

Commodities

New York State Weights and Measures Regulations 1 NYCRR Part 221 Revised March 29, 2007

Statutory Authority: Agriculture and Markets Law, 16, 18, 179 and 189

Note: Changes to federal law and regulations have preempted sections of these regulations. Sections printed in ~~strikeout~~ text should no longer be enforced. To avoid conflicts with federal law, weights and measures officials are strongly advised to review any enforcement action regarding package net weight labeling with the State Bureau of Weights and Measures before taking such action.

Section

- 221.1 Packaging and labeling regulation; application
- 221.2 Definitions
- 221.3 Declaration of identity
- 221.4 Declaration of responsibility
- 221.5 Declaration of quantity; consumer packages
- 221.6 Prominence and placement; consumer packages
- 221.7 Declaration of quantity; nonconsumer packages
- 221.8 Requirements - specific consumer commodities, packages, containers
- 221.9 Exemptions
- 221.10 Variations to be allowed
- 221.11 Magnitude of permitted variations
- 221.12 Method of sale of commodities; general
- 221.13 Method of sale of specific commodities
- 221.14 Net contents of containers to be indicated on the outside
- 221.15 Sales slips
- 221.16 Coin-operated devices

Section 221.1 Packaging and labeling regulation; application. The provisions in this Part shall apply to packages and to commodities in package form, but shall not apply to:

- (a) inner wrappings not intended to be individually sold to the customer;
- (b) shipping containers or wrapping used solely for the transportation of any commodities in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors, but in no event shall this exclusion apply to packages of consumer or nonconsumer commodities, as defined herein;
- (c) auxiliary containers or outer wrappings used to deliver packages of such commodities to retail customers if such containers or wrappings bear no printed matter pertaining to any particular commodity;
- (d) containers used for retail tray pack displays when the container itself is not intended to be sold (e.g., the tray that is used for display of individual envelopes of seasonings, gravies, etc.); or
- (e) open carriers and transparent wrappers or carriers for containers when the wrappers or carriers do not bear any written, printed or graphic matter obscuring the label information required by this regulation.

221.2 Definitions. (a) The term commodity in package form shall be construed to mean a commodity put up or

packaged in any manner in advance of sale in units suitable for either wholesale or retail sale. An individual item or lot of any commodity not in packaged form as defined in this section, but on which there is marked a selling price based on an established price per unit of weight or of measures, shall be construed to be a commodity in package form.

(b) A consumer package or package of consumer commodity shall be construed to mean a commodity in package form that is customarily produced or distributed for sale through retail sale agencies or instrumentalities for consumption by individuals, or use by individuals for the purposes of personal care or in the performance of services ordinarily rendered in or about the household or in connection with personal possessions.

(c) A nonconsumer package or package of nonconsumer commodity shall be construed to mean any commodity in package form other than a consumer package, and particularly a package intended solely for industrial or institutional use or for wholesale distribution.

(d) The term random package shall be construed to mean a package that is one of a shipment or delivery of packages of the same consumer commodity with varying weights; that is, packages of the same consumer commodity with no fixed pattern of weight.

(e) The term label shall be construed to mean any written, printed, or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on, or appearing upon or adjacent to a consumer commodity or a package containing any consumer commodity, for purposes of branding, identifying, or giving any information with respect to the commodity or to the contents of the package.

(f) The term person shall be construed to mean both singular and plural and shall include any individual, partnership, firm, company, corporation, association and society.

(g) The term principal display panel or panels shall be construed to mean that part, or those parts of a label that is, or are, so designed as to be most likely to be displayed, presented, shown, or examined under normal and customary conditions of display and purchase. Wherever a principal display panel appears more than once on a package, all requirements pertaining to the "principal display panel" shall pertain to all such "principal display panels".

(h) The term multi-unit package shall be construed to mean a package containing two or more individual packages of the same commodity, in the same quantity, with the individual packages intended to be sold as part of multi-unit package but capable of being individually sold in full compliance with all requirements of this Part.

(i) Sale at retail means a transaction wherein a person sells a commodity to the consumer, whether such sale is consummated at the place of business of the seller or by mail, telephone or in writing at a place other than at the place of business. Places of business carrying on such transactions include, but are not limited to, supermarkets, grocery stores, butcher shops, food freezer dealers, food plan companies, and department and variety stores.

221.3 Declaration of identity. (a) Consumer package. A declaration of identity on a consumer package shall appear on the principal display panel and shall identify the commodity in the package by its common or usual name, description, generic term, or the like. Such declaration shall appear generally parallel to the base on which the package rests as it is designed to be displayed.

(b) Nonconsumer package. A declaration of identity on a nonconsumer package shall appear on the outside of a package and shall identify the commodity in the package by its common or usual name, description, generic term or the like.

221.4 Declaration of responsibility. (a) Any packaged commodity, kept, offered or exposed for sale, or sold, shall specify conspicuously on the label of the package, the name and address of the manufacturer, packer or distributor. The name shall be the actual corporate name, or when not incorporated, the name under which the business is conducted. The address shall include street address, city, state and ZIP code; however, the street address may be omitted if this is shown in a current city directory or telephone directory. The requirement for inclusion of the ZIP code shall apply only to labels that have been developed or revised after July 1, 1969.

(b) If a person manufactures, packs or distributes a 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 the commodity was manufactured or packed or is to be distributed, unless such statement would be misleading. Where the 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 and packed by ...," "distributed by ...," or any other wording of similar import that expresses the facts.

221.5 Declarations of quantity; consumer packages. (a) General. Units of the metric system of weights and measures and units of the customary system of weights and measures are jointly recognized, and units of either one of these systems may be used in a declaration of quantity. However, customary equivalents to metric sizes must be presented on commodities until such time as the Federal Fair Packaging and Labeling Act is amended and the commissioner deems the consumer is adequately prepared for the sole use of metric declarations.

(b) Largest whole unit. Where this regulation requires that the quantity declaration be in terms of the largest whole unit, the declaration shall, with respect to a particular package, be in terms of the largest whole unit of weight or measure, with any remainder expressed in:

(1) common or decimal fractions of such largest whole unit; or

(2) the next smaller whole unit, or units, with any further remainder in terms of common or decimal fractions of the smallest unit present in the quantity declaration.

(c) Net quantity. The principal display panel of a package shall bear a declaration of the net quantity of the commodity in the package, exclusive of wrappers and any other material packed with such commodity.

(d) Use of "net weight". The term "net weight" or its abbreviation "net wt" shall be used when stating the net quantity of contents in terms of weight.

(e) Lines or print or type. A declaration of quantity may appear on more than one line of print or type.

(f) Terms - weight, liquid measure or count. The declaration of the quantity of a particular commodity shall be expressed in terms of liquid measure, if the commodity is liquid, or in terms of weight, if the commodity is solid, semisolid, viscous, or a mixture of solid and liquid, or in terms of numerical count. However, if there exists a firmly established general consumer usage and trade custom with respect to the terms used in expressing a declaration of quantity of a particular commodity, such declaration of quantity may be expressed in its traditional terms, if such traditional declaration gives accurate and adequate information as to the quantity of the commodity.

(g) Combination declaration.

(1) Weight. A declaration of quantity in terms of weight shall be combined with appropriate declarations of the measure, count and size of the individual units unless a declaration of weight alone is fully informative.

(2) Measure. A declaration of quantity in terms of measure shall be combined with appropriate declarations of the weight, count and size of the individual units unless a declaration of measure alone is fully informative.

(3) Count. A declaration of quantity in terms of count shall be combined with appropriate declarations of the weight, measure and size of the individual units unless a declaration of count alone is fully informative.

(h) Metric units - weight, measure. A declaration of quantity:

(1) in units of weight shall be in terms of the kilogram, gram or milligram;

(2) in units of liquid measure shall be in terms of the liter or milliliter, and shall express the volume at 20 degrees

C, except in the case of petroleum products for which the declaration shall express the volume at 15 degrees C, and except also in the case of a commodity that is normally sold and consumed while frozen, for which the declaration shall express the volume at the frozen temperature, and except also in the case of a commodity that is normally sold in the refrigerated state, for which the declaration shall express the volume at 4 degrees C;

(3) in units of linear measures shall be in term of the meter, centimeter, or millimeter;

(4) in units of area measure shall be in terms of the square meter or square centimeter;

(5) in units of volume, other than liquid measure, shall be in terms of the liter and milliliter, except that the terms cubic meter and cubic centimeter will be used only when specifically designated as a method of sale.

(i) Symbols.

(1) Any of the following symbols for metric units, and none other, may be employed in the quantity statement on a package of commodity:

meter	m
centimeter	cm
millimeter	mm
square meter	m ²
square centimeter	cm ²
cubic meter	m ³

cubic centimeter	cm ³
liter	L
milliliter	mL
gram	g
kilogram	kg
milligram	mg

(2) Symbols, except for liter, are not capitalized unless the unit is derived from a proper name. Periods should not be used after the symbol. Symbols are always written in the singular form - do not add "s" to express the plural when the symbol is used.

