

**METHOD OF SALE
AND
QUANTITY STATEMENTS**

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QUANTITY DECLARATIONS

APPROPRIATE STATEMENTS

In general, unless there exists an established and customary accepted trade practice with respect to the terms of sale for a commodity: (CCR 6.4, and 7.3)

- A. A solid, semi-solid, viscous, or mixture of solid and liquid shall be sold by weight.

The net content statement may stand alone, or may include, either spelled out or properly abbreviated, the words "NET WEIGHT." Food products may also use the word "NET."

- B. A liquid shall be sold by fluid measure.

If the net content statement could be confused with weight, it shall state, spelled out or abbreviated, the words "FLUID OUNCES."

- C. A dry commodity shall be sold by dry measure or in some cases by count.

If the content statement could be confused with liquid measure, it must state, for example: "DRY PINT" or "DRY QUART."

- D. Count is only acceptable for items for which count alone is a fully informative statement of net quantity to the consumer. It would not be acceptable for commodities which may be sold in a variety of sizes and weights (e.g., cookies, rolls, napkins, etc.). (CCR 6.4.1)

- E. However the net contents are stated, the statement and method of sale must be fully informative and permit value comparison between similar commodities. For example, if all brands of a certain commodity have the net contents stated by net weight, a new brand of the same commodity marketed by dry measure would not be acceptable as there is no basis for value comparison. (B&P Code 12601)

GENERALLY ACCEPTED QUANTITY DECLARATIONS

FOOD AND DRUG ADMINISTRATION (FDA)

The following list shows types of statements generally made. FDA accepts these as complying with requirements pending further data showing that some other form of statement is more informative to consumers and will more accurately express the quantity of contents.

NOTE: Although not adopted into California regulations, NIST Handbook 130, Section "Interpretations and Guidelines", Section 2.3.2 contains methods of sale for fresh fruits and vegetables. Not all acceptable declarations are appropriate for retail sales.

<u>Product</u>	<u>Acceptable, Common, or Usual Declaration</u>
Apples, Fresh	Dry Measure or Net Weight. In addition, may also show minimum size, range in size, and/or count
Anchovies (in Salt)	Weight of Fish
Apricots, Canned	Net Weight
Artichokes, Canned	Drained Weight
Asparagus, Fresh	Net Weight
Crabmeat, Canned (Dry)	Net Weight
Crackers	Net Weight
Cranberries	Dry Measure (Cranberry Barrel). Also, Net Weight
Dates	Net Weight
Doughnuts	Net Weight and Count
Fish, Canned	Net Weight
Fish, Fresh	Net Weight
Fish, Frozen	Net Weight
Fish, Salted or Smoked	Net Weight and Count
Fruits, Canned	Net Weight
Fruits, Fresh	Dry Measure or Net Weight. Also, Min. Size and/or Count
Fruit Juices	Net Volume
Grains, Sacked	Net Weight

<u>Product</u>	<u>Acceptable, Common, or Usual Declaration</u>
Grapefruit, Fresh	Dry Measure, Size and Count. Also, Net Weight
Grapes, Fresh	Net Weight and Dry Measure
Greens, Fresh	Dry Measure and Net Weight. No marking
Herring Roe	Net Weight
Herring Spiced	Drained Weight Herring. Total Weight Contents
Honey, Comb	Net Weight
Honey, Strained	Net Weight
Jelly	Net Weight
Lemons, Fresh	Count and Average Diameter. Also, Dry Measure
Lettuce	Dozen Count and Dry Measure
Lobster, Canned (Dry)	Net Weight
Mayonnaise	Volume
Meats	Net Weight
Milk, Sweetened Condensed	Net Weight
Milk, Evaporated	Volume and Net Weight
Molasses	Net Weight and/or Volume
Mushrooms, Canned	Drained Weight
Mushrooms, Fresh, Dry, Dehydrated	Net Weight
Mustard, Prepared	Net Weight
Oil, Salad, Olive	Volume
Olives, Green (in Brine)	Drained Weight
Olives, Ripe	Drained Weight
Oranges	Dry Measure and Count. Also, Net Weight and Size
Oysters, Fresh	Volume

<u>Product</u>	<u>Acceptable, Common, or Usual Declaration</u>
Oysters, Canned	Total Weight
Peaches, Canned	Net Weight
Peaches, Fresh	Dry Measure, Min. Diameter. Also, Net Weight and Count
Peanut Butter	Net Weight
Pears, Canned	Net Weight
Pears, Fresh	Count. Also, Dry Measure or Net Weight
Pickles	Volume
Pineapple, Fresh	Count
Plums, Prunes, Fresh	Net Weight or Dry Measure. Count and Size denoted by rows in top layer
Potatoes, Fresh	Net Weight or Dry Measure
Rabbits, Dressed	Net Weight
Rolls	Net Weight and Count
Relish	Net Weight
Rock Lobster, Canned (Dry)	Net Weight
Roe, Herring	Net Weight
Salad Dressing	Volume
Salmon, Canned	Net Weight
Sardines, Canned	Net Weight
Sauces, Hot, Tabasco, A-I, Etc.	Volume
Sauerkraut, Canned	Net Weight
Sauerkraut (Unprocessed in Glass)	Volume
Shrimp, Canned (Wet)	Drained Weight
Shrimp, Canned (Dry)	Net Weight

