

ARTICLE 12. WEIGHTS AND MEASURES

Rule 1. Commercial Weighing and Measuring Devices

410 IAC 12-1-1 Standards for weights and measures; adoption by reference (Repealed)

Sec. 1. *(Repealed by Indiana State Department of Health; emergency rule filed Sep 21, 1993, 2:00 p.m.: 17 IR 210)*

410 IAC 12-1-1.1 Weighing and measuring devices

Authority: IC 24-6-3-2

Affected: IC 16-44-2; IC 16-44-3; IC 24-6

Sec. 1.1. Handbook 44: Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices, 2014 edition, adopted by the National Conference on Weights and Measures, and published by the National Institute of Standards and Technology, excluding paragraph S.5. of Section 3.30, is hereby incorporated by reference as requirements of the Indiana state department of health for weighing and measuring devices. However, paragraph UR 2.2 of Section 3.31 shall apply only:

- (1) to those vehicle tanks used for:
 - (A) the measurement and delivery of petroleum products;
 - (B) liquid agricultural chemicals; or
 - (C) bulk delivery of water and equipped with a ticket printer; and
- (2) to all new vehicle tanks used for the measurement and delivery of:
 - (A) petroleum products;
 - (B) liquid agricultural chemicals; or
 - (C) for bulk delivery of water.

The incorporated document is available for public view at the Indiana state department of health. Copies of the incorporated document may be obtained at the National Institute of Standards and Technology web site, <http://www.nist.gov/pml/wmd/pubs/hb44-14.cfm>. (*Indiana State Department of Health; 410 IAC 12-1-1.1; emergency rule filed Sep 21, 1993, 2:00 p.m.: 17 IR 209; filed Nov 25, 1998, 4:58 p.m.: 22 IR 1072; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; filed Jul 8, 2014, 2:42 p.m.: 20140806-IR-410130455FRA*)

410 IAC 12-1-1.2 Packaging and labeling

Authority: IC 24-6-3-2

Affected: IC 16-44-2; IC 16-44-3; IC 24-6

Sec. 1.2. Section IV (A), entitled Uniform Packaging and Labeling Regulation, of Handbook 130: Uniform Laws and Regulations in the Areas of Legal Metrology and Engine Fuel Quality, 2014 edition, adopted by the National Conference on Weights and Measures and published by the National Institute of Standards and Technology, is hereby incorporated by reference as requirements of the Indiana state department of health for packaging and labeling. The incorporated document is available for public view at the Indiana state department of health. Copies of the incorporated document may be obtained at the National Institute of Standards and Technology web site, <http://nist.gov/pml/wmd/pubs/hb130-14.cfm>. (*Indiana State Department of Health; 410 IAC 12-1-1.2; emergency rule filed Sep 21, 1993, 2:00 p.m.: 17 IR 209; filed Nov 25, 1998, 4:58 p.m.: 22 IR 1072; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; filed Jul 8, 2014, 2:42 p.m.: 20140806-IR-410130455FRA*)

410 IAC 12-1-1.3 Method of sale of commodities

Authority: IC 24-6-3-2

Affected: IC 16-44-2; IC 16-44-3; IC 24-6

Sec. 1.3. Section IV (B), entitled Uniform Regulation for the Method of Sale of Commodities, of Handbook 130: Uniform Laws and Regulations in the Areas of Legal Metrology and Engine Fuel Quality, 2014 edition, adopted by the National Conference

on Weights and Measures, and published by the National Institute of Standards and Technology, excluding Section 2.20.1, is hereby incorporated by reference as requirements of the Indiana state department of health for the method of sale of commodities. The incorporated document is available for public view at the Indiana state department of health. Copies of the incorporated document may be obtained at the National Institute of Standards and Technology web site, <http://nist.gov/pml/wmd/pubs/hb130-14.cfm>. (*Indiana State Department of Health; 410 IAC 12-1-1.3; emergency rule filed Sep 21, 1993, 2:00 p.m.: 17 IR 209; filed Nov 25, 1998, 4:58 p.m.: 22 IR 1073; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; filed Jul 8, 2014, 2:42 p.m.: 20140806-IR-410130455FRA*)

410 IAC 12-1-1.4 Checking the net content of packaged goods

Authority: IC 24-6-3-2

Affected: IC 16-44-2; IC 16-44-3; IC 24-6

Sec. 1.4. Handbook 133: Checking the Net Contents of Packaged Goods, 2014 edition, adopted by the National Conference on Weights and Measures, and published by the National Institute of Standards and Technology, is hereby incorporated by reference for the checking of the net content of packaged goods. The incorporated document is available for public view at the Indiana state department of health. Copies of the incorporated document may be obtained at the National Institute of Standards and Technology web site, <http://www.nist.gov/pml/wmd/pubs/hb133-14.cfm>. (*Indiana State Department of Health; 410 IAC 12-1-1.4; emergency rule filed Sep 21, 1993, 2:00 p.m.: 17 IR 209; filed Nov 25, 1998, 4:58 p.m.: 22 IR 1073; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; filed Jul 8, 2014, 2:42 p.m.: 20140806-IR-410130455FRA*)