(j) Customary units - weight, measure. A declaration of quantity:

(1) in units of weight shall be in terms of the avoirdupois pounds or ounces; except, that solder and brazing alloys containing precious metals when packaged and labeled for retail sale are exempted hereunder, provided, the net quantity declaration is stated in terms of the troy pound and ounce and the term "Troy" is used in each declaration;

(2) in units of liquid measure shall be in terms of the United States gallon of 231 cubic inches or liquid-quart, liquid-pint or fluid ounce subdivisions of the gallon, and shall express the volume at 68°F, except in the case of petroleum products, for which the declaration shall express the volume at 60°F, and except also in the case of a commodity that is normally sold and consumed while frozen, for which the declaration shall express the volume at the frozen temperature and except also in the case of commodity that is normally sold in the refrigerated state, for which the declaration shall express the volume at 40°F;

(3) in units of linear measure shall be in terms of the yard, foot or inch;

(4) in units of area measures shall be in terms of square yard, square foot or square inch;

(5) in units of dry measure shall be in terms of the United States bushel of 2,150.42 cubic inches or peck, dry quart, and dry pint subdivisions of the bushel;

(6) in units of cubic measure shall be in terms of the cubic yard, cubic foot, or cubic inch.

(k) Symbols and abbreviations.

(1) Any of the following symbols and customary units, and none other, shall be employed in the quantity statement on a package of commodity:

avoirdupois	avdp
cubic	cu
feet	ft
pound	lb
quart	qt
square	sq
weight	wt
yard	yd

ounce	oz
pint	pt
foot	ft
fluid	fl
gallon	gal
inch	in
liquid	liq

(2) There normally are no periods following, nor plural forms of, symbols and abbreviations. For example, "oz" is the symbol for both ounce and ounces. Both upper and lower case letter are acceptable.

(l) Units with two or more meanings. When the term "ounce" is employed in a declaration of liquid quantity, the declaration shall identify the particular meaning of the term by the use of the term "fluid"; however, such distinction may be omitted when, by association of terms (for example, as "1 pint 4 ounces"), the proper meaning is obvious. Whenever the declaration of quantity is in terms of the dry pint or dry quart, the declaration shall include the word "dry".

(m) Prescribed units - metric system.

(1) Less than one meter, one square meter, one kilogram, or one liter. The declaration of quantity shall be expressed in terms of:

(i) in the case of length measure of less than one meter, centimeters and decimal fractions of a centimeter, but if less than one centimeter, then in millimeters;

(ii) in the case of area measures of less than one square meter, square centimeters and decimal fractions of square centimeters;

(iii) in the case of weight of less than one kilogram, grams and decimal fractions of a gram, but if less than one gram, then in milligrams;

(iv) in the case of fluid or dry measure of less than one liter, milliliters. Provided, that the quantity declaration appearing on a random package may be expressed in terms of decimal fractions of the largest appropriate unit, the fraction being carried out to not more than two decimal places.

(2) One meter, one square meter, one kilogram, one liter or more. In the case of:

(i) length measure of one meter or more; in meters and decimal fractions to not more than two places;

(ii) area measure of one square meter or more; in square meters and decimal fractions to not more than two places;

(iii) weight of one kilogram or more; in kilograms and decimal fractions to not more than two places;

(iv) fluid or dry measures of one liter or more; in liters and decimal fractions to not more than two places.

(3) Bidimensional commodities. For bidimensional commodities (including roll-type commodities) the quantity declaration shall be expressed:

- (i) if less than one square meter, in terms of cm², followed in parentheses by a declaration of length and width in centimeters and decimal fractions;
- (ii) if one square meter or more, in terms of square meters followed in parentheses by a declaration of both length and width, each being in terms of the meter and decimal fractions of a meter; provided, that:
 - (a) no square meter declarations is required for a bidimensional commodity of 10 centimeters width or less, but the length and width shall be express in centimeters;
 - (b) a dimension of less than one meter may be stated in centimeters within the parenthetical;
 - (c) commodities consisting of usable individuals units (except roll-type commodities with individual usable units created by perforations, for which see subdivision [o] of this section) require a declaration of unit area but not a declaration of total area of all such units; and
 - (d) no declaration in square units is required for commodities for which the length and width measurements are critical in terms of end use (such as tablecloths or bedsheets) if such commodities clearly present the length and width measurements on the label.

(n) Prescribed units - customary system.

(1) Less than one foot, one square foot, one pound, or one pint. The declaration of quantity shall be expressed in terms of:

- (i) in the case of length measure of less than foot, inches and fractions of inches;
- (ii) in the case of area measure of less than one square foot, square inches and fractions of square inches;
- (iii) in the case of weight of less than one pound, ounces and fractions of ounces;
- (iv) in the case of fluid measure of less than one pint, fluid ounces and fractions of fluid ounces;

Provided, that the quantity declaration appearing on a random package may be expressed in terms of decimal fractions of the largest appropriate unit, the fraction being carried out to not more than two decimal places.

(2) Four feet, four square feet, four pounds, one gallon, or more. The declaration of quantity shall be expressed in terms of the largest whole unit in the case of:

- (i) length measure of four feet or more, the declaration of quantity shall be expressed in terms of feet, followed in parentheses by a declaration of yards and common or decimal fractions of the yard, or in terms of feet followed in parentheses by a declaration of yards with any remainder in terms of feet and inches;
- (ii) area measure of four square feet or more;
- (iii) weight of four pounds or more; or
- (iv) fluid measure of one gallon or more.

~~— (3) Dual quantity declaration.~~

~~— (i) Weight. On packages containing one pound or more, but less than four pounds, the declaration shall be~~

~~expressed in ounces and, in addition, shall be followed by a declaration in parentheses, expressed in terms of the largest whole unit; provided, that the quantity declaration appearing on a random package may be expressed in terms of pounds and decimal fractions of the pound carried out to not more than two decimal places.~~

~~(ii) Fluid measure. On packages containing one pint or more, but less than one gallon, the declaration shall be expressed in ounces and, in addition, shall be followed by a declaration in parentheses, expressed in terms of the largest whole unit.~~

~~(iii) Length measure. On packages containing one foot, but less than four feet, the declaration shall be expressed in inches and, in addition, shall be followed by a declaration in parentheses, expressed in terms of the largest whole unit.~~

~~(iv) Area measure. On packages containing one square foot, but less than four square feet, the declaration shall be expressed in square inches and, in additions, shall be followed by a declaration in parentheses, expressed in terms of the largest whole unit.~~

(4) Bidimensional commodities. For bidimensional commodities (including roll-type commodities) the quantity declaration shall be expressed:

(i) if less than one square foot, in terms of linear inches and fractions of linear inches;

(ii) if at least one square foot, but less than four square feet, in terms of square inches followed in parentheses by a declaration of both the length and width, each being in terms of the largest whole unit; provided, that:

(a) no square inch declaration is required for a bidimensional commodity of four inches width or less;

(b) a dimension of less than two feet may be stated in inches within the parenthetical declaration; and

(c) commodities consisting of usable individual units (except roll-type commodities with individual usable units created by perforations, for which see subdivisions [o] of this section) require a declaration of unit area but not a declaration of total area of all such units;

(iii) If four square feet or more, in terms of square feet followed in parentheses by a declaration of the length and width in terms of the largest whole units; provided, that:

(a) no declaration in square feet is required for a bidimensional commodity with a width of four inches or less;

(b) bidimensional commodities, with a width of four inches or less, shall have the length expressed in inches followed by a statement in parentheses of the length in the largest whole unit;

(c) a dimension of less than two feet may be stated in inches within the parenthetical declaration; and

(d) no declaration in square units is required for commodities for which the length and width measurements are critical in terms of end use (such as tablecloths or bedsheets) if such commodities clearly present the length and width measurements on the label.

(o) Count; ply.

(1) If the commodity is in individually usable units of one or more components or ply, the quantity declaration shall, in addition to complying with other applicable quantity declaration requirements of this Part, include the number of ply and total number of usable units.

(2) Roll-type commodities, when perforated so as to identify individual usable units, shall not be deemed to be made up of usable units; however, such roll-type commodities shall be labeled in terms of:

- (i) total area measurement;
- (ii) number of ply;
- (iii) count of usable units; and
- (iv) dimensions of a single usable unit.

(p) Fractions.

(1) Metric. A metric statement in a declaration of net quantity of contents of any consumer commodity may contain only decimal fractions.

(2) Customary. A customary statement in a declaration of net quantity of contents of any consumer commodity may contain common or decimal fractions. A common fraction shall be in terms of halves, quarters, eighths, sixteenths, or thirty-seconds, except that:

- (i) 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
- (ii) if linear measurements are required in terms of yards or feet, common fractions may be in terms of thirds.

(3) Common fractions. A common fraction shall be reduced to its lowest terms.

(4) Decimal fractions. A decimal fraction shall not be carried out to more than two places.