<u>Product</u>	<u>Acceptable, Common, or Usual Declaration</u>
Syrup	Volume. Also, Volume and Net Weight
Soups, Canned (Liquid)	Net Volume
Soups, Canned (Condensed and Semi-condensed)	Net Weight
Spaghetti Sauce	Net Weight
Tea	Net Weight
Tea Bags	Net Weight and Count
Tomatoes, Canned	Net Weight
Tomatoes, Fresh	Net Weight or Dry Measure. Size denoted by rows in top layer
Tomato Sauce	Net Weight
Tuna Fish, Canned	Net Weight
Vegetables, Canned	Net Weight
Vegetables, Fresh	Dry Measure or Net Weight. Also, Count

This compilation may be revised from time-to-time as may be required by changes in consumer understanding, administrative opinion, or court decisions. If the necessity for corrections, additions, or deletions becomes apparent to the field, FDA requests to be notified promptly so that provision can be made for inclusion in the next revision.

Reference: FDA "Quantity of Contents Compendium."

NOTE: Many fruits and vegetables also are subject to packaging and labeling requirements administered by the California Department of Food and Agriculture, Division of Inspection Services. Some of the common declarations above may not be allowed in California.

EXEMPTIONS FROM LABELING REQUIREMENTS

BULK FOODS REPACKED AND SOLD BY RETAILER - FOOD AND DRUG ADMINISTRATION (FDA) RETAIL FOOD LABELING EXEMPTIONS

Federal Food and Drug regulations specify that foods received by retailers in bulk quantities which are repackaged by the retailer and displayed for sale on the premises are exempt from:

1. Net content statements, if it is clearly evident that they are to be weighed, measured, or counted, either within view of the customer or in compliance with the customer's order. [21 CFR § 1.24(a)(l)]
2. Identity statements, if a placard, counter card, or the master container bears the identity statement. [21 CFR § 101.100(b)(3)]
3. Responsibility statements. [21 CFR § 101.100(b)(l)]

COMMODITIES PACKED AND SOLD ON THE SAME PREMISES

A package sold on the same premises where it was packed does not have to have a declaration of responsibility: i.e., name and address of the manufacturer, packer, or distributor. [CCR § 5] It still must have the declarations of Quantity and Identity. [CCR §§ 3, 4, 6, 7]

RANDOM WEIGHT PACKAGES

LABEL REQUIREMENTS AND EXEMPTIONS

REQUIREMENTS

Random Weight Packages, are packages from a lot having identical labels EXCEPT for the net weight. An example would be packages of bricks of cheese labeled: Extra Sharp Cheddar, Audry Cheese Company, Sell by April 25 '01, each package having a different net weight ranging from 0.94 to 1.64 lb.

As of January 1, 2000 a random weight package **must bear** a label conspicuously declaring:

- (1) the net weight,
- (2) unit price, and
- (3) the total price.

[CCR 4510, §6.16]

EXEMPTIONS

1. If the random weight package is packaged for sale at another location, the unit price and total price may be omitted **providing they are on the package at the time of sale.** [CCR 4510, § 6.16]
2. Random weight packages are not required to be labeled with the net weight if they are “sold intact and intended to be weighed or measured at the time of sale.” For this exemption, no quantities can be represented on the package prior to being weighed or measured at the time of sale. [CCR 4510, §11.26]
3. A random weight package, having a conspicuous label stating:

net weight
price per pound
total sales price

is exempt from the requirements for:

SI (Metric) quantity labeling
type size
placement in the lower 30% of the principal display panel
free area

[CCR 4510, §11.1]

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CALIFORNIA WEIGHTS AND MEASURES LABEL REQUIREMENTS

This is a brief summary of major regulations adopted by the State of California, pursuant to the Fair Packaging and Labeling Act, for packages in general.

For complete requirements, consult the California Code of Regulations Title 4.

NOTE: Other agencies may have different or additional labeling requirements (e.g., ingredient or nutritional labeling).

Packages and their labels should enable consumers to obtain accurate information as to the quantity of the contents and should facilitate value comparisons.

The **three basic requirements** are:

1. A declaration of **identity** that is the common or usual name of the commodity.
2. A declaration of **responsibility** that includes the **name, address, and zip code** of the manufacturer, packer, or distributor. A street address is required if the name is not listed in a current directory. The connection of a distributor must be shown (e.g., "packed for, distributed by"). This statement is not required to be on the principal display panel.
3. A declaration of the **quantity** of the commodity in the lower 30% of the principal display panel area, in a size depending upon the area of the principal display panel.

UNITS OF WEIGHT OR MEASURE: Consumer packages are **required** to have both SI (metric) and inch-pound units.