410 IAC 12-1-1.5 National type evaluation

Authority: IC 24-6-3-2

Affected: IC 16-44-2; IC 16-44-3; IC 24-6

Sec. 1.5. Section IV (F), entitled Uniform Regulation for National Type Evaluation, of Handbook 130: Uniform Laws and Regulations in the Areas of Legal Metrology and Engine Fuel Quality, 2014 edition, adopted by the National Conference on Weights and Measures, and published by the National Institute of Standards and Technology, is hereby incorporated by reference for the method of sale of commodities. The incorporated document is available for public view at the Indiana state department of health. Copies of the incorporated document may be obtained at the National Institute of Standards and Technology web site, <http://nist.gov/pml/wmd/pubs/hb130-14.cfm>. (*Indiana State Department of Health; 410 IAC 12-1-1.5; filed Nov 25, 1998, 4:58 p.m.: 22 IR 1073; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; filed Jul 8, 2014, 2:42 p.m.: 20140806-IR-410130455FRA*)

410 IAC 12-1-2 Poultry sold by weight

Authority: IC 24-6-3-16

Affected: IC 16-44-2; IC 16-44-3; IC 24-6

Sec. 2. (a) When poultry is sold or offered for sale as "dressed poultry", on a weight basis, such sale or offer of sale shall be exclusively upon the basis of net avoirdupois weight of the poultry in the condition in which it is sold or offered for sale.

(b) Poultry means and includes chickens, turkeys, ducks, geese, pigeons, guineas, and any other kind of domesticated bird commercially processed and sold for human consumption. (*Indiana State Department of Health; Reg WM 2; filed Feb 23, 1950, 2:00 p.m.: Rules and Regs. 1951, p. 175; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; filed Jul 8, 2014, 2:42 p.m.: 20140806-IR-410130455FRA*)

410 IAC 12-1-3 Specific product sold by weight

Authority: IC 24-6-3-16

Affected: IC 16-44-2; IC 16-44-3; IC 24-6

Sec. 3. When cauliflower, cabbage, head lettuce, melons, and hands or bunches of bananas are sold or offered for sale on a weight basis, such produce shall either (1) bear an accurate statement of its weight, or (2) be weighed at the time of sale. (*Indiana State Department of Health; Reg WM 3; filed Feb 23, 1950, 2:00 pm; Rules and Regs. 1951, p. 175; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA*)

410 IAC 12-1-4 Vehicle scales; approval requirements

Authority: IC 24-6-3-16

Affected: IC 16-44-2; IC 16-44-3; IC 24-6

Sec. 4. Official approval of a vehicle scale extends exclusively to the use of that scale in weighing loads whose entire wheelbase can be accommodated on the scale platform at one time. (*Indiana State Department of Health; Reg WM 4; filed Feb 23, 1950, 2:00 pm; Rules and Regs. 1951, p. 175; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA*)

410 IAC 12-1-5 Vehicle weighing restrictions

Authority: IC 24-6-3-16

Affected: IC 16-44-2; IC 16-44-3; IC 24-6

Sec. 5. Weighing of vehicles shall be performed with no person in or on the vehicle or on the scale platform. (*Indiana State Department of Health; Reg WM 5; filed Feb 23, 1950, 2:00 p.m.: Rules and Regs. 1951, p. 175; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; filed Jul 8, 2014, 2:42 p.m.: 20140806-IR-410130455FRA*)

410 IAC 12-1-6 Weighmasters; appointment; certificates of weight

Authority: IC 24-6-3-16

Affected: IC 16-44-2; IC 16-44-3; IC 24-6

Sec. 6. (a) Any county, city, town, corporation, individual, firm, association, or institution in the state wishing to have designated as state weighmasters one (1) or more of its employees or other suitable person or persons shall forward written application therefor to the division of weights and measures, Indiana state department of health, upon such form as may be prescribed by the division of weights and measures.

(b) A certificate of appointment as a weighmaster will be issued only to an individual. A certificate of appointment shall be posted at the location of the scale or scales designated in the application for the certificate. Each certificate shall be open to inspection and may be revoked and canceled by the division of weights and measures for incompetency, inaccuracy, or failure to perform the duties of the weighmaster. Each certificate of appointment must be returned to the division of weights and measures for cancellation when the weighmaster has lost his or her employment at the location for which the certificate of appointment was issued. Unless sooner revoked or canceled, each certificate of appointment as state weighmaster shall automatically expire four (4) years after the date of its issuance.