(q) Conversion of units. In all conversions for the purpose of showing an equivalent metric or customary quantity, the number of significant digits retained should be such that accuracy is neither sacrificed nor exaggerated.

(r) Supplementary declarations.

(1) Supplementary quantity declarations. The required quantity declarations may be supplemented by one or more declarations of weight, measure, or count, such declaration appearing other than on a principal display panel. Such supplemental statement of quantity of contents shall not include any terms qualifying a unit of weight, measure, or count that tends to exaggerate the amount of commodity contained in the package (e.g., "giant" quart, "larger" liter, "full" gallon, "when packed", "minimum", or words of similar import).

(2) Combined metric and customary declarations. An equivalent statement of the net quantity of contents in terms of either the customary or metric systems is not regarded as a supplemental statement and such statement may also appear on the principal display panel; provided, that it conforms to both subdivision (h) and subdivision (m) of this section.

(3) Qualification of declaration prohibited. In no case shall any declaration of quantity be qualified by the addition of the words "when packed", "minimum", or "not less than", or any words of similar import, nor shall any unit of weight, measure, or count be qualified by any term (such as "jumbo", "giant", "full", or the like) that tends to exaggerate the amount of commodity.

(s) Character of declaration; average. The average net quantity of contents in the packages of a particular lot, shipment, or delivery shall at least equal the declared net quantity and no unreasonable shortage in any package shall be permitted, even though overages in other packages in the same shipment, delivery, or lot compensate for such shortage.

221.6 Prominence and placement; consumer packages. (a) General. All information required to appear on a consumer package shall appear thereon in the English language and shall be prominent, definite and plain, and shall be conspicuous as to size and style of letters and numbers and as to color of letters and numbers in contrast to color of background. Any required information that is either in hand lettering or hand script shall be entirely clear and equal to printing in legibility.

(b) Location. The declaration or declarations of quantity of the contents of a package shall appear in the bottom 30 percent of the principal display panel, or panels. For cylindrical containers, see also section 221.8(g) of this Part for additional requirements.

(c) Style of type or lettering. The declaration or declarations of quantity shall be in such a style of type or lettering as to be boldly, clearly, and conspicuously presented with respect to other type, lettering, or graphic material on the package, except that a declaration of net quantity blown, formed, or molded on a glass or plastic surface is permissible when all label information is blown, formed, or molded on the surface.

(d) Color contrast. The declaration or declarations of quantity shall be in a color that contrasts conspicuously with its background, except that a declaration of net quantity blown, formed, or molded on a glass or plastic surface shall not be required to be presented in a contrasting color if no required label information is on the surface in a contrasting color.

(e) Free area. The area surrounding the quantity declaration shall be free of printed information:

(1) above and below, by a space equal to at least the height of the lettering in the declaration; and

(2) to the left and right, by a space equal to twice the width of the letter "n" of the style and size of type used in the declaration.

(f) Parallel quantity declaration. The quantity declaration shall be presented in such a manner as to be generally parallel to the declaration of identity and to the base on which the package rests as it is designed to be displayed.

(g) Calculation of area of principal display panel or panels for purpose of type size. The square-inch area of the principal display panel shall be:

(1) in the case of a rectangular container, one entire side which properly can be considered to be the principal display panel, the product of the height times the width of that side;

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

(3) in the case of any other shaped container, 40 percent of the total surface of the container, unless such container presents an obvious principal display panel (e.g., the top of a triangular or circular package of cheese, or the top of a can of shoe polish), the area shall consist of the entire such surface; provided, that determination of the principal display panel shall exclude tops, bottoms, flanges at tops and bottoms of cans, and shoulders and necks of bottles or jars.

(h) Minimum height of numbers and letters. The height of any letter or number in the required quantity declaration shall be not less than that shown in Table 1 with respect to the area of the panel, and the height of each number of a common fraction shall meet one-half the minimum height standards; provided, that in the case of the symbol for milliliter (mL), the "m" shall meet one-half the minimum height standard.

(i) Numbers and letters; proportion. No number or letter shall be more than three times as high as it is wide.

TABLE 1. MINIMUM HEIGHT OF NUMBERS AND LETTERS

Square-inch area of principal display panel	Minimum height of numbers and letters	Minimum height of label information blown, formed, or molded into surface of container
5 square inches and less	1/16 inch	1/8 inch
Greater than 5 square inches and not greater than 25 square inches	1/8 inch	3/16 inch
Greater than 25 square inches and not greater than 100 square inches	3/16 inch	1/4 inch
Greater than 100 square inches and not greater than 400 square inches	1/4 inch	5/16 inch
Greater than 400 square inches	1/2 inch	9/16 inch

221.7 Declaration of quantity; nonconsumer packages. (a) General. Same as section 221.5(a) of this Part.

(b) Location. A nonconsumer package shall bear on the outside a declaration of the net quantity of contents. Such declaration shall be in terms of the largest whole unit (see section 221.5[b] of this Part).

(c) Terms - weight, liquid measure, or count. Same as section 221.5(f) of this Part.

(d) Metric units - weight, measure. Same as section 221.5(h) of this Part.

(e) Symbols. Same as section 221.5(i) of this Part.

(f) Customary units - weight, measure. Same as section 221.5(j) of this Part.

(g) Symbols and abbreviations. Same as section 221.5(k) of this Part.

(h) Character of declaration; average. Same as section 221.5(s) of this Part.

(i) Prominence and placement; nonconsumer packages; general. All information required to appear on a nonconsumer package shall be definitely and clearly stated thereon in the English language. Any required information that is either in hand lettering or hand script shall be entirely clear and equal to printing in legibility.

221.8 Requirements - specific consumer commodities, packages, containers. (a) Display card package. For an individual package affixed to a display card, or for a commodity and display card together comprising a package, the type size of the quantity declaration is governed by the dimensions of the display card.

(b) Eggs. When cartons containing 12 eggs have been designed so as to permit division in half by the retail purchaser, the required quantity declaration shall be so positioned as to have its context destroyed when the carton is divided.

(c) Aerosols and similar pressurized containers. The declaration of quantity on an aerosol package, and on a similar pressurized package, shall disclose the net quantity of the commodity (including propellant), in terms of weight, that will be expelled when the instructions for use as shown on the container are followed.

(d) Multi-unit packages. Any package containing more than one individual "commodity in package form" (see section 221.2[a] of this Part) of the same commodity shall bear on the outside of the package a declaration of:

- (1) the number of individual units;
- (2) the quantity of each individual unit; and

(3) the total quantity of the contents of the multi-unit package; provided, that any such declaration of total quantity shall not be required to include the parenthetical quantity statement of a dual quantity representation.

(e) Combination packages. Any package containing individual units of dissimilar commodities (such as an antiques kit or a housecleaning kit, for example) shall bear on the label of the package a quantity declaration for each unit.

(f) Variety packages. Any package containing individual units of reasonably similar commodities (such as, for example, seasonal gift packages, variety packages of cereal) shall bear on the label of the package a declaration of the total quantity of commodity in the package.

(g) Cylindrical containers. In the case of cylindrical or nearly cylindrical containers, information required to appear on the principal display panel shall appear within that 40 percent of the circumference which is most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale.

(h) Measurement of container-type commodities, how expressed. (1) General. 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 with the declaration of net quantity as follows:

(i) for bag-type commodities, in terms of count followed by linear dimensions of the bag (whether packaged in a perforated roll or otherwise). When the unit bag is characterized by two dimensions because of the absence of a gusset, the width and length will be expressed in centimeters or inches, except that a dimension of two feet or more will be expressed in feet with any remainder in terms of inches or common or decimal fractions of the foot, or if metric dimensions are used, a dimension of one meter or more will be expressed in meters with the remainder in terms of decimal fractions of the meter. When the unit bag is gusseted, the dimensions will be expressed as width, depth, and length, in terms of centimeters or inches, except that any dimension of two feet or more will be expressed in feet with any remainder in terms of inches or the common or decimal fractions of the foot, or if metric dimensions are used, a dimension of one meter or more will be expressed in meters with the remainder in terms of decimal fractions of the meter;

(ii) 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 five centimeters or two inches; and

(iii) for circular or other generally round-shaped containers, except cups and the like, in terms of count followed by diameter and depth, except depth need not be listed when less than five centimeters or two inches.

(2) Capacity. When the functional use of the container is related by label references 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:

(i) liquid measure for containers which are intended to be used for liquids, semisolids, viscous materials, or mixtures of solids and liquids. The expressed capacity will be stated in terms of the largest whole unit (gallon, quart, pint, ounce, liter, or milliliter), with any remainder in terms of the common or decimal fraction of that unit;

(ii) dry measure for containers which are intended to be used for solids. The expressed capacity will be stated in terms of the largest whole unit (bushel, peck, or liter), with any remainder in terms of the common or decimal fraction of that unit; and

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

(i) Textile products, threads, and yarns.

