

SUBCHAPTER E—RULES, REGULATIONS, STATEMENT OF GENERAL POLICY OR INTERPRETATION AND EXEMPTIONS UNDER THE FAIR PACKAGING AND LABELING ACT

PART 500—REGULATIONS UNDER SECTION 4 OF THE FAIR PACKAGING AND LABELING ACT

- Sec.
- 500.1 Scope of the regulations of this part.
 - 500.2 Terms defined.
 - 500.3 Prohibited acts, coverage, general labeling requirements, exemption procedures.
 - 500.4 Statement of identity.
 - 500.5 Name and place of business of manufacturer, packer or distributor.
 - 500.6 Net quantity of contents declaration, location.
 - 500.7 Net quantity of contents, method of expression.
 - 500.8 Units of weight or mass and measure.
 - 500.9 Units of weight or mass, how expressed.
 - 500.10 Units of fluid measure, how expressed.
 - 500.11 Measurement of commodity length, how expressed.
 - 500.12 Measurement of commodities by length and width, how expressed.
 - 500.13 Measurement of commodities by area measure only, how expressed.
 - 500.14 Statements of cubic measure and dry measure.
 - 500.15 Units of count, more than one ply.
 - 500.16 Measurement of container type commodities, how expressed.
 - 500.17 Fractions.
 - 500.18 SI metric prefixes.
 - 500.19 Conversion of SI metric quantities to inch/pound quantities and inch/pound quantities to SI metric quantities.
 - 500.20 Conspicuousness.
 - 500.21 Type size in relationship to the area of the principal display panel.
 - 500.22 Abbreviations.
 - 500.23 Expression of net quantity of contents in SI Metric units.
 - 500.24 Supplemental statements.
 - 500.25 Net quantity, average quantity, permitted variations.
 - 500.26 Representations of servings, uses, applications.
 - 500.27 Multiunit packages.
 - 500.28 Variety packages.
 - 500.29 Combination packages.

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§ 500.1 Scope of the regulations of this part.

The regulations in this part establish requirements for labeling of consumer commodities as hereinafter defined with respect to identity of the commodity; the name and place of business of the manufacturer, packer, or distributor; the net quantity of contents; and net quantity of servings, uses, or applications represented to be present.

§ 500.2 Terms defined.

As used in this part, unless the context otherwise specifically requires:

(a) The term *Act* means the “Fair Packaging and Labeling Act” (Pub. L. 89–755, approved Nov. 3, 1966; 80 Stat. 1296 et seq.; 15 U.S.C. 1451 et seq., as amended by Public Law 102–329, August 3, 1992).

(b) The term *regulation* or *regulations* means regulations promulgated by the Commission pursuant to sections 4, 5, and 6 of the Act (15 U.S.C. 1453, 1454, 1455).

(c) The term *consumer commodity* or *commodity* means any article, product, or commodity of any kind or class which is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such consumption or use. For purposes of the regulations in this part the term *consumer commodity* does not include any food, drug, device or cosmetic as defined by section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321); any meat or meat product, poultry or poultry product, or tobacco or tobacco product; any commodity subject to packaging or labeling requirements imposed by the Administrator of the Environmental Protection Agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.); any commodity subject to

§ 500.2

16 CFR Ch. I (1–1–10 Edition)

the provisions of the eighth paragraph under the heading “Bureau of Animal Industry” of the Virus-Serum-Toxin Act (21 U.S.C. 151–157); any beverage subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.); any commodity subject to the provisions of the Federal Seed Act (7 U.S.C. 1551–1610).

(d) The term *package* means any container or wrapping in which any consumer commodity is enclosed for use in the delivery or display of that commodity to retail purchasers. For purposes of the regulations in this part the term *package* does not include shipping containers or wrappings used solely for the transportation of any consumer commodity in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors thereof unless used in retail display; shipping containers or outer wrappings used by retailers to ship or deliver any commodity to retail customers if such containers and wrappings bear no printed matter pertaining to any particular commodity; or containers subject to the provisions of the Act of August 3, 1912 (37 Stat. 250, as amended; 15 U.S.C. 231–233), the Act of March 4, 1915 (38 Stat. 1186, as amended; 15 U.S.C. 234–236); or transparent wrappers or containers which do not bear written, printed, or graphic matter obscuring any part of the label information required by this part.

(e) The term *label* means any written, printed, or graphic matter affixed to or appearing upon any consumer commodity or affixed to or appearing upon a package containing any consumer commodity; except that:

(1) An inspector’s tag or other non-promotional matter affixed to or appearing upon a consumer commodity shall not be deemed to be a label requiring the repetition of label information required by this part, and

(2) For the purposes of the regulations in this part the term *label* does not include written, printed, or graphic matter affixed to or appearing upon commodities, or affixed to or appearing upon containers or wrappers for commodities sold or distributed to industrial or institutional users.

(f) The term *person* includes any firm, corporation or associations.

(g) The term *commerce* means:

(1) Commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, and any place outside thereof, and

(2) Commerce within the District of Columbia or within any territory or possession of the United States, not organized with a legislature, but shall not include exports to foreign countries.

(h) The term *principal display panel* means that part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale. The principal display panel must be large enough to accommodate all the mandatory label information required to be placed thereon by this part without obscuring designs, vignettes, or crowding. This definition does not preclude utilization of alternate principal display panels on a label of a package, but alternate principal display panels must duplicate the information required to be placed on the principal display panel by this part. This definition does not preclude utilization of the container closure as the surface bearing the principal display panel if that label location is the one most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale. The principal display panel of a label appearing on a cylindrical surface is that 40 percent of the circumference which is more likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale. The principal display panel of a consumer commodity marketed in a decorative type container, or a container having a capacity of ¼ ounce (7.4 mL) or less, may be considered to be a tear-away tag or tape affixed to the container and bearing the mandatory label information as required by this part, but the type size of the net quantity of contents statement shall be governed by the dimensions of the container itself.

The principal display panel of a consumer commodity marketed on a display card to which the immediate container of the commodity is affixed may be considered to be the display panel of the card, and the type size of the net quantity of contents statement is governed by the dimensions of the display card.

(i) The term *random package* means a package which is one of a lot, shipment, or delivery of packages of the same consumer commodity with varying weights, that is, packages with no fixed weight pattern.

(j) The term *SI metric* refers to units belonging to the International System of Units (abbreviated "SI" from the French, *Le Systeme International d'Unites*), as interpreted or modified for use in the United States by the Secretary of Commerce. They include the SI units (together with their multiples and submultiples) as well as other metric units (e.g., the liter) that are accepted for use with the SI units because of their practical importance.

(k) The term *customary inch/pound* refers to units belonging to the system of units used in the United States based on or derived from the ounce, pound, and ton for weight; the inch, foot, yard, and mile for length; the fluid ounce, pint, quart, and gallon for volume; and dry pint, dry quart, peck, and bushel for dry measure.

(l) The term "*e*" mark refers to the symbol "e" used in connection with the quantity declarations on labels of some consumer commodities marketed primarily in the European Community (EC). The "e" mark constitutes a representation by the packer or importer that the package to which it is applied has been filled in accordance with the average system of quantity specified by the EC. The average system is a method of declaring package fill in the EC and other countries of the world, including the United States.

§500.3 Prohibited acts, coverage, general labeling requirements, exemption procedures.

(a) No person engaged in the packaging or labeling of any consumer commodity for distribution in commerce, and no person (other than a common carrier for hire, or a freight forwarder

for hire) engaged in the distribution in commerce of any packaged or labeled consumer commodity, shall distribute or cause to be distributed in commerce any such commodity if such commodity is contained in a package, or if there is affixed to that commodity a label, which does not conform to the provisions of the Act and of the regulations in this part.

(b) Persons engaged in business as wholesale or retail distributors of consumer commodities shall be subject to the Act and the regulations in this part to the extent that such persons are engaged in the packaging or labeling of consumer commodities, or prescribe or specify by any means the manner in which such consumer commodities are packaged or labeled.

(c) Each packaged or labeled consumer commodity, unless it has been exempted through proceedings under section 5(b) of the Act (15 U.S.C. 1454(b)), shall, upon being prepared for distribution in commerce or for sale at retail, and before being distributed in commerce or offered for sale at retail, be labeled in accordance with the requirements of the Act and the regulations in this part.

(d) Each packaged or labeled consumer commodity, unless it has been exempted through proceedings under section 5(b) of the Act, shall bear a label specifying the identity of the commodity; the name and place of business of the manufacturer, packer, or distributor; the net quantity of contents; and the net quantity per serving, use or application, where there is a label representation as to the number of servings, uses, or applications obtainable from the commodity.

(e) Regulations will be promulgated by the Commission exempting particular consumer commodities from one or more of the requirements of section 4 of the Act and the regulations thereunder to the extent and under such conditions as are consistent with the declared policy of the Act whenever the Commission finds that, because of the nature, form, or quantity of the particular consumer commodity, or for other good and sufficient reasons, full compliance with all the requirements otherwise applicable is impracticable or is not necessary for the adequate

§ 500.4

16 CFR Ch. I (1–10 Edition)

protection of consumers. Proceedings for the promulgation of such exempting regulations may be commenced by the Commission upon its own initiative or pursuant to petition filed with the Secretary by any interested person or group stating reasonable grounds for the proposed exemption, pursuant to § 1.15 of this chapter of the Commission's general procedures.