Exceptions: The following may, but are not required to, have both units: labels printed before February 14, 1994, random weight packages, foods packed at retail, camera film, audio and video recording media. There may be different requirements for the following federally regulated commodities: meat, poultry, alcoholic beverages, drugs, cosmetics, insecticides, fungicides, rodenticides, and tobacco products. Contact the appropriate agency for specific requirements.

SI units may appear first. A converted value must not overstate the net contents.

RULE OF 1000 FOR SI UNITS: Numerical values should be between 1 and 1000 (e.g., 500 g not 0.5 kg; 1.96 kg not 1960 g; 750 ml not 0.75 l; 750 mm or 75 cm not 0.75 meters).

PRINCIPAL DISPLAY PANEL AREA DETERMINATION

This area, not the area of the label, determines the minimum height requirement of the declaration of quantity.

1. A rectangular package where an entire side is the principal display panel - height times width.
2. A cylindrical or nearly cylindrical container - 40% of the product of the height times the circumference.
3. Other shaped containers - 40% of the entire square area of the container.
4. Obvious principal display panels - the actual square area of the panel.

Determination does not include tops, bottoms or flanges of cans, or shoulders, necks of bottles or jars.

NUMBERS AND LETTERS IN THE DECLARATION OF QUANTITY

Square Area of Panel	Minimum Height (For Printer)	Minimum Height (Blown or Molded)
32 cm² (5 in ²) or less	1.6 mm (1/16 in)	3.2 mm (1/8 in)
Over 32 cm² (5 in ²) to 161 cm² (25 in ²)	3.2 mm (1/8 in)	4.8 mm (3/16 in)
Over 161 cm² (25 in ²) to 645 cm² (100 in ²)	4.8 mm (3/16 in)	6.4 mm (1/4 in)
Over 645 cm² (100 in ²) to 2581 cm² (400 in ²)	6.4 mm (1/4 in)	7.9 mm (5/16 in)
Over 281 CM² (400 in ²)	12.7 mm (1/2 in)	14.3 mm (9/16 in)

PROPORTION: Letters of a declaration of quantity must not be more than 3 times as high as they are wide. Except for blown or molded declarations, the style of type or lettering shall be bold, clear, and conspicuous against its background.

A FREE AREA equal to at least the height of the lettering is required above and below the quantity declaration. At each end, the free area must be equal to twice the width of the capital "N" of the style and size of type used.

DECIMAL FRACTIONS may be carried to three places. SI unit declarations may contain only decimal fractions. Decimal fractions are permitted in inch-pound declarations.

COMMON FRACTION use is restricted to inch-pound units and is normally limited to halves, quarters, eighths, sixteenths, and thirty-seconds to the lowest term. Each number of a fraction in a declaration of quantity must be at least 1/2 the minimum height.

ABBREVIATIONS: **Inch-pound** - avdp, lb, oz, gal, qt, pt, yd, ft, in, sq, and cu
SI units - kg, g, mg, L or l, mL or ml, m, cm, mm, m, m², dm², cm², m³, dm³, and cm³
Both systems may use - wt, fl, liq, dr, dia, pc, ea, and ct
Periods and plural forms are not recommended for inch-pound units and are prohibited for metric.

WEIGHT DECLARATIONS: The words "net mass" or "net weight" are optional.

Less than 1 kilogram - must be stated in grams, decimals of a gram or milligrams.
1 kilogram or more - kilograms and decimals of a kilogram up to three places.
Less than 1 pound - must be stated as ounces or fraction of ounces.
1 pound or more - in pounds, with remainder in fractions of pounds, or ounces and fractions of ounces.

FLUID DECLARATIONS: The words "net" or "net contents" are optional. "Fluid" is required with ounces (e.g., 12 fl oz) unless the meaning is obvious by association (e.g., 1 pint 4 ounces).

Less than 1 liter - must be stated in milliliters.
1 liter or more - liters and decimal fractions of a liter up to three places.
Less than 1 pint - fluid ounces and fractions of an ounce.
1 pint to less than 1 gallon - largest whole unit (quarts or pints as appropriate), with remainder in ounces, fractions of a pint or a quart. (2 quarts may be stated as 1/2 gallon.)
1 gallon or more - gallons and fractions of a gallon.

SUPPLEMENTARY DECLARATIONS: Non-required quantity declarations are not permitted on the principal display panel.

QUALIFYING STATEMENTS: Quantity declarations containing qualifying words are not permitted. Words such as "minimum", "approximately", "when packed", or any words that tend to exaggerate are considered qualifying words.

MULTI-UNIT, COMBINATION OR VARIETY PACKAGES: Consult the California Code of Regulations, Title 4, for specific requirements.

NONCONSUMER PACKAGES

NONCONSUMER PACKAGE shall mean any package other than a consumer package, and particularly a package intended solely for industrial or institutional use or for wholesale distribution.

BASIC REQUIREMENTS: A declaration of identity of the commodity, the name, address, and zip code of the packer, and a declaration of quantity shall be prominently and conspicuously displayed on the outside of the package.

DECLARATION OF QUANTITY shall be in the largest whole unit. SI and inch-pound units may be used, individually or together.