(1) Wearing apparel. Wearing apparel (including non-textile apparel and accessories such as leather goods and footwear) sold as single-unit items, or if normally sold in pairs (such as hosiery, gloves, and shoes) sold as single-unit pairs, shall be exempt from the requirements for a net quantity statement by count, as required by section 221.5(f) of this Part.

(2) Textiles. Bedsheets, blankets, pillowcases, comforters, quilts, bedspreads, mattress covers and pads, afghans, throws, dresser and other furniture scarfs, tablecloths and napkins, flags, curtains, drapes, dish towels, dish cloths, towels, face cloths, utility cloths, bath mats, carpets and rugs, pot holders, fixture and appliance covers, non-rectangular diapers, slip covers, etc., shall be exempt from the requirements of subdivisions 221.5(m) and (n) of this Part; provided, that:

(i) the quantity statement for fitted sheets and mattress covers shall state, in centimeters or inches, the length and width of the mattress for which the item is designed, such as "twin", "double", "king", etc;

(ii) the quantity statement for flat sheets shall state the size designation of the mattress for which the sheet is designed, such as "twin", "double", "king", etc. The quantity statement also shall state, in centimeters or inches, the length and width of the mattress for which the sheet is designed, followed in parentheses by a statement, in centimeters or inches, of the length and width of the finished sheet;

(iii) the quantity statement for pillowcases shall state the size designation of the pillow for which the pillowcase is designed, such as "youth", "standard", and "queen", etc. The quantity statement also shall state, in centimeters or inches, the length and width of the pillow for which the pillowcase is designed, followed in parentheses by a statement, in centimeters or inches, of the length and width of the finished pillowcase;

(iv) the quantity statement for blankets, comforters, quilts, bedspreads, mattress pads, afghans, and throws shall state, in centimeters or inches, the length and width of the finished item. The quantity statement also may state the length of any ornamentation and the size designation of the mattress for which the item is designed, such as "twin", "double", "king", etc;

(v) the quantity statement for tablecloths and napkins shall state, in centimeters or inches, the length and width of the finished item. The quantity statement also may state parenthetically, in centimeters or inches, the length and width of the item before hemming and properly identified as such;

(vi) the quantity statement for curtains, drapes, flags, furniture scarfs, etc. shall state, in centimeters or inches, the length and width of the finished item. The quantity statement also may state parenthetically, in centimeters or inches, the length of any ornamentation;

(vii) the quantity statement for carpets and rugs shall state, in meters or feet, with any remainder in decimal fractions of the meter for metric sizes or common or decimal fractions of the foot or in inches for customary sizes, the length and width of the item. The quantity statement also may state parenthetically, in centimeters or inches, the length of any ornamentation;

(viii) the quantity statement for woven dish towels, dish cloths, towels, face cloths, utility cloths, bath mats, etc. shall state, in centimeters or inches the length and width of the item. The quantity statement for such items, when knitted, need not state the dimensions;

(ix) the quantity statement for textile products, such as pot holders, fixture and appliance covers, non-rectangular diapers, slip covers, etc. shall be stated in terms of count and may include size designations and dimensions;

(x) the quantity statement for other than rectangular textile products identified in subparagraph (i) through (viii) of this paragraph shall state the geometric shape of the product and the dimensions which are customarily used in describing such geometric shape; and

(xi) the quantity statement for packages of remnants of textile products of assorted sizes, when sold by count, shall be accompanied by the term "irregular dimensions" and the minimum size of such remnants.

(3) Textiles; variations from declared dimensions.

(i) For an item with no declared dimension less than 60 centimeters or 24 inches, a minus variation greater than three percent of a declared dimension and a plus variation greater than six percent of a declared dimension should be considered unreasonable.

(ii) For an item with a declared dimension less than 60 centimeters or 24 inches, a minus variation greater than six percent of a declared dimension and a plus variation greater than 12 percent of a declared dimension should be considered unreasonable.

(4) Exemption; variety textile packages. Variety packages of textiles, which are required by reason of section 221.5(g) of this Part to provide a combination declaration stating the quantity of each individual unit, shall be exempt from the requirements in this regulation for:

(i) location, section 221.6(b) of this Part;

(ii) free area, section 221.6(e) of this Part; and

(iii) minimum height of numbers and letters, section 221.6(h) of this Part.

(5) Sewing threads, handicraft threads, and yarns. Sewing and handicraft threads shall be exempt from the requirements of section 221.5 (n) (2) (i) of this Part; provided, that:

(i) the net quantity statement for sewing and handicraft threads shall be expressed in terms of meters or yards;

(ii) the net quantity statement for yarns shall be expressed in terms of weight;

(iii) thread products may, in lieu of name and address, bear a trademark, symbol, brand, or other mark that positively identifies the manufacturer, packer, or distributor, provided that such marks, employed to identify the vendor, shall be filed with the commissioner; and

(iv) each unit of industrial thread shall be marked to show its net measure in terms of meters or yards or its net weight in terms of kilograms or grams or avoirdupois pounds or ounces, except that ready-wound bobbins which are not sold separately, shall not be required to be individually marked but the package containing such bobbins shall be marked to show the number of bobbins contained therein and the net meters or yards of thread on each bobbin.

(j) Packaged seed. Packages of seeds intended for planting shall be labeled in full accord with this Part except as follows:

(1) The quantity statement shall appear in the upper 30 percent of the principal display panel.

(2) The quantity statement shall be in terms of the largest whole unit of the metric system for all weights up to seven grams, and in the metric system or in ounces for all other weights up to 225 grams or eight ounces; packaged seeds 225 grams or eight ounces or more shall not be subject to subdivision (j) of this section.

(3) The quantity statement for coated seed, encapsulated seed, pelletized seed, preplanters, seed tapes, etc., shall

be in terms of count.

221.9 Exemptions. (a) General. Whenever any consumer commodity or package of consumer commodity is exempted from the requirements for dual quantity declaration, the net quantity declaration required to appear on the package shall be in terms of the largest whole unit (except see section 221.8(d)(3) of this Part). Except where additional exemptions are otherwise provided herein, all metric labeling requirements set forth in these regulations shall apply only to labels revised after the effective date of this Part.

(b) Random packages. A random package bearing a label conspicuously declaring the net weight, the price per kilogram or pound and the total price shall be exempt from the type size, dual declaration, placement, and free area requirements of this regulation. In the case of a random package packed at one place for subsequent sale at another, neither the price per unit of weight nor the total selling price need appear on the package, provided the package label includes both such prices at the time it is offered or exposed for sale at retail. This exemption shall also apply to uniform weight packages of cheese and cheese products labeled in the same manner and by the same type of equipment as random packages exempted by this section.

(c) Small confections. Individually wrapped pieces of "penny candy" and other confectionery of less than 15 grams or one half ounce net weight per individual piece shall be exempt from the labeling requirements of this regulation when the container in which such confectionery is shipped is in conformance with the labeling requirements of this regulation. Similarly, when such confectionery items are sold in bags or boxes, such items shall be exempt from the labeling requirements of this regulation, including the required declaration of net quantity of contents, when the declaration of the bag or box meets the requirements of this regulation.

(d) Individual servings. Individual-serving-size packages of foods containing less than 15 grams or one half ounce or less than 15 milliliters or one half fluid ounce for use in restaurants, institutions, and passenger carriers, and not intended for sale at retail, shall be exempt from the required declaration of net quantity of contents specified in this regulation.

(e) Cuts, plugs, and twists of tobacco and cigars. When individual cuts, plugs, and twists of tobacco and individual cigars are shipped or delivered in containers that conform to the labeling requirements of this regulation, such individual cuts, plugs, and twists of tobacco and cigars shall be exempt from such labeling requirements.

(f) Reusable (returnable) glass containers. Nothing in this regulation shall be deemed to preclude the continued use of reusable (returnable) glass containers; provided, that such glass containers ordered after the effective date of this regulation shall conform to all requirements of this regulation.

(g) Cigarettes and small cigars. Cartons of cigarettes and small cigars, containing 10 individual packages of 20, labeled in accordance with the requirements of this Part shall be exempt from the requirements set forth in section 221.6(b) (location); section 221.6(h) (minimum height of numbers and letters); and section 221.8(d) (multi-unit packages) of this Part; provided that such cartons bear a declaration of the net quantity of commodity in the package.

(h) Packaged commodities with labeling requirements specified in Federal law. Packages of meat and meat products, poultry and poultry products, tobacco and tobacco products, insecticides, fungicides, rodenticides, and alcoholic beverages shall be exempt from those portions of these regulations requiring dual declarations in customary units and specifying location and minimum type size of the net quantity declaration; provided, that quantity labeling requirements for such products are specified in Federal law, so as to follow reasonably sound principles of providing consumer information.

