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**02.02.14 - RULES FOR WEIGHTS AND MEASURES**

**000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Sections 71-111, 71-232, 71-233, 71-236, 71-241, and 71-408, Idaho Code. (10-26-94)

**001. TITLE AND SCOPE.**

The title of this chapter is Department of Agriculture Rules for Weights and Measures. This chapter has the following scope: to govern the checking, testing, and examination of weighing and measuring devices, packages and labels; to govern consumer and non-consumer packaging and labeling; to govern the registration of servicemen and service agencies for commercial weighing and measuring devices; and to govern the licensing of weighmasters. (10-26-94)

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations of these rules. (10-26-94)

**003. ADMINISTRATIVE APPEAL.**

There is no provision for administrative appeals before the Department of Agriculture under this chapter. Hearing and appeal rights pursuant to Title 67, Chapter 52, Idaho Code, are noted in Section 71-308, Idaho Code. (10-26-94)

**004. DEFINITIONS.**

The Idaho Department of Agriculture adopts the definitions set forth in Sections 71-108 and 71-401, Idaho Code. (10-26-94)

**005. -- 009. (RESERVED).**

**010. PROCEDURAL MATTERS.**

Procedural matters will be dealt with as provided for in the Idaho Weights and Measures Law of 1969, chapter 1, title 71, Idaho Code and in the Administrative Procedure Act, chapter 52, title 67, Idaho Code, and the rules heretofore adopted by the Department of Agriculture under the Idaho Administrative Procedure Act. (7-1-93)

**011. -- 149. (RESERVED).**

**050. CHECKING, TESTING AND EXAMINING OF DEVICES, PACKAGES AND LABELS.**

01. Required Reference Materials. The latest edition of Handbook No. 44 of the National Bureau of Standards, or its successor organization, the National Institute of Standards and Technology, United States Department of Commerce, "Specifications, Tolerances, and other Technical Requirements for Weighing and Measuring Devices", together with current supplements and amendments thereto, shall be the specifications, tolerances and other technical requirements for commercial weighing and measuring devices, unless otherwise stated in the Department of Agriculture Regulations concerning Weights and Measures. (7-1-93)

02. Required Reference Materials For Checking Prepackaged Commodities. The latest edition of Handbook No. 67 and Handbook No. 133 of the National Bureau of Standards, or its successor organization, the National Institute of Standards and Technology, United States Department of Commerce, "Checking Prepackaged Commodities," together with current supplements and amendments thereto, shall be the authority in checking prepackaged commodities, unless otherwise stated in the Department of Agriculture Regulations concerning Weights and Measures. (7-1-93)

03. Required Reference Materials For Examinations of Farm Milk Tanks. The latest edition of Handbook No. 98 of the National Bureau of Standards, or its successor organization, the National Institute of Standards and Technology, United States Department of Commerce, "Examination of Farm Milk Tanks," together with current supplements and amendments thereto, shall be the authority in examining farm milk tanks, provided, however, that milk tanks may be calibrated and charts therefore may be formulated on a weight basis, unless otherwise stated in the Department of Agriculture Regulations concerning Weights and Measures. (7-1-93)

04. Required Reference Materials for Examination of Liquefied Petroleum Gas Liquid-Measuring Devices. The latest edition of Handbook No. 99 of the National Bureau of Standards, or its successor organization, the National Institute of Standards and Technology, United States Department of Commerce, "Examination of Liquefied Petroleum Gas Liquid-Measuring Devices," together with current supplements and amendments thereto, shall be the authority in examining liquefied petroleum gas measuring devices, unless otherwise stated in the Department of Agriculture Regulations concerning Weights and Measures. (7-1-93)

05. Other Required Reference Materials. The above National Bureau of Standards, or its successor organization, the National Institute of Standards and Technology, handbooks will be used by the Idaho Department of Agriculture to determine specifications, tolerances, procedures, methods for testing, sealing, checking and examining devices, equipment and packages within the capacity and limits of personnel and equipment available to the Idaho Department of Agriculture. (7-1-93)

06. Local Availability. Copies of such handbooks are on file with the State Law Library and the Idaho Department of Agriculture, 2216 Kellogg Lane, Boise, Idaho, 83712, or may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C., 20402. (7-1-93)