§ 500.4 Statement of identity.

(a) The principal display panel of a consumer commodity shall bear a specification of the identity of the commodity.

(b) Such specification of identity shall comprise a principal feature of the principal display panel, shall be in such type size and so positioned as to render it easily read and understood by the consumer, and shall be in lines generally parallel to the base on which the package or commodity rests as it is designed to be displayed.

(c) Such specification of identity shall be in terms of:

(1) The name now or hereafter specified in or required by any applicable Federal law or regulation; or in the absence thereof,

(2) The common or usual name of the commodity; or in the absence thereof,

(3) The generic name or in other appropriately descriptive terms such as a specification which includes a statement of function.

(d) The specification of identity shall not be false, misleading, or deceptive in any respect. Ingredients or components which are not present in the commodity in a substantial or significantly effective amount may not be mentioned in the specification of identity; except that a component present in a formulation in substantial and effective amounts, but not present in the final product due to conversion or transformation into a different entity (which different entity is present in the final product), may be mentioned in the specification of identity.

§ 500.5 Name and place of business of manufacturer, packer or distributor.

(a) The label of a consumer commodity shall specify conspicuously the name and place of business of the man-

ufacturer, packer, or distributor. Where the consumer commodity is not manufactured by the person whose name appears on the label, the name shall be qualified by a phrase that reveals the connection such person has with such commodity; such as "Manufactured for _____," "Distributed by _____," or any other wording that expresses the facts.

(b) The requirement for declaration of the manufacturer, packer, or distributor shall in the case of a corporation be deemed to be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used.

(c) The statement of the place of business shall include the street address, city, State, and Zip Code; however, the street address may be omitted if it is shown in a current city directory or telephone directory.

(d) If a person manufactures, packs, or distributes a consumer commodity at a place other than his principal place of business, the label may state the principal place of business in lieu of the actual place where such consumer commodity was manufactured or packed or is to be distributed, unless such statement would be misleading.

(e) Standard abbreviations may be used in complying with the requirements of this section.

§ 500.6 Net quantity of contents declaration, location.

(a) The label of a consumer commodity shall bear a declaration of the net quantity of contents separately and accurately stated on the principal display panel.

(b) The declaration of net quantity shall appear as a distinct item on the principal display panel, shall be separated (by at least a space equal to the height of the lettering used in the declaration) from other printed label information appearing above or below the declaration and, shall not include any term qualifying a unit of weight or mass, measure, or count such as "jumbo quart," "giant liter," "full gallon," "when packed," "minimum," or

words of similar import. The declaration of net quantity shall be separated (by at least a space equal to twice the width of the letter "N" of the style of type used in the net quantity statement) from other printed label information appearing to the left or right of the declaration. However, the "e" mark shall not be considered to be a qualifying word or phrase and may be used as part of the statement of the net quantity of contents where warranted. When used, the "e" mark shall be at least 3 millimeters (approximately 1/8 in) in height. The declaration of net quantity of contents shall be placed on the principal display panel within the bottom 30 percent of the area of the label panel in lines generally parallel to the base on which the package or commodity rests as it is designed to be displayed: *Provided*, that:

(1) On consumer commodities having a principal display panel of 5 square inches (32.2 cm²) or less, the requirement for placement within the bottom 30 percent of the area of the label panel shall not apply when the declaration of net quantity of contents meets the other requirements of this part, and

(2) The requirements as to separation, location, and type size, specified in this part are waived with respect to variety and combination packages as defined in this part.

§ 500.7 Net quantity of contents, method of expression.

The net quantity of contents shall be expressed in terms of weight or mass, measure, numerical count, or a combination of numerical count and weight or mass, size, or measure so as to give accurate information regarding the net quantity of contents thereof, and thereby facilitate value comparisons by consumers. The net quantity of contents statement shall be in terms of fluid measure if the commodity is liquid, or in terms of weight or mass if the commodity is solid, semi-solid, or viscous, or a mixture of solid and liquid. If there is a firmly established general consumer usage and trade custom of declaring the contents of a liquid by weight or mass, or a solid, semi-solid, or viscous product by fluid measure, numerical count, and/or size, or (as in the case of lawn and plant care prod-

ucts) by cubic measure, it may be used, when such declaration provides sufficient information to facilitate value comparisons by consumers. The declaration may appear in more than one line of print or type.

§ 500.8 Units of weight or mass and measure.

(a) Statements of weight or mass shall be in terms of both avoirdupois pound and ounce and SI metric kilograms, grams, or milligrams. (Examples of avoirdupois/metric declarations: "Net Wt 15 oz (425 g)" or "Net Wt 1½ lbs (680 g)" or "2.5 oz (70.8 g)"; examples of metric/avoirdupois declarations: "Net Mass 425 g (15 oz)" or "Net Mass 680 g (1½ lbs)" or "100 g e (3.5 oz).")

(b) Statements of fluid measure shall be in terms of both the U.S. gallon of 231 cubic inches and quart, pint, and fluid ounce subdivisions thereof and SI metric liters or milliliters and shall (except in the case of petroleum products, for which the declaration shall express the volume at 60 ° Fahrenheit (15.6 ° Celsius)) express the volume at 68 ° Fahrenheit (20 ° Celsius). (Examples of gallon/metric declarations: "Net 12 fl oz (354 mL)" or "Net Contents 1 gal (3.78 L)" or "8 fl oz (236 mL)"; examples of metric/gallon declarations: "Net 500 mL (1.05 pt)" or "Net Contents 1 L (1.05 qt).")

(c) Statements of linear measure shall be in terms of both yards, feet, and inches and SI metric meters, centimeters, or millimeters.

(d) Statements of measure of area shall be in terms of both square yards, square feet, and square inches and SI metric square meters, square decimeters, square centimeters, or square millimeters.

(e) Statements of dry measure shall be in terms of both the U.S. bushel of 2,150.42 cubic inches and peck, dry quart, and dry pint subdivisions thereof and SI metric liters or milliliters.

(f) Statements of cubic measure shall be in terms of both cubic yard, cubic foot, and cubic inch and SI metric cubic meters, cubic decimeters, or cubic centimeters.

§ 500.9

16 CFR Ch. I (1–1–10 Edition)

§ 500.9 Units of weight or mass, how expressed.

(a) The term *net weight* or *net mass* may be used in stating the net quantity of contents in terms of weight or mass. However, where the term “net weight” or “net mass” is not used, the quantity of contents shall always disclose the net quantity of contents. For example: “453 g (1 lb)” or “Net Wt 1 lb (453 g)” or “Net Mass 453 g (1 lb)”.

(b) With the exception of random packages, the statement of net quantity of contents in terms of avoirdupois weight shall be expressed as follows:

(1) If less than 1 pound, in terms of ounces. (Examples: “Net Weight 12 oz. (340 g)” or “Net Mass 340 g (12 oz)”.)

(2) If at least 1 pound but less than 4 pounds, in whole pounds, with any remainder in ounces or common or decimal fractions of the pound, except that it shall be optional to include an immediately adjacent additional expression of net quantity in terms of ounces.

(Examples: “Net Wt. 1 lb. 8 oz. (680 g)” or “Net Wt. 1.5 lb./24 oz. (680 g)” or “24 oz. (1½ lb.) 680 g”.)

(3) If 4 pounds or more, in terms of whole pounds, with any remainder in terms of ounces or common or decimal fractions of the pound, except that it shall be optional to include an immediately adjacent additional expression of net quantity in terms of ounces. (Examples: “Net Weight 5 pounds 4 ounces (2.38 kg)” or “Net Mass 2.38 kg (5 lbs 4 oz)” or “Net Wt. 5¼ lbs. (2.38 kg)” or “Net Mass 2.38 kg (5¼ lbs.)” or “Net Wt. 5.25 lbs. (2.38 kg)” or “Net Mass 2.38 kg (5.25 lbs)”.)

(c) If the net quantity of contents declaration appears on a random package it may, when the net weight exceeds 1 pound, be expressed in terms of pounds and decimal fractions of the pound carried out to not more than three decimal places. When the net weight does not exceed 1 pound, the declaration on the random package may be in terms of decimal fractions of the pound in lieu of ounces. (Examples: “Net Wt. 0.75 lb.” and “Net Weight 1.05 pounds.”) Such decimal declaration shall be exempt from the type size and placement requirements of section 4(a) of the Act if the accurate statement of

net weight is presented prominently and conspicuously on the principal display panel of the package. The net quantity of contents declaration on a random package is not required to, but may include a statement in terms of the SI metric system carried out to not more than 3 decimal places.

(d) It is sufficient to distinguish avoirdupois ounce from fluid ounce through association of terms. (Examples: “Net Wt. 6 oz.” vs. “6 fl. oz.” or “Net Contents 6 fl. oz.”)

§ 500.10 Units of fluid measure, how expressed.

(a) Use of the terms “net” or “net contents” is optional.

(b) Declaration of net quantity of contents in terms of fluid measure shall be identified as such in each instance and the statement of U.S. gallon of 231 cubic inches and quart, pint, and fluid ounce subdivisions thereof shall be expressed as follows:

(1) If less than 1 pint, in terms of fluid ounces. (Example: “Net Contents 8 fl. oz. (236 mL)” or “Net Contents 236 mL (8 fl. oz.)”.)