(i) Fluid dairy products, ice cream, and similar frozen desserts:

(1) when packaged in one-half liquid-pint and one-half gallon containers, are exempt from the requirements for stating net contents of 8 fluid ounces and 64 fluid ounces, which may be expressed as one-half pint and one-half gallon, respectively;

(2) when packaged in one liquid-pint, one liquid-quart, and one-half gallon container, are exempt from the dual net contents declaration requirements of section 221.5(n)(3)(ii) of this Part;

(3) when measured by and packaged in one-half liquid-pint, one liquid-pint, one liquid-quart, one-half gallon and one gallon measure containers, as defined in Measure Container Code National Bureau of Standards Handbook 44, are exempt from the requirement of section 221.6(b) of this Part that the declaration of net contents be located within the bottom 30 percent of the principal display panel;

(4) milk and milk products when measured by and packaged in glass or plastic containers of one-half liquid-pint, one liquid-pint, one liquid-quart, one-half gallon, and one gallon capacities are exempt from the placement requirement of section 221.6(b) of this Part that the declaration of net contents be located within the bottom 30 percent of the principal display panel; provided that other required label information is conspicuously displayed on the cap or outside closure, and the required net quantity of contents declaration is conspicuously blown, formed, or molded on, or permanently applied to that part of the glass or plastic container that is at or above the shoulder of the container.

(j) Single strength and less than single strength fruit juice beverages, imitations thereof, and drinking water:

(1) when packaged in glass, plastic, or fluid milk type paper containers of 8 and 64 fluid ounce capacity, are exempt from the requirements of section 221.5(j)(2) of this Part, to the extent that net contents of 8 fluid ounces and 64 fluid ounces (or two quarts) may be expressed as one-half pint (or half pint) and one-half gallon (or half gallon), respectively;

(2) when packaged in glass, plastic, or fluid milk type paper containers of one pint, one quart, and one-half gallon capacities, are exempt from the dual net contents declaration requirements of section 221.5(n)(3)(ii) of this Part; and

(3) when packaged in glass or plastic containers of one-half pint, one pint, one quart, one-half gallon, and one gallon capacities, are exempt from the placement requirement of section 221.6(b) of this Part that the declaration of net contents be located within the bottom 30 percent of the principal display panel; provided that other required label information is conspicuously displayed on the cap or outside closure and the required net quantity of contents declaration is conspicuously blown, formed, or molded into or permanently applied to that part of the glass or plastic container that is at or above the shoulder of the container.

(k) Soft-drink bottles. Bottles of soft drinks shall be exempt from the placement requirements for the declaration of:

(1) identity, when such declaration appears on the bottle closure; and

(2) quantity, when such declaration is blown, formed, or molded on or above the shoulder of the container and when all other information required by this regulation appears only on the bottle closure.

(l) Multi-unit soft-drink packages. Multi-unit packages of soft drinks are exempt from the requirement for a declaration of:

(1) responsibility, when such declaration appears on the individual units and is not obscured by the multi-unit packaging, or when the outside container bears a statement to the effect that such declaration will be found on the individual units inside; and

(2) identity, when such declaration appears on the individual units and is not obscured by the multi-unit packaging.

(m) Butter. When packaged in four-ounce, eight-ounce, and one-pound units with continuous label copy wrapping, butter is exempt from the requirements that the statement of identity (section 221.3[a] of this Part) and the net quantity declaration (section 221.6[f] of this Part) be generally parallel to the base of the package. When packaged in eight-ounce and one-pound units, butter is exempt from the requirement for location (section 221.6[b] of this Part) of

the net quantity declaration and, when packaged in one-pound units, is exempt from the requirement for dual quantity declaration (section 221.5[n][3] of this Part).

(n) Eggs. Cartons containing 12 eggs shall be exempt from the requirement for location (section 221.6[b] of this Part) of net quantity declaration. When such cartons are designed to permit division in half, each half shall be exempt from the labeling requirements of this regulation if the undivided carton conforms to all such requirements.

(o) Flour. Packages of wheat flour packaged in units of 2, 5, 10, 25, 50 and 100 pounds shall be exempt from the requirements in this regulation for location (section 221.6[b] of this Part) of the net quantity declaration and, when packaged in units of two pounds, shall be exempt also from the requirement for a dual quantity declaration (section 221.5[n][3] of this Part).

(p) Small packages. On a principal display panel of five square inches or less, the declaration of quantity need not appear in the bottom 30 percent of the principal display panel if that declaration satisfies the other requirements of this regulation.

(q) Decorative containers. The principal display panel of a cosmetic marketed in a "boudoir-type" container including decorative cosmetic containers of the "cartridge", "pill box", "compact" or "pencil" variety, and those with a capacity of one-fourth ounce or less, may be a tear-away tag or tape affixed to the decorative container and bearing the mandatory label information as required by this regulation.

(r) Combination packages. Combination packages are exempt from the requirements in this regulation for:

- (1) location (section 221.6[b] of this Part);
- (2) free area (section 221.6[e] of this Part); and
- (3) minimum height of numbers and letters (section 221.6[h] of this Part).

(s) Margarine. Margarine in one pound rectangular packages, except for packages containing whipped or soft margarine or packages containing more than four sticks, shall be exempt from the requirement in this regulation for location (section 221.6[b] of this Part) of the net quantity declaration, and shall be exempt from the requirement for a dual quantity declaration (section 22.15[n][3] of this Part).

(t) Corn flour. Corn flour packaged in conventional 5, 10, 25, 50 and 100 pound bags shall be exempt from the requirement in this regulation for location (section 221.6[b] of this Part) of the net quantity declaration.

(u) Prescription and insulin-containing drugs. Prescription and insulin-containing drugs subject to the provisions of section 503(b)(1) or 506 of the Federal Food, Drug and Cosmetic Act shall be exempt from the provisions of this Part.

(v) Camera film. Camera film packaged and labeled for retail sale is exempt from the net quantity statement requirements of this regulation which specify how measurement of commodities should be expressed; provided that:

- (1) 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;
- (2) the net quantity of contents on packages of exposed movie film is expressed in terms of the running time of the exposed film for that portion of film which is of entertainment value; and
- (3) 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.

(w) Paints and kindred products.

(1) Paints, varnishes, lacquers, thinners, removers, oils, resins and solvents, when packed in one liquid-pint and one liquid-quart units shall be exempt from the dual quantity requirements of section 221.5(n)(3) of this Part.

(2) Tint base paint may be labeled on the principal display panel, as required by this regulation, in terms of a quart or a gallon, including the addition of colorant selected by the purchaser, provided that the system employed ensures that the purchaser always obtains a quart or a gallon; and further provided that, in conjunction with the required quantity statement on the principal display panel, a statement indicating that the tint base paint is not to be sold without the addition of colorant is presented; and further provided that the contents of the container, before the addition of colorant, is stated in fluid ounces elsewhere on the label.

(3) Wherever the conditions of paragraphs (1) and (2) of this subdivision cannot be met, containers of tint base paint must be labeled with a statement of the actual net contents prior to the addition of colorant in full accord with all the requirements of this regulation.

(x) Automotive cooling system antifreeze. Antifreeze, when packed in one liquid-quart units, in metal or plastic containers, shall be exempt from the dual quantity declaration requirements of section 221.5(n)(3) of this Part.

(y) Motor oils. Motor oils, when packed in one liquid-quart units, shall be exempt from the dual quantity declaration requirements of section 221.5(n)(3) of this Part. Additionally, motor oil in one liquid-quart, one-gallon, 1/4-gallon, two-gallon, and 2 1/2-gallon units, bearing the principal display panel on the body of the container, is exempt from the requirements of section 221.3 of this Part, to the extent that the Society of Automotive Engineers (SAE) viscosity number is required to appear on the principal display panel, provided the SAE viscosity number appears on the can lid and is expressed in letters and numerals in type size of at least one-fourth inch.

(z) Pillows, cushions, comforters, mattress pads, sleeping bags, and similar products. Those products, including pillows, cushions, comforters, mattress pads, and sleeping bags, that bear a permanent label as designated by the Association of Bedding and Furniture Law Officials or by the California Bureau of Home Furnishings shall be exempt from the requirements for location (section 221.6[b] of this Part); size of letters and numbers (section 221.6[h] and [i] of this Part); free area (section 221.6[e] of this Part); and the declarations of identity and responsibility (section 221.3[a] and section 221.4 of this Part); provided that declarations of identity, quantity, and responsibility are presented on a permanently attached label and satisfy the other requirements of this regulation; and further provided that the information on such permanently attached label be fully observable to the purchaser.

(aa) Commodities' variable weights and sizes. Individual packaged commodities put up in variable weights and sizes for sale intact, and intended to be weighed and marked with the correct quantity statement prior to or at the point of retail sale, are exempt from the requirements of section 221.5 of this Part, while moving in commerce and while held for sale prior to weighing and marking; provided that the outside container bears a label declaration of the total net weight.

(bb) Packaged commodities sold by count. When a packaged consumer commodity is properly measured in terms of count only, or in terms of count and some other appropriate unit, and the individual units are fully visible to the purchaser, such packages shall be labeled in full accord with this regulation, except that those containing six or less items need not include a statement of count.