**051. -- 099. (RESERVED).**

**100. CHARGES FOR SPECIAL REQUEST TESTING OR EXAMINATION.**

- 01. Mileage Charges. (7-1-93)
  - a. Thirty cents (\$.30) a mile for car travel. (7-1-93)
  - b. Forty-five cents (\$.45) a mile for pickup and prover. (7-1-93)
  - c. One dollars and ten cents (\$1.10) a mile for heavy capacity scale trucks. (7-1-93)
- 02. Fee Collection. Such fees will be collected from place where working and back. Where more than one request is to be handled on same trip, the mileage will be prorated between the parties requesting the service. (7-1-93)
- 03. Personnel Charges. There will also be an hourly personnel charge of twenty-five dollars (\$25) per hour per person for special request testing, chargeable only during the time of the actual testing and examination of devices. This charge is not to be made for driving time. (7-1-93)

**101. -- 149. (RESERVED).**

**150. PACKAGING AND LABELING RULES.**

The application of this rule shall apply to packages and to commodities in package form, but shall not apply to: (7-1-93)

- 01. Inner Wrappings. Inner wrappings not intended to be individually sold to the customer; or (7-1-93)
- 02. Shipping Containers. 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; or (7-1-93)
- 03. Auxiliary Containers. 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; or (7-1-93)
- 04. Retail Display Containers. Containers used for retail tray pack displays when the container itself is not intended to be sold (e.g., the tray that is used to display individual envelopes of seasonings, gravies, etc., and the tray itself is not intended to be sold); or (7-1-93)

05. Unpackaged Commodities. Commodities put up in variable weights and sizes for sale intact and intended to be either weighed or measured at the time of sale, where no package quantities are represented, and where the method of sale is clearly indicated in close proximity to the quantity being sold: or (7-1-93)

06. Open Carriers. 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 rule. (7-1-93)

**151. DEFINITIONS.**

01. Commodity in Package Form. See Section 71-108(9), Idaho Code, of Idaho Weights and Measures Law. (7-1-93)

02. Consumer Package. See Section 71-108(10), Idaho code, of Idaho Weights and Measures Law. (7-1-93)

03. Nonconsumer Package. See Section 71-108(11), Idaho Code, of Idaho Weights and Measures Law. (7-1-93)

04. Random Package. The term "random package" shall be construed to mean a package that is one of a lot, 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. (7-1-93)

05. Label. 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, except an inspector's tag or other nonpromotional matter affixed to or appearing upon a consumer commodity shall not be deemed to be a label requiring the repetition of label information required by this rule. (7-1-93)

06. Package. The term "package" means any commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale. (7-1-93)

07. Person. See Section 71-108(1), Idaho Code, of Idaho Weights and Measures Law. (7-1-93)

08. Principal Display Panel or Panels. 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 most likely 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." (7-1-93)

09. Multi-Unit Package. The term "multi-unit package" shall be construed to mean a package containing two (2) or more individual packages of the same commodity, in the same quantity, with the individual packages intended to be sold as part of the multi-unit package but capable of being individually sold in full compliance with all requirements of this rule. (7-1-93)

10. Sale From Bulk. The term "sale from bulk" means the sale of commodities when the quantity is determined at the time of sale. (7-1-93)

**152. -- 159. (RESERVED).**

**170. IDENTITY.**

01. Declaration of Identity: Consumer Package. A declaration of identity on a consumer package shall appear on the principal display panel, and shall positively identify the commodity in the package by its common or usual name, description, generic term, or the like. (7-1-93)

02. Parallel Identity Declaration: Consumer Package. A declaration of identity on a consumer package shall appear generally parallel to the base on which the package rests as it is designed to be displayed. (7-1-93)

03. Declaration of Identity: Nonconsumer Package. A declaration of identity on a nonconsumer package shall appear on the outside of a package and shall positively identify the commodity in the package by its common or usual name, description, generic term, or the like. (7-1-93)

04. Declaration of Responsibility: Consumer and Nonconsumer Packages. (7-1-93)

a. Any package kept, offered, or exposed for sale, or sold, at any place other than on the premises where packed 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, 1970. (7-1-93)

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. (7-1-93)