(2) If at least 1 pint but less than 1 gallon, in terms of the largest whole unit (quarts, quarts and pints or pints, as appropriate), with any remainder in terms of fluid ounces or common or decimal fractions of the pint or quart, except that it shall be optional to include an immediately adjacent additional expression of net quantity in terms of fluid ounces. (Examples: “1 qt. (946 mL)” or “Net contents 1 qt. 1 pt. 8 oz./56 fl. oz. (1.65 L)”, but not in terms of quart and ounce such as “1 quart 24 ounces (1.65 L)”.)

(3) If 1 gallon or more, in terms of the largest whole unit (gallons followed by common or decimal fractions of a gallon or by the next smaller whole unit or units viz, quarts and pints) with any remainder in terms of fluid ounces or common or decimal fractions of the pint or quart, except that it shall be optional to include an immediately adjacent additional expression of net quantity in terms of fluid ounces.

(Examples: “Net contents 2½ gal. (9.46 L)”, “Contents 2.5 gal. (9.46 L)”, or “Net contents 2 gallons 2 quarts (9.46 L)” but not as “2 gallons 4 pints (9.46 L)”.)

Federal Trade Commission

§ 500.13

§ 500.11 Measurement of commodity length, how expressed.

Declaration of net quantity in terms of yards, feet, and inches shall be expressed as follows:

(a) If less than 1 foot, in terms of inches and fractions thereof.

(b) If 1 foot or more, in terms of the largest whole unit (a yard or foot) with any remainder in terms of inches or common or decimal fractions of the foot or yard, except that it shall be optional to express the length in the preceding manner followed by a statement of the length in terms of inches.

§ 500.12 Measurement of commodities by length and width, how expressed.

For bidimensional commodities (including roll-type commodities) measured in terms of commodity length and width, the declaration of net quantity of contents shall be expressed in the following manner:

(a) The declaration of net quantity for bidimensional commodities having a width of more than 4 inches (10.1 cm) shall:

(1) When the commodity has an area of less than 1 square foot (929 cm²) be expressed in terms of length and width in linear measure. The customary inch/pound statement is to be expressed in inches and fractions thereof.

(2) When the commodity has an area of 1 square foot (929 cm²) or more, but less than 4 square feet (37.1 dm²), be expressed in terms of area, followed by the length and width. The customary inch/pound statement of area is to be expressed in square inches with length and width expressed in the largest whole unit (yard or foot) with any remainder in inches or common or decimal fractions of the yard or foot except that a dimension of less than 2 feet (60.9 cm) may be stated in inches. Commodities consisting of usable individual units (e.g., paper napkins) while requiring a declaration of unit area need not declare the total area of all such individual units.

(3) When the commodity has an area of 4 square feet (37.1 dm²) or more, be expressed in terms of area, followed by the length and width. The customary inch/pound statement of area is to be expressed in square feet with the

length and width expressed in the largest whole units (yards or feet) with any remainder in terms of inches or common or decimal fractions of the foot or yard except that a dimension of less than 2 feet (60.96 cm) may be stated in inches.

(4) For any commodity for which the quantity of contents is required by paragraph (a) (2) or (3) of this section to include a declaration of the linear dimensions, the quantity of contents, in addition to being declared in the manner prescribed by the appropriate provisions of this regulation, may also include, after the customary inch/pound statement of the linear dimensions of the largest unit of measurement, a parenthetical declaration of the linear dimensions of said commodity in terms of inches.

(Example: "25 sq. ft. (12 in. × 8.33 yd.) (12 in. × 300 in.) 42.32 m² (30.4 cm × 7.62 m)".)

(b) For bidimensional commodities having a width of 4 inches (10.16 cm) or less, the declaration of net quantity shall be expressed in terms of width and length in linear measure. The customary inch/pound statement of width shall be expressed in terms of linear inches and fractions thereof, and length shall be expressed in the largest whole unit (yard or foot) with any remainder in terms of the common or decimal fractions of the yard or foot, except that it shall be optional to express the length in the largest whole unit followed by a statement of length in inches or to express the length in inches followed by a statement of length in the largest whole unit.

(Example: "2 inches × 10 yards (5.08 cm × 9.14 m)", "2 inches × 10 yards (360 inches) 5.08 cm × 9.14 m", or "2 inches × 360 inches (10 yards) 5.08 cm × 9.14 m".)

§ 500.13 Measurement of commodities by area measure only, how expressed.

For commodities measured in terms of area measure only declaration of net quantity in terms of square yards, square feet, and square inches shall be expressed in the following manner:

(a) If less than 1 square foot (929 cm²), in terms of square inches and fractions thereof.

§ 500.14

(b) If at least 1 square foot (929 cm²) but less than 4 square feet (37.1 dm²), in terms of square feet with any remainder in terms of square inches or common or decimal fractions of the square foot.

(c) If 4 square feet (37.1 dm²) or more, in terms of the largest appropriate whole unit (square yards, square yards and square feet, or square feet) with any remainder in terms of square inches or common or decimal fractions of the square foot or square yard.

§ 500.14 Statements of cubic measure and dry measure.

Statements of cubic measure and dry measure shall be expressed in terms most appropriate to the providing of accurate information as to the net quantity of contents, and to the facilitating of value comparisons by consumers. When the content declaration on a commodity sold in compressed form is stated in terms of cubic measure there may also be a statement indicating the amount of material from which the final product was compressed. Such statement shall not exceed the actual amount of material that can be recovered.

§ 500.15 Units of count, more than one ply.

If the commodity is in distinct usable units made up of one or more components or ply, the statement of net quantity of contents shall (in addition to complying with the requirements of linear and area measurement declaration for each unit as specified in § 500.12) include the number of ply and the total number of usable units.

(Example: "100 2-ply facial tissues, 8½ inches × 10 inches" (21.5 × 25.4 cm).)

For the purposes of this section, roll type commodities (e.g. paper towels), irrespective of perforations, shall not be considered to be usable units, and shall be labeled in terms of total area measurement and the number of ply. Such area measurement, however, shall be supplemented by a count statement and the dimensions of a single unit.

16 CFR Ch. I (1–1–10 Edition)

§ 500.16 Measurement of container type commodities, how expressed.

Notwithstanding other provisions of this part 500 of the regulations pertaining to the expression of net quantity of contents by measurement, commodities designed and sold at retail to be used as containers for other materials or objects, such as bags, cups, boxes, and pans, shall be labeled in accordance with the following paragraphs:

(a) The declaration of net quantity for container commodities shall be expressed as follows:

(1) For bag type commodities, in terms of count followed by linear dimensions of the bag (whether packaged in a perforated roll or otherwise) Net quantity of contents in terms of feet and inches shall be expressed as follows:

(i) When the unit bag is characterized by two dimensions because of the absence of a gusset, the width and length will be expressed in inches, except that a dimension of 2 feet or more will be expressed in feet with any remainder in terms of inches or common or decimal fractions of the foot.

(Example: "25 bags, 17 in. × 20 in. (43.1 × 50.8 cm)" or "200 bags, 20 in. × 2 ft. 6 in. (50.8 × 76.2 cm)", or "50 bags, 20 in. × 2½ ft. (50.8 × 76.2 cm)".)

(ii) When the unit bag is gusseted, the dimensions will be expressed as width, depth and length in terms of inches except that any dimensions of 2 feet or more will be expressed in feet with any remainder in terms of inches or the common or decimal fractions of the foot.

(Examples: "25 bags, 17 in. × 4 in. × 20 in. (43 × 10 × 50 cm)", or "200 bags, 20 in. × 12 in. × 2½ ft. (50.8 × 30.4 × 76.2 cm)".)

(2) For other square, oblong, rectangular or similarly shaped containers, in terms of count followed by length, width, and depth except depth need not be listed when less than 2 inches (5.08 cm).

(Example: "2 cake pans, 8 in. × 8 in. (20.3 × 20.3 cm)", or "roasting pan, 12 in. × 8 in. × 3 in. (30.4 × 20.3 × 7.62 cm)".)

(3) For circular or other generally round shaped containers, except cups, and the like, in terms of count followed

Federal Trade Commission

§ 500.19

by diameter and depth except depth need not be listed when less than 2 inches (5.08 cm).

(Example: "4 pie pans, 8 in. diameter (20.3 cm)" or "2 cake pans, 8 in. diameter × 4 in. (20.3 × 10.1 cm)".)

(b) When the functional use of the container is related by label reference in standard terms of measure to the capability of holding a specific quantity of substance or class of substances such references shall be a part of the net quantity statement and shall specify capacity as follows:

(1) Liquid measure for containers which are intended to be used for liquids, semi-solids, viscous materials or mixtures of solids and liquids. The customary inch/pound statement of capacity shall be stated in terms of the largest whole U.S. gallon of 231 cubic inches, quart, pint, or ounce with any remainder in terms of the common or decimal fraction of that unit.

(Example: Freezer Boxes: "4 boxes, 1 qt. capacity, 6 in. × 6 in. × 4 in. (946 mL capacity, 15.2 × 15.2 × 10.1 cm)".)

(2) Dry measure for containers which are intended to be used for solids. The customary inch/pound statement of capacity shall be stated in terms of the largest whole U.S. bushel of 2,150.42 cubic inches, peck, dry quart, or dry pint with any remainder in terms of the common or decimal fraction of that unit.