(cc) Fishing lines and reels. Packaged fishing lines and reels are exempt from the dual quantity declaration requirements of section 221.5(n)(2)(i) of this Part; provided that the quantity or capacity, as appropriate, is presented in terms of yards in full accord with all other requirements of this regulation.

221.10 Packaging variations to be allowed. (a) For food and food products (other than meats, meat food products and poultry), the declaration of net quantity of contents shall express an accurate statement of the quantity of contents of the package. Reasonable variations caused by loss or gain of moisture during the course of good distribution practice or by unavoidable deviations in good manufacturing practice will be recognized. Variations from stated quantity of contents shall not be unreasonably large.

(b) For meats, meat food products and poultry, the statement of net quantity of contents, as it is shown on a label, shall not be false or misleading and shall express an accurate statement of the quantity of contents of the container exclusive of wrappers and packaging substances. Reasonable variations caused by loss or gain of moisture during the course of good distribution practices or by unavoidable deviations in good manufacturing practice will be recognized. Variations from stated quantity of contents shall not be unreasonably large.

221.11 Test procedures, magnitude of permitted variations. (a) The test procedures for testing packaged commodities shall be those contained in National Institute of Standards and Technology *Handbook 133*, Fourth Edition, issued 2005, *Checking the Net Contents of Packaged Goods*, as adopted by the National Conference on Weights and Measures. The document is available from the National Conference on Weights and Measures, 15245 Shady Grove Road, Rockville, MD 20850 or the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. It is available for public inspection and copying in the office of the Director of Weights and Measures, 10B Airline Drive, Albany, NY 12235 or in the office of the Department of State, 41 State Street, Albany, NY 12231.

(b) The magnitude of variations permitted under section 221.10 of the Part shall be those contained in the procedures and tables of National Institute of Standards and Technology *Handbook 133*, Fourth Edition, issued 2005, *Checking the Net Contents of Packaged Goods*, as adopted by the National Conference on Weights and Measures.

221.12 Method of sale of commodities; general. Commodities in liquid form shall be sold only by liquid measures; however, commodities in liquid form must be sold by weight if the commodity is semisolid, viscous or a mixture of solid and liquid; commodities not in liquid form shall be sold only by weight, by measure of length or area, or by count; commodities not in liquid form may be sold by count only if such methods give accurate information as to the quantity of commodity sold; and provided further, that the provisions of this section shall not apply:

- (a) to commodities when sold for immediate consumption on the premises where sold;
- (b) to vegetables when customarily sold by the head or bunch;
- (c) to berries and small fruits when sold by dry measure in accordance with section 221.13(a) of this Part;
- (d) to commodities in containers standardized by a law of this State or by Federal law;
- (e) to commodities in package form when there exists a general consumer usage to express the quantity in some other manner;
- (f) to concrete aggregates, concrete mixtures and loose solid materials such as earth, soil, gravel, crushed stone and the like, when sold by cubic measure; or
- (g) to unprocessed vegetable and animal fertilizer when sold by cubic measure.
- (h) to frozen desserts, in accordance with section 221.13(b)(23) of this Part.

221.13 Method of sale of specific commodities. (a) Berries and small fruits. Berries and small fruits shall be offered or exposed for sale and sold by net weight or by dry measure in containers only in units of:

- (1) 1/2 dry pt. 1 dry pt., 1 dry qt. and 2 dry qt; or
- (2) 275 ml., 550 ml., 1.1 liter and 2.2 liter;

(b) Nonstandardized commodities. The following commodities have not been standardized and may be offered or exposed for sale and sold in any size and in either the metric or customary systems of weights and measures, provided the appropriate method of sale is used.

(1) Bread. Bread shall be sold or offered or exposed for sale by net weight.

(i) Bread sold or offered or exposed for sale directly from the manufacturer to the consumer upon or in the premises of the manufacturer may be sold unwrapped, provided that a sign be conspicuously posted in plain view of the buyer stating the kind of bread and the net weight of the bread. The sign shall be in English. If the language or languages of the neighborhood are other than English, then the sign shall be in such other language(s), as well as English. The sign shall be printed in boldface type (or equivalent) of not less than 5/8 inch in height, with lettering in black upon a white background. In lieu of such sign, a label may be affixed in a sanitary manner to the bottom of the loaf, stating the kind of bread and the net weight of the loaf.

(ii) This regulation shall not apply to rolls; to stale bread when sold as such; and to bread sold by the piece cut from the loaf, provided such bread is weighed in the presence of the buyer.

(2) Meat, poultry and fish. All meat, meat products, poultry (whole or parts), all fish and seafood, except shellfish, shall be offered or exposed for sale or sold by net weight.

(i) When meat, poultry, fish or seafood is combined or associated with some other food element or elements to form either a distinctive food product or a food combination, such food product or combination shall be offered or exposed for sale and sold by net weight and the quantity representation may be the total weight of the product or combination, and a quantity representation need not be made for each of the elements in the product or combination.

(ii) Whenever meat or meat products, customarily sold separately, are combined and offered or exposed for sale or sold in one package, a separate statement of identity and net weight shall be required for each meat or meat product in the package. The total net weight and the total price must also be stated on the package.

(iii) In the case of ready-to-cook stuffed meat, poultry and fish products, the label must show the total net weight of the meat, poultry and fish product and the minimum net weight of the meat, poultry or fish in the product.

(iv) Uncooked marinated meats, such as "spiedies", shall be sold by drained weight and whatever marination is absorbed into the meat or adheres to the meat shall be considered as part of the product.

(v) This section shall not apply to ready-to-eat food consisting of:

(a) items sold for consumption on the premises;

(b) items sold as one of three or more different elements, excluding condiments, comprising a ready-to-eat meal sold as a unit, for consumption elsewhere than on the premises where sold;

(c) ready-to-eat seafood, whole poultry, poultry parts or parts of meat less than a primal source (as defined by paragraph (d) of subdivision 1 of section 190-a of the Agriculture and Markets Law), such as spare ribs and not including whole or sliced subprimals such as ham or roasted beef, cooked on the premises where offered or exposed for sale, but not packaged in advance of sale; and

(d) sandwiches, when offered or exposed for sale on the premises where packed or produced.

(3) Sale of meat by carcass, side or primal source. Anyone who sells meat by the carcass, side or primal source and cuts up that meat at the purchaser's request prior to delivery shall provide an accurate written statement at the time of delivery giving the following information:

(i) the name and address of the seller (firm) and the date of the sale;

(ii) the unit price before cutting and wrapping and the total price of the sale;

- (iii) identification of meat (whether from forequarter or hindquarter, etc.);
- (iv) the total net weight (hanging weight) of the carcass, side, quarter or primal source prior to cutting or processing);
- (v) the total net weight of the cut-up and processed meat delivered to the purchaser;
- (vi) a list by name, as defined in section 260.1(w)(1) of this Title, of all cuts delivered and the quality grade and yield grade, if so graded by USDA;
- (vii) meat cuts that are less than primal cannot be sold on a hanging weight basis;
- (viii) an itemized list of any and all changes over and above the original sale price of the carcass, side, quarter or primal source;
- (ix) all trim loss (fat, bones, kidney, etc.) must be offered to the purchaser; and
- (x) this written statement shall also list the weight of any meat or other commodities received by the purchaser as a bonus offer or gift in connection with the purchase of the carcass, side, quarter or primal source.

(4) Pickles. The declaration of net quantity of contents on pickles and pickle products, including relishes, but excluding one or two whole pickles in a transparent wrapping (which may be declared by count), shall be expressed in terms of fluid measure. Sales of pickles from bulk may be by count.

(5) Sewing threads, handicraft threads, and yarns. Sewing threads, handicraft threads, and yarns shall be offered or exposed for sale or sold in the following manner:

- (i) Sewing and handicraft threads shall be offered or exposed or sold at retail by length in terms of meters or yards.
- (ii) Each unit of industrial thread shall be marked to show its net measure in terms of meters or yards or its net weight in terms of kilograms or grams or pounds or ounces.
- (iii) Ready-wound bobbins which are not sold separately shall not be required to be individually marked, but the package containing such bobbins shall be marked to show the number of bobbins and the net meters or yards of thread on each bobbin.
- (iv) Sewing and handicraft threads shall be exempt from the requirements of section 221.5(n)(2)(i) of this Part.
- (v) Yarn shall be offered for sale or sold by net weight.
- (vi) The net contents of any such units of thread shall be determined by ascertaining the average net weight or yardage of not less than 10 units of thread of the same type and put-up, selected at random from such units kept for the purpose of sale, sold, exposed or offered for sale, and that average shall not be less, by more than three percent, than the weight or yardage marked on such units or the package containing such units.

(6) Roofing and roofing materials.

- (i) (a) Roofing and roofing materials shall be sold either by the "square" or by the "square foot". The term square shall mean the quantity of roofing or roofing material that, when applied according to the directions or instructions of the manufacturer, will cover an area of 100 square feet exclusive of side laps or side joints; provided that in the case of roofing and roofing material of corrugated design, the

side lap or side joint shall be one full corrugation.