#### **171. DECLARATION OF QUANTITY: CONSUMER PACKAGES.**

01. Largest Whole Unit. Where this rule 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: (7-1-93)

a. Common or decimal fractions of such largest whole unit; or (7-1-93)

b. 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. (7-1-93)

02. Net Quantity. A declaration of net quantity of the commodity in the package, exclusive of wrappers and any other material packed with such commodity, shall appear on the principal display panel of a consumer package and, unless otherwise specified in this rule (see Subsections 171.06 through 171.08) shall be in terms of the largest whole unit. (7-1-93)

03. Use of "Net Weight." The term "net weight" shall be used in conjunction with the declaration of quantity in terms of weight; the term may either precede or follow the declaration of weight. (7-1-93)

04. Lines of Print or Type. A declaration of quantity may appear on one or more lines of print or type. (7-1-93)

05. Terms: Weight, Liquid Measures, 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. (7-1-93)

06. Combination Declaration. (7-1-93)

a. 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. (7-1-93)

b. 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. (7-1-93)

c. 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. (7-1-93)

07. Units: Weight, Measure. A declaration of quantity shall be as follows, however provided that in the case of a commodity packed for export shipment, the declaration of quantity may be in terms of the metric system of weight or measure. (7-1-93)

a. In units of weight shall be in terms of the avoirdupois pound or ounce; (7-1-93)

b. In units of liquid measure shall be in terms of the United States gallon of two hundred thirty-one (231) cubic inches or liquid-quart, liquid-pint, or fluid-ounce subdivisions of the gallon, and shall express the volume at sixty-eight degrees (68 Degrees F), twenty degrees (20 Degrees C), except in the case of petroleum products, for which the declaration shall express the volume at sixty degrees (60 Degrees F), fifteen point six degrees (15.6 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 forty degrees (40 Degrees F), four degrees (4 Degrees C); (7-1-93)

c. In units of linear measure shall be in terms of the yard, foot, or inch; (7-1-93)

d. In units of area measure, shall be in terms of the square yard, square foot, or square inch; (7-1-93)

e. In units of dry measure shall be in terms of the United States bushel of two thousand one hundred fifty point forty-two (2,150.42) cubic inches, or peck, dry-quart, and dry-pint subdivisions of the bushel; (7-1-93)

f. In units of cubic measure shall be in terms of the cubic yard, cubic foot, or cubic inch. (7-1-93)

08. Abbreviations. Any of the following abbreviations, and none other, may be employed in the quantity statement on a package of commodity. (There normally are no periods following, nor plural forms of, these abbreviations. For example, "oz" is the abbreviation for both "ounce" and "ounces."): (7-1-93)

avoirdupois	avdp		quart	qt
cubic	cu		square	sq
feet or foot	ft		weight	wt
fluid	fl		yard	yd
gallon	gal		cubic centimeter	cc
inch	in		gram	g
liquid	liq		kilogram	kg
ounce	oz		microgram	mcg
pint	pt		milligram	mg
pound	lb		milliliter	ml

09. Units With Two (2) 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 in "one (1) pint four (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."  
(7-1-93)

**172. PRESCRIBED UNITS.**

01. Less Than One (1) Foot, One (1) Square Foot, One (1) Pound, or One (1) Pint. The declaration of quantity shall be expressed as follows, 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 (2) decimal places:  
(7-1-93)

- a. In the case of length measure of less than one (1) foot, inches, and fractions of inches; (7-1-93)
- b. In the case of area measure of less than one (1) square foot, square inches, and fractions of square inches; (7-1-93)
- c. In the case of weight of less than one (1) pound, ounces, and fractions of ounces; (7-1-93)
- d. In the case of fluid measure of less than one (1) pint, ounces, and fractions of ounces: (7-1-93)

02. Four (4) Feet, Four (4) Square Feet, Four (4) Pounds, One (1) Gallon, or More. (7-1-93)

a. In the case of length measure of four (4) 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.  
(7-1-93)

- b. In the case of area measure of four (4) square feet or more; (7-1-93)
- c. In the case of weight of four (4) pounds or more; (7-1-93)
- d. In the case of fluid measure of one (1) gallon or more the declaration of quantity shall be expressed in terms of the largest whole unit. (7-1-93)

03. Weight: Dual Quantity Declaration. On packages containing one (1) pound or more but less than four (4) 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 (2) decimal places.  
(7-1-93)