(Example: Leaf Bags: "8 bags, 6 bushel capacity, 4 feet × 5 feet (211 L capacity—1.21 m × 1.52 m)".)

(3) Where containers are used as liners for other more permanent containers, in the same terms as are normally used to express the capacity of the more permanent container.

(Example: Garbage Can Liners: "10 liners, 2 ft. 6 in. × 3 ft. 1 in., fits up to 30 gallon cans (76.2 × 93.9 cm, fits up to 113 L cans".)

(c) Notwithstanding the above requirements, the net quantity statement for containers such as cups will be listed in terms of count and liquid capacity per unit.

(Example: "24 cups, 6 fl. oz. capacity (177 mL)".)

(d) For purposes of this section, the use of the terms "capacity," "diameter," and "fluid" is optional.

§ 500.17 Fractions.

(a) SI metric declarations of net quantity of contents of any consumer commodity may contain only decimal fractions. Other declarations of net quantity of contents may contain common or decimal fractions. A common fraction shall be in terms of halves, quarters, eighths, sixteenths, or thirty-seconds; except that:

(1) If there exists a firmly established general consumer usage and trade custom of employing different common fractions in the net quantity declaration of a particular commodity, they may be employed, and

(2) If linear measurements are required in terms of yards or feet, common fractions may be in terms of thirds. A common fraction shall be reduced to its lowest terms; a decimal fraction shall not be carried out to more than three places.

(b) If a statement includes small fractions, smaller variations in the actual size or weight of the commodity will be permitted as provided in § 500.25, than in cases where the larger fractions or whole numbers are used.

§ 500.18 SI metric prefixes.

The following chart indicates SI prefixes that may be used on a broad range of consumer commodity labels:

Prefix	Symbol	Multiplying factor ¹
Kilo-	k	x 10 ³
Deca-	da	x 10
Deci-	d	x 10 ⁻¹
Centi-	c	x 10 ⁻²
Milli-	m	x 10 ⁻³
Micro-	μ	x 10 ⁻⁶

¹ 10²=100; 10³=1000; 10⁻¹=0.1; 10⁻²=0.01. Thus, 2 kg=2×1000 g=2000 g, and 3 cm=3×0.01 m=0.03 m.

§ 500.19 Conversion of SI metric quantities to inch/pound quantities and inch/pound quantities to SI metric quantities.

(a) For calculating the conversion of SI metric quantities to inch/pound quantities and inch/pound quantities to metric quantities, the factors in the following chart and none others shall be employed:

§ 500.20

SI METRIC INCH/POUND CONVERSION FACTORS

Inch/pound	Metric
Length	
1 mil=25.4 micrometers (µm)*	1 micrometer= 0.039370 mil.
1 inch=2.54 cm*	1 millimeter=0.039 370 in.
1 foot=30.48 cm*	1 centimeter=0.393 701 in.
1 yard=0.9144m*	1 meter=3.280 84 ft.
Area	
1 square inch=6.4516 cm ² * ...	1 square centimeter=0.155 000 in ² .
1 square foot=929.0304 cm ² * =9.290 304 dm ²	1 square decimeter=0.107 639 ft ² .
1 square yard=0.836 127 m ² .	1 square meter=10.763 9 ft ² .
Volume or Capacity	
1 cubic inch=16.3871 cm ³	1 cubic centimeter=0.061 023 7 in ³ .
1 cubic foot=0.028 316 8 m ³ =2.83 168 dm ³	1 cubic decimeter=0.035 314 7 ft ³ .
1 cubic yard=0.764 555 m ³ ...	1 cubic meter=35.314 7 ft ³ . =1.307 95 yd ³ .
1 fluid ounce=29.573 5 mL ...	1 milliliter=0.033 814 0 fluid oz.
1 liquid pint=473.177 mL	1 liter=1.05669 liquid quart.
=0.473 177 L	1 liter=0.264 172 gallon.
1 liquid quart=946.353 mL	1 dry pint=550.610 5 mL.
=0.946 353 L	1 dry quart=1.101 221 L.
1 gallon=3.785 41 L	1 dry peck=8.809 768 L.
1 bushel=35.2391 L.	
Weight or Mass	
1 ounce=28.349 5 g	1 milligram=0.000 035 274 0 oz.
1 pound=453.592 g	=0.015 432 4 grain.
=0.453 592 kg	1 gram=0.035 274 0 oz.
	1 kilogram=2.204 62 lb.

*Exactly.
NOTE: These conversion factors are given to six significant digits to provide such accuracy when necessary.

(b) The SI metric quantity declaration should be shown in three digits except where the quantity is below 100 grams, milliliters, centimeters, square centimeters or cubic centimeters, where it can be shown in two figures. In either case, any final zero appearing to the right of a decimal point need not be shown.

(Examples: "1 lb (453 g)" not "1 lb (453.592 g)"; "Net Wt. 2 oz (56 g)" or "Net Wt 2 oz (56.6 g)" not "Net Wt. 2 oz (56.69 g)".)

§ 500.20 Conspicuousness.

The statement of net quantity of contents shall appear in conspicuous and easily legible boldface type or print in distinct contrast (by typography, layout, color, embossing, or molding) to other matter on the package; except that a statement of net quantity blown, embossed, or molded

16 CFR Ch. I (1-1-10 Edition)

on a glass or plastic surface is permissible when all label information is so formed on the surface.

§ 500.21 Type size in relationship to the area of the principal display panel.

(a) The statement of net quantity of contents shall be in letters and numerals in a type size established in relationship to the area of the principal display panel of the package or commodity and shall be uniform for all packages or commodities of substantially the same size. For this purpose, "area of the principal display panel" means the area of the side or surface that bears the principal display panel, exclusive of tops, bottoms, flanges at tops and bottoms of cans, and shoulders and necks of bottles and jars. This area shall be:

(1) In the case of a rectangular package or commodity where one entire side properly can be considered to be a principal display panel side, the product of the height times the width of that side;

(2) In the case of a cylindrical or nearly cylindrical container or commodity, 40 percent of the product of the height of the container or commodity times the circumference; and

(3) In the case of any otherwise shaped container or commodity, 40 percent of the total surface of the container or commodity: *Provided*, however, that where such container or commodity presents an obvious "principal display panel" such as the top of a triangular or oval shaped container, the area shall consist of the entire top surface.

(b) With area of principal display panel defined as above, the type size in relationship to area of that panel shall comply with the following specifications:

(1) Not less than 1/16 inch (1.5 mm) in height on packages the principal display panel of which has an area of 5 square inches or (32.2 cm²) less.

(2) Not less than 1/8 inch (3.1 mm) in height on packages the principal display panel of which has an area of more than 5 (32.2 cm²) but not more than 25 square inches (161 cm²).

Federal Trade Commission

§ 500.24

(3) Not less than $\frac{3}{16}$ inch (4.7 mm) in height on packages the principal display panel of which has an area of more than 25 (161 cm²) but not more than 100 square inches (6.45 dm²).

(4) Not less than $\frac{1}{4}$ inch (6.35 mm) in height on packages the principal display panel of which has an area of more than 100 square inches (6.45 dm²), except not less than $\frac{1}{2}$ (12.7 mm) inch in height if the area is more than 400 square inches (25.8 dm²).

(c) Where the statement of net quantity of contents is blown, embossed, or molded on a glass or plastic surface rather than by printing, typing, or coloring, the lettering sizes specified in paragraph (b) of this section shall be increased by $\frac{1}{16}$ of an inch (1.5 mm).

(d) Letter heights pertain to upper case or capital letters. When upper and lower case or all lower case letters are used, it is the lower case letter "o" or its equivalent that shall meet the minimum standards.

(e) The ratio of height to width of a letter shall not exceed a differential of 3 units to 1 unit (no more than 3 times as high as it is wide).

(f) When fractions are used, each component shall meet one-half the minimum height standards.

(g) The type size requirements specified in this section do not apply to the "e" mark. (See § 500.6(b).)

(h) When upper and lower case or all lowercase letters are used in SI metric symbols, it is the uppercase "L," lowercase "d," or their equivalent in the print or type used that shall meet the minimum height requirement. Other letters and exponents must be presented in the same type style and in proportion to the type size used. However, no letter shall be less than 1.6 mm ($\frac{1}{16}$ inch) in height.

§ 500.22 Abbreviations.

The following abbreviations and none other may be employed in the required net quantity declaration:

Inch—in.
Feet or foot—ft.
Fluid—fl.
Liquid—liq.
Ounce—oz.
Gallon—gal.
Pint—pt.
Pound—lb.
Quart—qt.

Square—sq.
Weight—wt.
Yard—yd.
Avoirdupois—avdp.
Cubic—cu.

NOTE: Periods and plural forms shall be optional.

§ 500.23 Expression of net quantity of contents in SI Metric units.

(a) The selected multiple or submultiple prefixes for SI metric units shall result in numerical values between 1 and 1000, except that centimeters or millimeters may be used where a length declaration is less than 100 centimeters. For example, "1.96 kg" instead of "1960 g" and "750 mL" instead of "0.75 L".