(b) the term square foot shall mean the quantity of roofing or roofing material that, when applied to the directions or instructions of the manufacturer, will cover one square foot (144 square inches) exclusive of side laps or side joints.

(ii) This paragraph is in addition to other regulations pertaining to commodities and shall not be construed as superseding any regulation.

(7) Sale of beer, ale, porter and other malt beverages. No person, firm or corporation shall sell, offer or expose for sale beer, ale, porter or other malt beverages in any manner other than by liquid measure. When so sold, offered or exposed for sale, it shall be in containers of the following standard contents: barrel, half barrel, one quarter barrel and one eighth barrel, and such a container need not be marked or labeled to indicate its net contents. A barrel, when used for sale, offer or exposure for sale of beer, ale, porter and other malt beverages, shall mean 117.3 liter (31 gallons); multiples or submultiples of a barrel shall have proportionate contents. Beer, ale, porter and other malt beverages may be sold in containers with contents of less than one eighth barrel, provided the container is so marked or labeled, clearly and conspicuously, indicating its net contents.

(8) Sale of farm animals by live weight. All farm animals sold or offered for sale by live weight shall be accurately weighed to the nearest minimum graduation of the scale used. The provisions of this section shall not apply to animals sold or offered for sale on any basis other than weight.

(9) Method of sale of lawn dressings and fertilizers. Any person, firm or corporation soliciting, peddling and/or selling from bulk any commodity represented as a lawn dressing, fertilizer or material to be used as such, must offer for sale and/or sell such material by net weight or by cubic measure. A bill of sale shall be delivered to the purchaser or his agent at the time of delivery of such material. Such bill of sale shall include the name and address of the seller and of the purchaser, and a statement of the quantity of fertilizer, lawn dressing or material delivered, in terms of net weight or cubic measure, and the signature of the person making the delivery.

(10) Method of sale by bale or lot. The net weight shall be plainly marked on each bale of hay or straw sold or offered for sale in this State, and no baled hay or straw shall be sold or offered for sale which weighs less than such net weight; except when hay or straw pressed or baled in the field, as defined in paragraph (11) of this subdivision is sold other than by the bale, the individual bales need not be marked as to net weight, but a bill of sale from and by the seller stating the number of bales involved in the sale and the total net weight thereof at the time of sale shall accompany the delivery. When such hay is sold by the individual bale, each bale shall be weighed at the time of sale and the net weight marked on a tag or label attached thereto, or shown on a bill of sale or sales slip accompanying the delivery.

(11) Presser of hay and straw defined; correct scales to be used; bales to be marked. The term presser as used herein shall mean the person, firm, association or corporation owning or having possession of and operating the hay press. A presser who presses hay or straw for market shall use correct scales, properly sealed. Every presser of hay or straw for market shall mark each bale of any such commodities pressed by him with his name and address and correct weight of the bale. These markings shall be made upon a tag, of not less than one and one half inches in width and three inches in length, securely fastened to the bale. The foregoing provisions shall not apply to hay or straw pressed or baled in the field by a pickup baler. For the purposes of this paragraph, the term hay or straw pressed or baled in the field shall mean freshly cut and unstacked hay or straw pressed or baled in the field where produced.

(12) Standard log rule. The international log rule, based upon one-fourth inch saw kerf, as expressed in the formula $(D^2 \times 0.22) - 0.71D \times 0.904762$ for four-foot section (D represents top diameter of log in inches; taper allowance, one-half inch per four feet lineal), is hereby adopted as the standard log rule for determining the board foot content of saw logs, and all contracts hereafter entered into for the purchase and sale of saw logs shall be deemed to be made on the basis of such standard rule, unless some other method of measurement is specifically agreed upon.

(13) Wood for fuel.

(i) All wood for fuel shall be offered for sale or sold at retail in the manner provided in this paragraph, except:

- (a) any sale of unpackaged wood for fuel if the wood was observed by the buyer or his agent before sale; and
- (b) any sale of standing trees offered as stumpage for fuel purposes.

(ii) Definitions.

- (a) Wood for fuel means any kindling, logs, boards, timbers or other wood, split or not split, and similar products advertised, offered for sale or sold in a form or size appropriate for use as fuel.
- (b) Cord means the amount of wood which is contained in a space of 128 cubic feet, when the wood is ranked and well stowed. The dimensions for a standard cord of wood are four feet in height, eight feet in width and four feet in depth and shall be stated whenever the term is used.
- (c) Face cord means the front or face of a standard cord, i.e., four feet in height and eight feet in width, and the depth being defined by the length of the cut wood expressed in inches. The dimensions shall be stated whenever the term face cord is used in any representation.
- (d) Ranked and well stowed means the placing of pieces of wood in a row, with individual pieces touching and parallel to each other, and stacked in a compact manner.
- (e) Representation means any advertisements, offering, invoice or the like that pertains to the sale of wood for fuel.

(iii) Identity.

- (a) No representation of wood for fuel shall identify as "hardwood" the wood from any species of conifer, aspen, poplar, basswood, butternut, willow, grey birch and paper birch.
- (b) If wood is represented as seasoned, the length of time and the manner of seasoning must be specified.

(iv) Quantity.

- (a) Whenever wood for fuel is advertised, offered for sale, or sold at retail, the three dimensions of the wood, when ranked and well stowed, shall be stated and shall be expressed in feet and inches. The dimensions may be accompanied by any descriptive word, such as cord, face cord, truckload, rack, etc. For example:
 - (1) 4 ft x 8 ft x 24 in (1/2 cord);
 - (2) 4 ft x 8 ft x 16 in (face cord);
 - (3) 4 ft x 8 ft x 18 in (rack);
 - (4) 9 ft x 9 ft x 3 ft (truckload);
 - (5) 1/3 cord (4 ft x 8 ft x 16 in); and
 - (6) face cord (4 ft x 8 ft x 18 in).
- (b) Wood may be sold by weight if the quantity exceeds two cords.
- (c) Processed wood, such as wood chips, hogged bark, slabs and edgings, pelletized wood and shavings, shall be sold by weight or volume.

(d) Whole logs may be sold by weight, by log scale according to any recognized log rule which is specified, by length and diameter of the logs, or by the volume of the truck bed, plus count.

(e) Packaged wood for fuel containing less than four cubic feet shall be sold by volume.

(f) A single artificial compressed fireplace log shall be sold by weight, and packages of such individual logs containing less than four cubic feet (1/32 of a cord) may be sold by net weight, plus count.

(v) Delivery ticket, sales invoice or receipt. A delivery ticket, sales invoice or receipt shall be presented by the seller to the buyer whenever any unpackaged wood for fuel is sold. The delivery ticket, sales invoice or receipt shall contain the following information:

- (a) the name and address of the seller;
- (b) the date of the sale;
- (c) the quantity or dimension of the wood sold; and
- (d) the price of the quantity sold.

(14) Peat and peat moss. (i) Applies only with respect to organic matter of geological origin, excluding coal and lignite, originating principally from dead vegetative remains through the agency of water in the absence of air and occurring in a bog, swampland or march, and containing an ash content not exceeding 25 percent on a dry-weight basis (dried in an oven at 105 degrees C [221 degrees F] until no further weight loss can be determined).

(ii) The declaration of quantity of peat and peat moss shall be expressed in weight units or in cubic measure units.

(iii) Compressed cubic measurement. If the commodity is labeled in terms of compressed cubic measurement, the quantity declaration shall represent the quantity in the compressed state and the quantity from which the final product was compressed (the latter declaration not exceeding the actual amount of material that can be recovered).

(15) Softwood lumber. The following applies to the sale of softwood boards, timbers and dimension lumber that have been dressed on four sides, but shall not apply to rough lumber, to lumber that has been matched, patterned or shiplapped, or to lumber remanufactured or joined so as to have changed the form or identity, such as individual assembled or packaged millwork items.

(i) Definitions.

(a) Dressed (surfaced) lumber - lumber that has been dressed (or surfaced) for the purpose of attaining smoothness of surface and uniformity of size.

(b) Boards - lumber 1 1/4 inches or less in actual thickness and 1 1/2 or more inches in actual width. Boards less than 5 1/2 inches in actual width may be classified as strips.

(c) Timbers - lumber 4 1/2 or more inches in least actual dimension. Timber may be classified as beams, stringers, posts, caps, sills, girders, purlins, etc.

(d) Dimension lumber - lumber from 1 1/2 inches to, but not exceeding , 4 1/2 inches in actual thickness and 1 1/2 or more inches in actual width. Dimension lumber may be classified as framing, joists, planks, rafters, studs, small timbers, etc.

(e) Rough lumber - lumber that has not been dressed but which has been sawed, edged and trimmed at least to the extent of showing saw marks in the wood on the four longitudinal surfaces of each piece for its overall length.

