight tests for meat; or exchange of samples with millers for flour), and should state what the companies will do to provide data to field inspection agencies in an ongoing fashion (as the gray-area approach requires).
If in-plant testing is to be combined with field testing, who is to do such testing, and how is this to be accomplished? It should be possible to incorporate the proposed testing scheme into NBS Handbook 133, and used with Category A or B sampling plans.

When all the preliminary information recommended above has been collected, a field test of the proposed compliance scheme should be conducted by weights and measures enforcement officials to prove its viability.

See the plan diagrammed on the next page.

PLAN FOR NCWM RESOLUTION OF INDIVIDUAL REQUESTS FOR RECOGNITION OF MOISTURE LOSS



- Key:**
- I Industry or Trade Association
 - C NCWM L&R Committee /Liaison Committee
 - T Technical Work Group
 - W Weights & Measures Officials
 - N NCWM Voting Membership
 - F Federal Agency