(b) The following symbols for SI metric units and none others may be employed in the required net quantity declaration:

centimeter—cm
cubic centimeter—cm³
cubic decimeter—dm³
meter—m
milligram—mg
liter—L or l
milliliter—mL or ml
square decimeter—dm²
cubic meter—m³
kilogram—kg
micrometer— μ m
gram—g
millimeter—mm
square meter—m²
square centimeter—cm²

NOTE: Symbols, except for liter, are not capitalized. Periods should not be used after the symbol. Symbols are always written in the singular form.

§ 500.24 Supplemental statements.

Nothing contained in the regulations in this part shall prohibit supplemental statements, at locations other than the principal display panel, describing in non-deceptive terms the net quantity of contents: *Provided* that such supplemental statements of net quantity of contents shall not include any term qualifying a unit of weight or mass, measure, or count that tends to exaggerate the amount of commodity contained in the package. (Examples of prohibited language are: "Giant Quart," "Jumbo Liter," "Full Gallon," "When Packed," "Minimum," or words of similar import.) Required combination declarations of net quantity of

§ 500.25

contents (for example, a combination of net weight or mass plus numerical count, numerical count plus dimensions of the commodity, etc.) are not regarded as supplemental net quantity statements and shall be located on the principal display panel. Dilution directions or other similar directions for use are not regarded as supplemental net quantity statements and may be located on the principal display panel. Size characterizations in compliance with standards promulgated under section 5(c)(1) of the Act may appear on the principal display panel.

§ 500.25 Net quantity, average quantity, permitted variations.

(a) The statement of net quantity of contents shall accurately reveal the quantity of the commodity in the container exclusive of wrappers and other material packed therewith: *Provided*, that in the case of a commodity packed in a container designed to deliver the commodity under pressure, the statement shall declare the net quantity of the contents that will be expelled when the instructions for use are followed. The propellant is included in the net quantity statement.

(b) Variations from the stated weight or mass or measure shall be permitted when caused by ordinary and customary exposure, after the commodity is introduced into interstate commerce, to conditions which normally occur in good distribution practice and which unavoidably result in change of weight or mass or measure.

(c) Variations from the stated weight or mass, measure, or numerical count shall be permitted when caused by unavoidable deviations in weighing, measuring, or counting the contents of individual packages which occur in good packaging practice: *Provided*, that such variations shall not be permitted to such extent that the average of the quantities in the packages comprising a shipment or other delivery of the commodity is below the quantity stated, and no unreasonable shortage in any package will be permitted even though overages in other packages in the same shipment or delivery compensate for such shortage. Variations from stated quantity of contents shall not be unreasonably large.

16 CFR Ch. I (1-1-10 Edition)

§ 500.26 Representations of servings, uses, applications.

(a) The label of any packaged consumer commodity which bears a representation as to the number of servings, uses, or applications of such commodity contained in such package shall bear in immediate conjunction therewith, and in letters the same size as those used for such representations, a statement of the net quantity (in terms of weight or mass, measure, or numerical count) of each such serving, use, or application: *Provided*, that such statement may be expressed in terms that differ from terms used in the required statement of net contents (e.g., cupsful, tablespoonful, etc.), when such differing terms describe a constant quantity. Such statement may not be misleading in any particular.

(b) Representations as to the total amount of object or objects to which the commodity may be applied or upon which or in which the commodity may be used, will not be considered to be representations as to servings, uses, or applications, if such amount is expressed in terms of standard units of weight or mass, measure, size, or count.

(c) If there exists a voluntary product standard promulgated pursuant to the procedures found in 15 CFR part 10, by the Department of Commerce, quantitatively defining the meaning of the terms *servings*, *use*, or *application* with respect to a particular consumer commodity, then any label representation as to the number of servings, uses, or applications in such packaged consumer commodity shall correspond with such quantitative definition. (Copies of published standards will be available upon request from the National Institute of Standards and Technology, Department of Commerce, Washington, DC 20899.)

§ 500.27 Multiunit packages.

(a) A multiunit package is a package intended for retail sale, containing two or more individual packaged or labeled units of an identical commodity in the same quantity. The declaration of net quantity of contents of a multiunit package shall be expressed as follows:

(1) The number of individual packaged or labeled units;

Federal Trade Commission

§ 500.29

(2) The quantity of each individual packaged or labeled unit; and

(3) The total quantity of the multiunit package.

Examples: Soap bars: "6 Bars, Net Wt. 3.4 ozs. (96.3 g) each, Total Net Wt. 1 lb. 4.4 oz. (578 g)" Facial Tissues: "10 Packs, each 25 two-ply tissues, 9.7 in. × 8.2 in. (24.6 × 20.8 cm), Total 250 Tissues."

(b) The individual packages or labeled units of a multiunit package, when intended for individual sale separate from the multiunit package, shall be labeled in compliance with the regulations under this part 500 applicable to that package.

(c) A multiunit package containing unlabeled individual packages which are not intended for retail sale separate from the multiunit package may contain, in lieu of the requirements of Paragraph (a) of this section, a declaration of quantity of contents expressing the total quantity of the multiunit package without regard for inner packaging. For such multiunit packages it shall be optional to include a statement of the number of individual packages when such a statement is not otherwise required by the regulations.

Examples: Deodorant Cakes: "5 Cakes, Net Wt. 4 ozs. (113 g) each, Total Net Wt. 1.25 lb. (566 g)" or "5 Cakes, Total Net Wt. 1 lb. 4 ozs. (566 g)";

Soap Packets: "10 Packets, Net Wt. 2 ozs. (56.6 g) each, total Net Wt 1.25 lb. (566 g)" or "Net Wt 1 lb. 4 ozs. (566 g)" or "10 Packets, Total Net Wt. 1 lb. 4 ozs. (566 g)."

§ 500.28 Variety packages.

(a) A variety package is a package intended for retail sale, containing two or more individual packages or units of similar but not identical commodities. Commodities which are generically the same but which differ in weight or mass, measure, volume, appearance or quality are considered similar but not identical. The declaration of net quantity for a variety package will be expressed as follows:

(1) The number of units for each identical commodity followed by the weight or mass, volume, or measure of that commodity; and

(2) The total quantity by weight or mass, volume, measure, and count, as appropriate, of the variety package. The statement of total quantity shall

appear as the last item in the declaration of net quantity and shall not be of greater prominence than other terms used.

Examples:

(i) "2 sponges 4½ ins. × 4 ins. ×¾ in. (11.4 cm × 10.1 cm × 1.9 cm); 1 sponge 4½ ins. × 8 ins. ×¾ in. (11.4 cm × 20.3 cm × 1.9 cm); 4 sponges 2½ ins. × 4 ins. ×½ in. (6.3 cm × 10.1 cm × 1.2 cm)

Total: 7 sponges".

(ii) "2 soap bars Net Wt. 3.2 ozs. (90 g) each; 1 soap bar Net Wt. 5.0 ozs. (141 g). Total: 3 bars Net Wt. 11.4 ozs. (323 g)."

(iii) Liquid Shoe Polish: "1 Brown 3 fl. ozs. (88 mL); 1 Black 3 fl. ozs. (88 mL); 1 White 5 fl. ozs. (147 mL).

Total: 11 fl. ozs. (325 mL)."

(iv) Picnic Ware: "34 spoons; 33 forks; 33 knives.

Total: 100 pieces."

(b) When the individual units in a variety package are either packaged or labeled and are intended for retail sale as individual units, each unit shall be labeled in compliance with the applicable regulations under this part 500.

§ 500.29 Combination packages.

(a) A combination package is a package intended for retail sale, containing two or more individual packages or units of dissimilar commodities. The declaration of net quantity for a combination package will contain an expression of weight or mass, volume, measure or count or a combination, thereof, as appropriate for each individual package or unit: *Provided*, that the quantity statements for identical packages or units shall be combined.

Examples

(1) Lighter fluid and flints: "2 cans—each 8 fl. ozs. (236 mL); 1 package—8 flints."

(2) Sponges & Cleaner: "2 sponges each 4 in. × 6 in. × 1 in. (10.1 × 15.2 × 2.5 cm); 1 box cleaner—Net Wt. 6 ozs. (170 g)"

(3) Picnic Pack: "20 spoons, 10 knives and 10 forks, 10 2-ply napkins 10 ins. × 10 ins. (25.4 × 25.4 cm) 10 cups—6 fl. ozs. (177 mL)".

(b) When the individual units in a combination package are either packaged or labeled and are intended for retail sale as individual units, each unit shall be in compliance with the applicable regulations under this part 500.

PART 501—EXEMPTIONS FROM REQUIREMENTS AND PROHIBITIONS UNDER PART 500

Sec.

501.1 Camera film.

501.2 Christmas tree ornaments.

501.3 Replacement bags for vacuum cleaners.

501.4 Chamois.

501.5 Paper table covers, bedsheets, pillowcases.

501.6 Cellulose sponges, irregular dimensions.

501.7 Candles.

501.8 Solder.

AUTHORITY: Secs. 5, 6, 80 Stat. 1298, 1299, 1300; 15 U.S.C. 1454, 1455.

§ 501.1 Camera film.

Camera film packaged and labeled for retail sale is exempt from the net quantity statement requirements of part 500 of this chapter which specify how measurement of commodities should be expressed, provided:

(a) The net quantity of contents on packages of movie film and bulk still film is expressed in terms of the number of lineal feet of usable film contained therein.