- (f) Matched lumber - lumber that has been worked with a tongue on one edge of each piece and a groove on the opposite edge to provide a close tongue-and-groove joint by fitting two pieces together; and when end-matched, the tongue and groove are worked in the ends also.
- (g) Patterned lumber - lumber that is shaped to a pattern or to a molded form, in addition to being dressed, matched or shiplapped, or any combination of these workings.
- (h) Shiplapped lumber - lumber that has been worked or rabbeted on both edges of each piece to provide a close-lapped joint fitting two pieces together.
- (i) Grade - the commercial designation assigned to lumber meeting specifications established by a nationally recognized grade rule writing organization.
- (j) Species - the commercial name assigned to a species of trees.
- (k) Species group - the commercial name assigned to two or more individual species having similar characteristics.
- (l) Representation - a representation shall be construed to mean any advertisement, offering, invoice, or the like that pertains to the sale of lumber.
- (m) Minimum dressed sizes (width and thickness) - the standardized width and thickness at which lumber is dressed when manufactured in accordance with U. S. Department of Commerce Voluntary Product Standard 20-70, "American Softwood Lumber Standard", and regional grading rules conforming to VPS 20-70. (See Table 1 of this section)

TABLE 1
SOFTWOOD LUMBER SIZES

Product Classification	(See Note 2) Minimum dressed sizes	
	Unseasoned Inches	Dry Inches
(nominal size) Inches		
<i>Dimension Lumber</i> 2 x 4	1-9/16 x 3-9/16	1-1/2 x 3-1/2
2 x 6	1-9/16 x 5-5/8	1-1/2 x 5-1/2
2 x 8	1-9/16 x 7-1/2	1-1/2 x 7-1/4
2 x 10	1-9/16 x 9-1/2	1-1/2 x 9-1/4
2 x 12 (see Note 1)	1-9/16 x 11-1/2	1-1/2 x 11-1/4
<i>Board lumber</i> 1 x 4	25/32 x 3-9/16	3/4 x 3-1/2
1 x 6	25/32 x 5-5/8	3/4 x 5-1/2
1 x 8	25/32 x 7-1/2	3/4 x 7-1/4
1 x 10	25/32 x 9-1/2	3/4 x 9-1/4
1 x 12	25/32 x 11-1/2	3/4 x 11-1/4

Note 1. The dry thicknesses of nominal 3" and 4" lumber are 2 1/2" and 3 1/2"; unseasoned thicknesses are 3 9/16" and 3 9/16" Widths for these thicknesses are the same as shown above.

Note 2. Product standard 20-70 defines dry lumber as being 19 percent or less in moisture content and unseasoned lumber as being over 19 percent moisture content. The size of lumber changes approximately one percent for each four percent change in moisture content. Lumber stabilizes at approximately 15 percent moisture content under normal use conditions.

(ii) Identity - representations shall include a declaration of identity that specifies the grade or grades, species or species group, and whether the lumber is unseasoned (green) or dry.

(iii) Quantity - representations shall be in terms of the number of pieces, the minimum dressed width and thickness, the length of individual pieces or the lineal footage, except that:

(a) the use of nominal dimensions shall be allowed when used in conjunction with the required minimum dressed sizes and actual length;

(b) with respect to all invoices, a table of minimum dressed sizes may appear on the reverse side of the invoice, so long as appropriate reference to the table is prominently and conspicuously shown on the face of the invoice.

(16) Hardwood lumber. Sales of hardwood lumber measured after kiln drying shall be quoted, invoiced and delivered on the basis of net board footage, with no addition of footage for kiln drying and shrinkage. Sales of hardwood lumber measured prior to kiln drying shall be quoted, invoiced and delivered on the basis of net board footage before kiln drying. If the lumber is to be kiln dried at the request of the purchaser, the kiln drying charge shall be clearly shown and identified on the quotation and invoice.

(17) Polyethylene products. (i) Consumer products sold at retail shall be labeled with the following elements:

- (a) Sheeting:
 - (1) length and width;
 - (2) area in square feet;
 - (3) thickness.
- (b) Food wrap and film:
 - (1) length and width;
 - (2) area in square feet.
- (c) Lawn and trash bags:
 - (1) count;
 - (2) dimensions;
 - (3) thickness.
- (d) Food and sandwich bags:
 - (1) count;
 - (2) dimensions.

(ii) All products not intended for the retail consumer shall be labeled with the following elements:

- (a) Sheeting.
 - (1) length;
 - (2) width;
 - (3) thickness;
 - (4) weight.
- (b) Bags.
 - (1) count;
 - (2) dimensions;
 - (3) thickness;
 - (4) weight.

(iii) A declaration of thickness for all polyethylene products shall not be less than the average thickness based on sampling procedures and test methods recognized by the National Bureau of Standards. A declaration of area shall comply with "largest whole unit" requirements. A declaration of dimensions for all polyethylene bags shall be width x length or width x depth x length.

(18) Delicatessen products. (i) Delicatessen products customarily sold directly to the consumer in fractions or multiples of a pound may be sold in that manner.

(ii) Except insofar as provided in subparagraph (iii) herein, each delicatessen product shall be clearly and legibly marked with a sign or label attached to or adjacent to the product in a retail display containing selling price and customary fraction or multiple unit of measure. The required information shall be presented in a boldface type font in a contrasting color to the background with the number 8 or letter B at least 3/16 inch in height and 3/32 inch in width.

(iii) In lieu of a sign or label attached to or adjacent to the product in a retail display, a sign may be posted in clear view of the customer indicating the identity of the item, selling price, and customary fraction or multiple units of measure. The required information shall be presented in a boldface type font in a contrasting color to the background with the number 8 or letter B at least 3/4 inch in height and 1/4 inch in width.

(19) Bulk sales. A commodity may be offered for retail sale in bulk, including the sale of any item or a lot of any such item unwrapped, provided that a sign be conspicuously posted in plain view of the buyer, disclosing the identity of the commodity and its price per pound or its unit price, as prescribed by this Part. If the sign is attached to or is adjacent to the commodity, the required information shall be presented in a boldface type font in a contrasting color to the background with the number 8 or letter B at least 3/16 inch in height and 3/32 inch in width. If the sign is not attached to or adjacent to the commodity, the sign shall be posted in clear view of the customer and shall set forth the required information in a boldface type font in a contrasting color to the background with the number 8 or letter B at least 3/4 inch in height and 1/4 inch in width. Bulk sale commodities may not be offered for sale in fractions of a unit unless a specific exemption from this paragraph is contained within this Part.

(20) Butter. Butter, oleomargarine and margarine shall be offered or exposed for sale and sold by net weight.

(21) Sour cream and yogurt. Sour cream and yogurt shall be offered or exposed for sale and sold by net weight.

(22) Milk, milk products, melloream and vegetable oil blend. Packaged milk, milk products, as defined in 1 NYCRR Part 17, that are offered for sale to the consumer in liquid form shall be sold by liquid measure. Packaged melloream and vegetable oil, that are offered for sale to the consumer in liquid form, shall be sold by liquid measure. Packaged milk, when offered for sale to the consumer in a unit of the customary system of weights and measures, shall weigh at least 8.6 lbs. per gallon and a proportionate minimum weight for a larger or smaller unit, and, when offered for sale to the consumer in a metric unit, shall weigh at least 1040 grams per liter and a proportionate minimum weight for a larger or smaller unit.

(23) Frozen desserts. Notwithstanding the provisions of 1 NYCRR Section 221.12, frozen desserts, as defined in or pursuant to Agriculture and Markets Law section 71-a, that have been packed in a plant, as defined in Agriculture and Markets Law section 71-a, shall be sold by liquid measure, Ice cream and ice milk that have been packed in a plant, when offered for sale to the consumer in a unit of the customary system of weights and measures, shall weigh at least 4.5 lb. per gallon and a proportionate minimum weight for a larger or smaller unit, and, when offered for sale to the consumer in a metric unit, shall weight at least 540 g per liter and a proportionate minimum weight for a larger or smaller unit.

(24) Flours and meals. All flours and meals shall be sold by net weight.

221.14 Net contents of containers to be indicated on the outside thereof. When commodities are sold or offered for sale in containers whose sizes are not otherwise provided by statute, the net quantity of the contents of each container shall be plainly and conspicuously marked, branded or otherwise indicated on the outside or top thereof or on a label or a tag attached thereto in terms of weight, measure or numerical count as may be prescribed by the commissioner; provided, however, that reasonable variations shall be permitted.

221.15 Sales Slips. When a commodity not in a container of such composition or form that it is impossible or impracticable to place a marking on or attach a tag or label to such commodity, a sales slip containing all the information required to be furnished by this Part shall be delivered to the purchaser at the time of the sale in such case no other marking will be required. Such a sales slip shall be entirely clear and equal to printing in legibility.

221.16 Coin-operated devices. Coin-operated devices which dispense time, commodities or services must have a sign conspicuously posted stating name, address and telephone number of the owner or operator of such devices. The telephone number or numbers must be such that the owner, operator or his representative can be contracted at any reasonable business hour. This section shall not apply to devices owned and operated by any branch of government.