(c) Each certificate of weight or measure, issued by a state weighmaster, shall include all of the following information to be clearly shown on each such certificate issued:

(1) The date of the weighing.

(2) The nature of the commodity weighed.

(3) The actual weight of the consignment; in the case of a certificate of weight of a commodity transported in a vehicle and not susceptible of being readily weighed by itself, both the actual gross weight and the actual tare weight must be shown,

WEIGHTS AND MEASURES

together with the net weight computed therefrom.

(4) In any case where the weighmaster does not ascertain both gross and tare weights, the unused space therefor shall be out before certification.

(5) The name of the declared owner of the commodity.

(6) The name of the purchaser of the commodity, if known.

(7) The signature of the weighmaster.

(d) A copy of each certificate of weight shall be retained and kept available for official inspection at the location designated in the application for certificate of appointment as state weighmaster, for a period of not less than twelve (12) months from the date of the weighing to which that certificate applies.

(e) No certificate of weight shall be issued by a state weighmaster under any of the following conditions:

(1) When the scale at his or her disposal has not been officially approved by the division of weights and measures at the last previous official examination within a period of twelve (12) months preceding the date of weighing.

(2) When the total length of wheelbase of the vehicle to be weighed exceeds the length of the platform of the scale at the weighmaster's disposal.

(3) When the weight of the gross load exceeds the nominal or rated capacity of the scale at the weighmaster's disposal.

(4) When a vehicle is to be weighed, either empty or loaded, and any person is in or on the vehicle or on the scale platform at the time of weighing.

(5) When the loaded or unloaded vehicle weighs less than one thousand (1,000) pounds and the scale at the weighmaster's disposal is a vehicle scale.

(Indiana State Department of Health; Reg WM 6; filed Feb 23, 1950, 2:00 p.m.: Rules and Regs. 1951, p. 176; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; filed Jul 8, 2014, 2:42 p.m.: 20140806-IR-410130455FRA)

410 IAC 12-1-7 Schedule of civil penalties

Authority: IC 16-19-7-3; IC 24-6-3-2

Affected: IC 4-21.5-3-8; IC 16-19-7; IC 16-44-2; IC 16-44-3; IC 24-6

Sec. 7. (a) The Indiana state department of health may commence an action under IC 16-19-7-3, IC 24-6-1, IC 24-6-2, IC 24-6-3, IC 24-6-4, IC 24-6-5, IC 24-6-6, or IC 4-21.5-3-8, and to levy civil penalties against a person who:

(1) fails to comply with IC 24-6-3 or this rule; or

(2) interferes with or obstructs the Indiana state department of health or its designated agent in the performance of duties under IC 24-6-3.

(b) A civil penalty in an amount in the appropriate range specified in subsection (d) may be sought for each day of each violation.

(c) In determining the seriousness of the violation and the specific amount of the civil penalty to be sought for each violation, the Indiana state department of health will consider, but is not limited to, the following:

(1) The potential for harm or imminent threat to public health.

(2) The extent of deviation from statutory or regulatory requirements.

(3) The degree of willfulness or negligence.

(4) The history of noncompliance.

The absence of direct harm will not result in assessment of a lower penalty for a violation.

(d) Unless adjusted as provided for in subsection (e), all penalties shall be in accordance with the following schedule:

VIOLATION	CODE	RANGE OF PENALTY
Right of entry	IC 24-6-3-9	\$0 to \$1,000
Use of standard weights and measures	IC 24-6-3-10	\$0 to \$ 500
Use of false scales or measuring devices	IC 24-6-3-11	\$0 to \$1,000
Use of dry capacity measures	IC 24-6-3-12	\$0 to \$ 200
Standard weights and measures	IC 24-6-1-1	\$0 to \$ 200
Marking of containers	IC 24-6-6-2	\$0 to \$ 500

WEIGHTS AND MEASURES

	IC 24-6-6-3	
	IC 24-6-6-4	
False representation of contents	IC 24-6-6-5	\$0 to \$1,000
Articles sold by weight or count	IC 24-6-4-1	\$0 to \$ 200
Inspection of devices	IC 24-6-3-7	\$0 to \$ 500
Commodity sold by count	IC 24-6-3-10	\$0 to \$ 200
Used containers	IC 24-6-6-6	\$0 to \$ 200
Failure to take tare at time of sale	IC 24-6-3-12	\$0 to \$1,000
Weighmaster duties	410 IAC 12-1-6	\$0 to \$1,000
Specification and tolerances of devices	410 IAC 12-1-1.1	\$0 to \$1,000
Packaging and labeling	410 IAC 12-1-1.2	\$0 to \$1,000
Method of sale of commodities	410 IAC 12-1-1.3	\$0 to \$1,000
Net content of packaged goods	410 IAC 12-1-1.4	\$0 to \$1,000
National type evaluation	410 IAC 12-1-1.5	\$0 to \$1,000
Use of illegal device	410 IAC 12-1-1.1	\$0 to \$1,000
Split draft weighing	410 IAC 12-1-4	\$0 to \$ 500
Person in vehicle during weighing	410 IAC 12-1-5	\$0 to \$500