(b) The net quantity of contents on packages of still film is expressed in terms of the number of exposures the contents will provide. The length and width measurements of the individual exposures, expressed in millimeters or inches, are authorized as an optional statement. (Example: "36 exposures, 36 × 24 mm. or 12 exposures, 2¼ × 2¼ inches".)

[35 FR 75, Jan. 3, 1970]

§ 501.2 Christmas tree ornaments.

Christmas tree ornaments packaged and labeled for retail sale are exempt from the net quantity statement requirements of part 500 of this chapter which specify how the net quantity statement should be expressed, provided:

(a) The quantity of contents is expressed in terms of numerical count of the ornaments, and

(b) The ornaments are so packaged that the ornaments are clearly visible to the retail purchaser at the time of purchase.

[35 FR 9108, June 12, 1970]

§ 501.3 Replacement bags for vacuum cleaners.

Replacement bags for vacuum cleaners, packaged and labeled for retail sale are exempt from the requirements of § 500.15a of this chapter which specifies how measurement of container type commodities should be expressed, provided:

(a) The quantity of contents is expressed in terms of numerical count of the bags;

(b) A statement appears on the principal display panel of the package accurately identifying the make and model of the vacuum cleaner or cleaners in which the replacement bag is intended to effectively function;

(c) The name and place of business of the manufacturer, packer, or distributor of the replacement bags, in addition to the requirements of § 500.5 of this chapter, appears on the principal display panel of the package.

[35 FR 10510, June 27, 1970]

§ 501.4 Chamois.

Chamois packaged or labeled for retail sale is exempt from the requirements of § 500.13 of this chapter which specifies how measurement of commodities by area measure should be expressed: *Provided:*

(a) The quantity of contents for full skins is expressed in terms of square feet with any remainder in terms of the common or decimal fraction of the square foot.

(b) The quantity of contents for cut skins of any configuration is expressed in terms of square inches and fractions thereof. Where the area of a cut skin is at least one square foot or more, the statement of square inches shall be followed in parentheses by a declaration in square feet with any remainder in terms of square inches or common or decimal fractions of the square foot.

[35 FR 19572, Dec. 24, 1970]

Federal Trade Commission

§ 502.2

§ 501.5 Paper table covers, bedsheets, pillowcases.

Table covers, bedsheets, and pillowcases, fabricated from paper, are exempt from the requirements of § 500.12 of this chapter which specifies the expression of measurement of bidimensional commodities: *Provided*, That such commodities shall clearly present their actual length and width in terms of inches.

[35 FR 19077, Dec. 17, 1970]

§ 501.6 Cellulose sponges, irregular dimensions.

Variety packages of cellulose sponges of irregular dimensions, are exempted from the requirements of § 500.25 of this chapter, provided:

(a) Such sponges are packaged in transparent packages which afford visual inspection of the varied sizes, shapes, and irregular dimensions; and

(b) The quantity of contents declaration is expressed as a combination of count accompanied by the term *irregular dimensions*.

Example: "10 Assorted Sponges—Irrregular dimensions."

[35 FR 18510, Dec. 5, 1970]

§ 501.7 Candles.

Tapered candles and irregularly shaped decorative candles which are either hand dipped or molded are exempt from the requirements of § 500.7 of this chapter which specifies that the net quantity of contents shall be expressed in terms of count and measure (e.g., length and diameter), to the extent that diameter of such candles need not be expressed. The requirements of § 500.7 of this chapter for these candles will be met by an expression of count and length or height in inches.

[36 FR 5690, Mar. 26, 1971]

§ 501.8 Solder.

Solder and brazing alloys containing precious metals when packaged and labeled for retail sale are exempt from the net quantity statement requirements of part 500 of this chapter which specify that all statements of weight shall be in terms of avoirdupois pound and ounce provided the net quantity declaration is stated in terms of the

troy pound and ounce and the term *troy* is used in each declaration.

[37 FR 4429, Mar. 3, 1972]

PART 502—REGULATIONS UNDER SECTION 5(C) OF THE FAIR PACKAGING AND LABELING ACT

SCOPE

Sec.

502.1 Scope of the regulations in this part.

DEFINITIONS

502.2 Terms defined.

GENERAL REQUIREMENTS

502.3 Prohibited acts.

CHARACTERIZATION OF PACKAGE SIZE

502.4-502.99 [Reserved]

RETAIL SALE PRICE REPRESENTATIONS

502.100 "Cents-off" representations.

502.101 Introductory offers.

502.102 "Economy size".

COMMON NAME AND INGREDIENT LISTING

502.200-502.299 [Reserved]

NONFUNCTIONAL-SLACK-FILL

502.300-502.399 [Reserved]

AUTHORITY: Secs. 5, 6, 80 Stat. 1299, 1300; 15 U.S.C. 1454, 1455.

SOURCE: 36 FR 12286, June 30, 1971, unless otherwise noted.

SCOPE

§ 502.1 Scope of the regulations in this part.

The regulations in this part establish requirements for labeling of consumer commodities with respect to use of package size characterizations, retail sale price representations, and common name and ingredient listing. Additionally, the regulations in this part establish criteria to prevent nonfunctional-slack-fill of packages containing consumer commodities.

DEFINITIONS

§ 502.2 Terms defined.

As used in this part, unless the context otherwise specifically requires:

(a) The terms *Act*, *regulation* or *regulations*, *consumer commodity*, *package*,

§ 502.3

label, person, commerce, principal display panel, and random package have the same meaning as those terms are defined under part 500 of this chapter.

(b) The term *packager* and *labeler* means any person engaged in the packaging or labeling of any consumer commodity for distribution in commerce or any person, other than a common carrier for hire, a contract carrier for hire, or a freight forwarder for hire, engaged in the distribution in commerce of any packaged or labeled consumer commodity; except persons engaged in business as wholesale or retail distributors of consumer commodities are not included unless such persons (1) are engaged in the packaging or labeling of such commodities, or (2) prescribe or specify by any means the manner in which such commodities are packaged or labeled.

(c) The terms *ordinary and customary* and *regular* when used with the term *price* means the price at which a consumer commodity has been openly and actively sold in the most recent and regular course of business in a particular market or trade area for a reasonably substantial period of time, i.e., a 30-day period. For consumer commodities which fluctuate in price, the ordinary and customary price shall be the lowest price at which any substantial sales were made during the aforesaid 30-day period.

GENERAL REQUIREMENTS

§ 502.3 Prohibited acts.

(a) No person engaged in the packaging or labeling of any consumer commodity for distribution in commerce, and no person (other than a common carrier for hire, a contract carrier for hire, or a freight forwarder for hire) engaged in the distribution in commerce of any packaged or labeled consumer commodity, shall distribute or cause to be distributed in commerce any such commodity if such commodity is contained in a package, or if there is affixed to that commodity a label, which does not conform to the provisions of the Act and of the regulations in this part.

(b) Persons engaged in business as wholesale or retail distributors of consumer commodities shall be subject to

16 CFR Ch. I (1-1-10 Edition)

the Act and the regulations in this part to the extent that such persons are engaged in the packaging or labeling of consumer commodities, or prescribe or specify by any means the manner in which such consumer commodities are packaged or labeled.

CHARACTERIZATION OF PACKAGE SIZE

§§ 502.4-502.99 [Reserved]

RETAIL SALE PRICE REPRESENTATIONS

§ 502.100 “Cents-off” representations.

(a) The term *cents-off representation* means any printed matter consisting of the words “cents-off” or words of similar import, placed upon any packaging containing a consumer commodity or placed upon any label affixed to such commodity, stating or representing by implication that the commodity is being offered for sale at a price lower than the ordinary and customary retail sale price.

(b) Except as set forth in § 502.101 of this part, the package or label of a consumer commodity shall not have imprinted thereon by a packager or labeler a “cents-off” representation unless:

(1) The commodity has been sold by the packager or labeler at an ordinary and customary price in the most recent and regular course of business in the trade area in which the “cents-off” promotion is made, either to the trade in the event such commodity is not sold at retail by the packager or labeler, or to the public in the event such commodity is sold at retail by the packager or labeler.

(2) The packager or labeler sells the commodity so labeled (either to the trade in the event such commodity is not sold at retail by the packager or labeler, or to the public in the event such commodity is sold at retail by the packager or labeler) at a reduction from his ordinary and customary price, which reduction is at least equal to the amount of the “cents-off” representation imprinted on the commodity package or label.

(3) Each “cents-off” representation imprinted on the package or label is limited to a phrase which reflects that the price marked by the retailer represents the savings in the amount of the “cents-off” the retailer’s regular

price, e.g., "Price Marked is ___¢ Off the Regular Price". "Price Marked is ___ Cents-off the Regular Price of This Package"; provided, the package or label may in addition bear in the usual pricing spot a form reflecting a space for the regular price, the represented "cents-off" and a space for the price to be paid by the consumer.

(4) The packager or labeler who sells the commodity at retail displays the regular price, designated as the "regular price", clearly and conspicuously on the package or label of the commodity or on a sign, placard, or shelf-marker placed in a position contiguous to the retail display of the "cents-off" marked commodity, and the packager or labeler who does not sell at retail provides the retailer with a sign, placard, shelf-marker, or other device for the purpose of clearly and conspicuously displaying the retailers regular price, designated as "regular price", in a position contiguous to the "cents-off" marked commodity.