(e) After determining the appropriate penalty based on the schedule in subsection (d), the Indiana state department of health may adjust the penalty to reflect a good faith effort to comply with the following:

(1) Each individual penalty will be multiplied by the number of days the particular violation occurred. Penalties for violations occurring on two (2) consecutive inspections by the Indiana state department of health shall be assessed on the basis that the violations have remained uncorrected over the period of time between the two (2) inspections. However, if the person found in violation has requested reinspection and has produced substantive evidence that the violation or violations have been corrected, the penalties shall be assessed for the period between initial discovery of violation and the receipt of request for reinspection.

(2) Penalties for all violations will be totaled and sought under one (1) cause of action.

(Indiana State Department of Health; 410 IAC 12-1-7; filed Jun 18, 1991, 10:10 a.m.: 14 IR 1958; filed Dec 21, 2000, 2:21 p.m.: 24 IR 1343; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; filed Jul 8, 2014, 2:42 p.m.: 20140806-IR-410130455FRA)

Rule 2. State Metrology Laboratory Fees

410 IAC 12-2-1 State metrology laboratory fees

Authority: IC 16-19-5-1

Affected: IC 16-19-5; IC 24-6

Sec. 1. The following are the fees for services performed by the state metrology laboratory under IC 24-6:

Standards of Mass

Procedure: Modified Substitution or

Direct Reading

OIML Class "M2"

ANSI/ASTM Class "6" and "7"

NIST Class "C", "F", and "T"

25 or fewer weights	Test
---------------------	------

26-40 weight sets	\$30
-------------------	------

41 or more weight sets	\$40
------------------------	------

	\$80
--	------

WEIGHTS AND MEASURES

Up to and including 5 lbs or 3 kgs	\$4
Over 5 lbs or 3 kgs and including 50 lbs or 25 kgs	\$6
Over 50 lbs or 25 kgs and including 500 lbs or 250 kgs	\$8
Over 500 lbs or 250 kgs and including 1,000 lbs or 500 kgs	\$12
Over 1,000 lbs or 500 kgs	\$20

Procedure: Modified Substitution or Double Substitution

OIML Class "F2" and "M1"

ANSI/ASTM Class "4" and "5"

NIST Class "P" and "Q"

	Test
Up to and including 5 lbs or 3 kgs	\$6
Over 5 lbs or 3 kgs and including 50 lbs or 25 kgs	\$10
Over 50 lbs or 25 kgs and including 500 lbs or 250 kgs	\$14
Over 500 lbs or 250 kgs and including 1,000 lbs or 500 kgs	\$16
Over 1,000 lbs or 500 kgs	\$25

Procedure: Decade Design 3-1, Double Substitution Combinations

OIML Class "F1"

ANSI/ASTM Class "1" and "1.1", "2", and "3"

NIST Class "S" and "S-1"

	Test
Up to and including 5 lbs or 3 kgs	\$10
Over 5 lbs or 3 kgs and including 50 lbs or 30 kgs	\$20
Over 50 lbs or 30 kgs and including 1,000 lbs or 500 kgs	\$30
Over 1,000 lbs or 500 kgs	\$50

Procedure: Advanced Weighing Designs

OIML Class "E1" and "E2"

ANSI/ASTM Class "0"

(Tests for other than Metric Weights will be considered Special Tests) Test

Up to and including 1 kg	\$40
Over 1 kg	\$60

Standards of Volume

Test Measures and Glassware	Test
Up to and including 5 gallons or 20 liters	\$10
Over 5 gallons or 20 liters and including 50 gallons or 200 liters	\$50
Over 50 gallons or 200 liters	\$100

Standards of Length

Tapes	\$20 per device tested, PLUS \$4 per point tested above 5
-------	---

Other Test Fees

Special Tests (Not Listed in Fee Schedule)	\$15 per quarter hour
Cleaning of Standards (If Necessary)	\$10 per quarter hour

Public schools and state and local government agencies are exempt from the fees established in this section. (*Indiana State Department of Health; 410 IAC 12-2-1; filed Jun 30, 2000, 4:14 p.m.: 23 IR 2709; readopted filed Sep 20, 2006, 1:39 p.m.; readopted filed Sep 20, 2006, 1:39 p.m.: 20061004-IR-410060168RFA; readopted filed Jul 12, 2012, 12:09 p.m.: 20120808-IR-410120265RFA*)

WEIGHTS AND MEASURES

*