(5) The packager or labeler:

(i) Does not initiate more than three "cents-off" promotions of any single size commodity in the same trade area within a 12-month period;

(ii) Allows at least 30 days to lapse between "cents-off" promotions of any particular size packaged or labeled commodity in a specific trade area; and

(iii) Does not sell any single size commodity so labeled in a trade area for a duration in excess of 6 months within any 12-month period.

(6) Sales by the packager or labeler of any single size commodity so labeled in a trade area do not exceed in volume fifty percent (50%) of the total volume of sales of such size commodity in the same trade area during any 12-month period. The 12-month period used by the packager or labeler may be the calendar, fiscal, or market year provided the identical period is applied in this paragraph (b)(6) and paragraph (b)(5) of this section. Volume limits may be calculated on the basis of projections for the current year but shall not exceed 50 percent of the sales for the preceding year in the event actual sales are less than the projection for the current year.

(c) A packager or labeler will not make a "cents-off" promotion avail-

able in any circumstances where he knows or should have reason to know that it will be used as an instrumentality for deception or for frustration of value comparison, e.g., where the retailer charges a price which does not fully pass on to the consumers the represented price reduction or where the retailer fails to display the regular price in the display area of the "cents-off" marked product. Nothing in this rule, however, should be construed to authorize or condone the illegal setting or policing of retail prices by a packager or labeler in situations where he does not sell to the public.

(d) A packager or labeler who sponsors a "cents-off" promotion shall prepare and maintain invoices or other records showing compliance with this section. The invoices or other records required by this section shall be open to inspection by duly authorized representatives of this Commission and shall be retained for a period of 1 year subsequent to the end of the year (calendar, fiscal, or market) in which the "cents-off" promotion occurs.

[36 FR 23057, Dec. 3, 1971]

§ 502.101 Introductory offers.

(a) The term *introductory offer* means any printed matter consisting of the words "introductory offer" or words of similar import, placed upon a package containing any new commodity or upon any label affixed to such new commodity, stating or representing by implication that such new commodity is offered for retail sale at a price lower than the anticipated ordinary and customary retail sale price.

(b) The package or label of a consumer commodity may not have imprinted thereon by a packager or labeler an introductory offer unless:

(1) The product contained in the package is new, has been changed in a functionally significant and substantial respect, or is being introduced into a trade area for the first time.

(2) The packager or labeler clearly and conspicuously qualifies each offer on a package or label with the phrase "Introductory Offer."

(3) The packager or labeler does not sell any commodity so labeled in a trade area for a duration in excess of 6 months.

§ 502.102

16 CFR Ch. I (1-1-10 Edition)

(4) At the time of making the introductory offer promotion, the packagers or labeler intends in good faith to offer the commodity, alone, at the anticipated ordinary and customary price for a reasonably substantial period of time following the duration of the introductory offer promotion.

(c) The package or label of a consumer commodity shall not have imprinted thereon by a packager or labeler an introductory offer in the form of a “cents-off” representation unless, in addition to the requirements in paragraph (b) of this section:

(1) The packager or labeler clearly and conspicuously and in immediate conjunction with the phrase “Introductory Offer” imprints the phrase “_____ cents-off the after introductory offer price”.

(2) The packager or labeler sells the commodity so labeled (either to the trade in the event such commodity is not sold at retail by the packager or labeler, or to the public in the event such commodity is sold at retail by the packager or labeler) at a reduction from his anticipated ordinary customary price, which reduction is at least equal to the amount of the reduction from the after introductory offer price representation on the commodity package or label.

(d) A packager or labeler will not make an introductory offer with a “cents-off” representation available in any circumstance where he knows or should have reason to know that it will be used as an instrumentality for deception or for frustration of value comparison, e.g., where the retailer charges a price which does not fully pass on to consumers the represented price reduction. Nothing in this rule, however, should be construed to authorize or condone the illegal setting or policing of retail prices by a packager or labeler.

(e) A packager or labeler who sponsors an introductory offer shall prepare and maintain invoices or other records showing compliance with this section. The invoices or other records required by this section shall be open to inspection by duly authorized representatives of this Commission and shall be retained for a period of 1 year subsequent to the period of the introductory offer.

§ 502.102 “Economy size.”

(a) The term *economy size* means any printed matter consisting of the words “economy size,” “economy pack,” “budget pack,” “bargain size,” “value size,” or words of similar import placed upon any package containing any consumer commodity or placed upon any label affixed to such commodity, stating or representing directly or by implication that a retail sale price advantage is accorded the purchaser thereof by reason of the size of that package or the quantity of its contents.

(b) The package or label of a consumer commodity may not have imprinted thereon an “economy size” representation unless:

(1) The packager or labeler at the same time offers the same brand of that commodity in at least one other packaged size or labeled form.

(2) The packager or labeler offers only one packaged or labeled form of that brand of commodity labeled with an “economy size” representation.

(3) The packager or labeler sells the commodity labeled with an “economy size” representation (either to the trade in the event such commodity is not sold at retail by the packager or labeler, or to the public in the event such commodity is sold at retail by the packager or labeler), at a price per unit of weight, volume, measure, or count which is substantially reduced (i.e., at least 5 percent) from the actual price of all other packaged or labeled units of the same brand of that commodity offered simultaneously.

(c) A packager or labeler will not make an “economy size” package available in any circumstances where he knows that it will be used as an instrumentality for deception, e.g., where the retailer charges a price which does not pass on to the consumer the substantial reduction in cost per unit initially granted by the packager or labeler. Nothing in this rule, however, should be construed to authorize or condone the illegal setting or policing of retail prices by a packager or labeler.

(d) A packager or labeler who sponsors an “economy size” package shall prepare and maintain invoices or other records showing compliance with paragraph (b) of this section. The invoices

Federal Trade Commission

§ 503.2

or other records required by this section shall be open to inspection by duly authorized representatives of this Commission and shall be retained for one year.

COMMON NAME AND INGREDIENT LISTING
§§ 502.200–502.299 [Reserved]

NONFUNCTIONAL-SLACK-FILL

§§ 502.300–502.399 [Reserved]

PART 503—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

Sec.

- 503.1 Interpretations.
- 503.2 Status of specific items under the Fair Packaging and Labeling Act.
- 503.3 Name and place of business of manufacturer, packer, or distributor.
- 503.4 Net quantity of contents, numerical count.
- 503.5 Interpretation of the definition of “consumer commodity” as contained in section 10(a) of the Fair Packaging and Labeling Act.
- 503.6 Packagers’ duty to withhold availability of packages imprinted with retail sale price representations.

AUTHORITY: Secs. 4, 6, 10, 80 Stat. 1297, 1999, 1300, 1301; 15 U.S.C. 1453, 1455, 1456.

§ 503.1 Interpretations.

The regulations in parts 500, 501, and 502 of this chapter are necessarily general in application and requests for formal rulings, statements of policy or interpretations shall be addressed to the Secretary of the Commission for consideration. Statements of policy or interpretations binding on the Commission will be published in the FEDERAL REGISTER. However, technical questions not involving policy consideration may be answered by the staff.

[36 FR 23058, Dec. 3, 1971]

§ 503.2 Status of specific items under the Fair Packaging and Labeling Act.

Recent questions submitted to the Commission concerning whether certain articles, products or commodities are included under the definition of the term *consumer commodity*, as contained in section 10(a) of the Fair Packaging and Labeling Act, have been considered

in the light of the Commission’s interpretation of that term as set forth in § 503.5 of this part as follows:

(a) The Commission is of the opinion that the following commodities or classes of commodities are not “consumer commodities” within the meaning of the Act.

- Antifreeze.
- Artificial flowers and parts.
- Automotive accessories.
- Automotive chemical products.
- Automotive replacement parts.
- Bicycle tires and tubes.
- Books.
- Brushes (bristle, nylon, etc.).
- Brooms and mops.
- Cameras.
- Chinaware.
- Christmas light sets.
- Cigarette lighters.
- Clothespins (wooden, plastic).
- Compacts and mirrors.
- Diaries and calendars.
- Flower seeds.
- Footwear.
- Garden tools.
- Gift ties and tapes.
- Glasses and glassware.
- Gloves (work type).
- Greeting cards.
- Hand tools.
- Handicraft and sewing thread.
- Hardware.
- Household cooking utensils.
- Inks.
- Jewelry.
- Luggage.
- Magnetic recording tape.
- Metal pails.
- Motor oil (automobile).
- Mouse and rat traps.
- Musical instruments.
- Paintings and wall plaques.
- Photo albums.
- Pictures.
- Plastic table cloths, plastic placement and plastic shelf paper.
- Rubber gloves (household).
- Safety flares.
- Safety pins.
- School supplies.
- Sewing accessories.
- Silverware, stainless steelware and pewterware.
- Small arms ammunition.
- Smoking pipes.
- Souvenirs.
- Sporting goods.
- Toys.
- Typewriter ribbons.
- Woodenware.

(b) The Commission is of the opinion that the following commodities or

§ 503.3

16 CFR Ch. I (1-1-10 Edition)

classes of commodities are “consumer commodities” within the meaning of the Act:

Adhesives and sealants.
Aluminum foil cooking utensils.
Aluminum wrap.
Camera supplies.
Candles.
Christmas decorations.
Cordage.
Disposable diapers.
Dry cell batteries.
Light bulbs.
Liquified petroleum gas for other than heating and cooking.
Lubricants for home use.
Photographic chemicals.
Pressure sensitive tapes, excluding gift tapes.
Solder.
Solvents and cleaning fluids for home use.
Sponges and chamois.
Waxes for home use.

[35 FR 6185, Apr. 16, 1970]

§ 503.3 Name and place of business of manufacturer, packer, or distributor.

To clarify the identity of a manufacturer, packer, or distributor for the purpose of § 500.5 of this chapter, the following represents the opinions of the Commission.

(a) A manufacturer of a bulk product who supplies the product to a contract packager and permits his bulk product to be packaged by the contract packager remains the manufacturer of the commodity, if the contract packager does not perform any act other than package filling and labeling.

(b)(1) A manufacturer of a bulk product who supplies the bulk to a contract packager but permits the packager to modify the bulk commodity by the addition of any substance which changes the identity of the bulk, ceases to be the manufacturer of the consumer commodity. At that point, if the manufacturer of the bulk elects to use his name on the label of the consumer commodity, his name should be qualified to show “Distributed by _____”, or “Manufactured for _____”.

(2) The identity of a bulk substance received by a contract packager is changed if the packager, for example, adds a propellant as in the case of an aerosol, or adds a solvent as in the case of a paint, or blends two or more com-

ponents, or changes the physical state as in the case of a liquid being changed to a gel or a semisolid being changed to a solid.

(c) A person or firm who supplies a formula and/or specifications to a contract packager but who takes no part in the actual production of the consumer commodity is not the manufacturer of the consumer commodity for the purpose of § 500.5(a) of this chapter. This is true whether the person or firm who supplies the formula or specifications, or both, also supplies the raw materials which are to be reacted, mixed, or otherwise modified to produce the consumer commodity.

(d) A corporation which wholly owns a manufacturing subsidiary which retains its separate corporate identity, is not the manufacturer of the consumer commodities manufactured by the wholly owned subsidiary, but must qualify its name if it elects to use its name on the label. Such qualification may be “Manufactured for _____”, “Distributed by _____”, or “Manufactured by _____ (XYZ, Inc., City, State, Zip Code, a subsidiary of ABC, Inc.)”.

[34 FR 4956, Mar. 7, 1969, as amended at 34 FR 11199, July 3, 1969]

§ 503.4 Net quantity of contents, numerical count.

To clarify the requirement for declaration of net quantity in terms of count for the purpose of §§ 500.6 and 500.7 of this chapter, the following interpretation is rendered.

(a) When a consumer commodity is properly measured in terms of count only, or in terms of count and weight, volume, area, or dimension, the regulations are interpreted not to require the declaration of the net content as “one”, provided the statement of identity clearly expresses the fact that only one unit is contained in the package. Thus the unit synthetic sponge, the unit light bulb, and the unit dry cell battery do not require a net quantity statement of “one sponge,” “one light bulb,” or “one dry cell battery.” However, there still exists the necessity to provide a net quantity statement to specify weight, volume, area, or dimensions when such are required. For example, the synthetic sponge

which is packaged, requires dimensions such as "5 in. × 3 in. × 1 in." A multi-component package or a package containing two or more units of the same commodity shall bear the net quantity statement in terms of count, and weight, volume, area, or dimensions as required. This interpretation does not preclude the option to enumerate a unit count on a single packaged commodity if so desired.

(b) [Reserved]

[34 FR 18087, Nov. 8, 1969]

§ 503.5 Interpretation of the definition of "consumer commodity" as contained in section 10(a) of the Fair Packaging and Labeling Act.

(a) Section 10(a) of the Fair Packaging and Labeling Act defines the term *consumer commodity* in four classifications. These are:

(1) Any food, drug, device, or cosmetic;

(2) And any other article, product, or commodity of any kind or class which is customarily produced or distributed for sale through retail sales agencies or instrumentalities.

(i) For consumption by individuals and which usually is consumed or expended in the course of such consumption.

(ii) For use by individuals for purposes of personal care and which usually is consumed or expended in the course of such use.

(iii) For use by individuals in the performance of services ordinarily rendered within the household and which usually is consumed or expended in the course of such use.

(b) Section 10(a) then expressly excludes

(1) Meats, poultry, and tobacco,

(2) Economic poisons and biologics for animals,

(3) Prescription drugs,

(4) Alcoholic beverages, and

(5) Agricultural and vegetable seeds.

(c) Pursuant to sections 5 and 7 of the Fair Packaging and Labeling Act, the authority to promulgate regulations and to enforce the Act as to any food, drug, device, or cosmetic has been delegated to the Secretary of Health, Education, and Welfare and as to any other "consumer commodity" to the Federal Trade Commission.

(d) As to these articles, products, or commodities subject to regulation by the Federal Trade Commission, the legislative history of the Act demonstrates the intent of Congress, for the reasons stated therein, to place the following categories outside the scope of the definition of "consumer commodity":

(1) Durable articles or commodities;

(2) Textiles or items of apparel;

(3) Any household appliance, equipment, or furnishing, including feather and down-filled products, synthetic-filled bed pillows, mattress pads and patchwork quilts, comforters and decorative curtains;

(4) Bottled gas for heating or cooking purposes;

(5) Paints and kindred products;

(6) Flowers, fertilizer, and fertilizer materials, plants or shrubs, garden and lawn supplies;

(7) Pet care supplies;

(8) Stationery and writing supplies, gift wraps, fountain pens, mechanical pencils, and kindred products.

(e) The articles, products, or commodities that are within the terms of section 10(a) of the Act and subject to regulation by the Federal Trade Commission are either expendable commodities for consumption by individuals, expendable commodities used for personal care, or expendable commodities used for household services. The primary terms in section 10(a) for defining these categories are:

(1) Consumption by individuals;

(2) Use by individuals;

(3) Personal care by individuals;

(4) Performances of services ordinarily rendered within the household by individuals;

(5) Consumed or expended.

(f) These terms are defined as follows:

(1) *Consumption by individuals*. This term as it is used in section 10(a) means the using up of an article, product, or commodity by an individual.

(2) *Use by individuals*. This term as it is used in section 10(a) means the employment or application of an article, product, or commodity by an individual.

(3) *Personal care by individuals*. This term as it is used in section 10(a) means that activity of an individual

§ 503.6

16 CFR Ch. I (1-1-10 Edition)

which is concerned with protecting, enhancing, and providing for the general cleanliness, health, or appearance of the individual.

(4) *Performance of services ordinarily rendered within the household by individuals.* These terms as they are used in section 10(a) mean: The term *household* refers to the interior and exterior of dwellings or residences occupied by individuals, including the surrounding premises. The term *performance of services ordinarily rendered within the household* means the doing of any activity by an individual within the above-described area which is normally done in connection with the maintenance and occupation of the above-described area as a habitation for individuals.

(5) *Consumed or expended.* These terms as they are used in section 10(a) mean (i) the immediate destruction or extinction of an article, product, or commodity, or of the part used; or (ii) the substantial diminution in the quantity, quality or utility of an article, product, or commodity which results from usage upon one or several occasions over a comparatively short period of time.

(g) The foregoing definition serves to amplify the definition of "consumer commodity" supplied by Congress in section 10(a) of the Act. As questions arise as to whether specific articles, products, or commodities are included in the above definition, the Commission will consider, among other things, the Congressional policy declared in section 2 of the Act, namely, that packages and labels should enable consumers to obtain accurate information as to the quantity of contents and should facilitate value comparisons. That is, in making its determinations of inclusions and exclusions under this definition, the Commission will consider the requirements of both the Act and the pertinent regulations and in that connection will regard as one criterion the extent to which the disclosures required on "consumer commodities" are material to a consumer's selection of a particular article, product, or commodity. Interpretative rulings in such instances will be made public, and can be expected to further contribute to the development of clearer

delineation of the scope of the term "consumer commodity".

(h) With respect to articles, products, or commodities included within the definition of "consumer commodities", the Commission will consider requests for exemptions in accordance with section 5(b) of the Act and § 500.3(e) of this chapter, and will make public its rulings on all such requests.

[34 FR 12945, Aug. 9, 1969]

§ 503.6 Packagers' duty to withhold availability of packages imprinted with retail sale price representations.

To clarify the requirements, under part 502 of this chapter, that a packager or labeler will not make packages marked with retail sale price representations available in any circumstance where he knows or should have reason to know that it will be used as an instrumentality for deception or for frustration of value comparison, the following represents the opinions of the Commission:

(a) Details of a plan to provide special packaging or special package sizes bearing retail sale price representations should contain the condition that customers will not be provided with such packages unless they resell the package at a price which fully passes on to the purchasers the represented savings or sale price advantage.

(b) A packager or labeler who, in good faith, takes reasonable and prudent measures to verify the performance of his customers will be deemed to have satisfied his obligation under the regulations. If the packager has taken such steps, the fact that a particular customer has failed to resell the packages at a price which fully passes on to the purchaser the represented savings or sale price advantage shall not alone place a seller in violation of the regulations.

(c) Any packager or labeler who determines that a customer does not intend to fulfill or has not fulfilled the conditions of an offer should immediately refrain from further sale under that offer to the customer. In situations where proper fulfillment of the conditions of an offer are in question, the Commission will resolve the issue

Federal Trade Commission

§ 503.6

after appropriate investigation of the facts submitted.

[36 FR 23058, Dec. 3, 1971]