04. Fluid Measure: Dual Quantity Declaration. On packages containing (1) one pint or more but less than one (1) 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.  
(7-1-93)

05. Length Measure: Dual Quantity Declaration. On packages containing (1) one foot but less than four (4) 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.  
(7-1-93)

06. Area Measure: Dual Quantity Declaration. On packages containing (1) one square foot but less than four (4) square feet, the declaration shall be expressed in square inches and, in addition, shall be followed by a declaration in parentheses, expressed in terms of the largest whole unit.  
(7-1-93)

07. Bidimensional Commodities. For bidimensional commodities (including roll-type commodities) the quantity declaration shall be expressed:  
(7-1-93)

- a. If less than one (1) square foot, in terms of linear inches and fractions of linear inches; (7-1-93)
- b. If at least one (1) square foot but less than four (4) 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: (7-1-93)

i. No square inch declaration is required for a bidimensional commodity of four (4) inches width or less; (7-1-93)

ii. A dimension of less than two (2) feet may be stated in inches within the parenthetical; and (7-1-93)

iii. Commodities consisting of usable individual units (except roll-type commodities with individual usable units created by perforations, see Subsection 173.03) require a declaration of unit area but not a declaration of total area of all such units. (7-1-93)

c. If four (4) 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 unit, provided that: (7-1-93)

i. No declaration in square feet is required for a bidimensional commodity with a width of four (4) inches or less; (7-1-93)

ii. A dimension of less than two (2) feet may be stated in inches within the parenthetical; and (7-1-93)

iii. No declaration in square feet 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. (7-1-93)

**173. POLYETHYLENE SHEETING.**

01. Packages. All packages of polyethylene sheeting shall be labeled as to quantity in accordance with the following: (7-1-93)

a. Actual length; (7-1-93)

b. Actual width; (7-1-93)

c. Actual thickness; and (7-1-93)

d. Actual weight of each individual unit. (7-1-93)

02. Bulk. All polyethylene sold from bulk shall be accompanied by a delivery ticket with the following information: (7-1-93)

a. The identity; (7-1-93)

b. Actual length, width, thickness, and weight of each individual unit; (7-1-93)

c. The number of individual units; (7-1-93)

d. The total weight of all the units; (7-1-93)

e. The name and address of both the vendor and purchaser; and (7-1-93)

f. The date delivered or the date shipped. (7-1-93)

03. Count: Ply. If the commodity is in individually usable units of one (1) or more components or ply, the quantity declaration shall, in addition to complying with other applicable quantity declaration requirements of this rule, include the number of ply and the total number of usable units. 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: (7-1-93)

- a. Total area measurement; (7-1-93)
  - b. Number of ply; (7-1-93)
  - c. Count of usable units; and (7-1-93)
  - d. Dimensions of a single usable unit. (7-1-93)
04. Fractions. A statement of net quantity of contents of any consumer commodity may contain common or decimal fractions. A common fraction shall be in terms of halves (1/2), quarters (1/4), eighths (1/8), sixteenths (1/16), or thirty-seconds (1/32), except that: (7-1-93)
- a. 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 (7-1-93)
  - b. If linear measurements are required in terms of yards or feet, common fractions may be in terms of thirds (1/3). A common fraction shall be reduced to its lowest terms; a decimal fraction shall not be carried out to more than two (2) places. (7-1-93)

**174. SUPPLEMENTARY DECLARATIONS.**

01. Supplementary Quantity Declarations. The required quantity declaration may be supplemented by one (1) or more accurate 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, "full" gallon, "when packed," "minimum," or words of similar import). (7-1-93)
02. Metric System Declarations. A separate statement of the net quantity of contents in terms of the metric system is not regarded as a supplemental statement, and a statement of quantity in terms of the metric system of weight or measure may also appear on the principal display panel or on other panels. The metric system may be used as provided for by Section 71-229, Idaho Code, in lieu of the traditional system of weights and measures by substituting the proper metric terms where applicable in these rules. (7-1-93)
03. 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. (7-1-93)

**175. -- 179. (RESERVED).**

**180. DECLARATION OF QUANTITY: NONCONSUMER PACKAGES.**

01. 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 Subsection 171.01 Largest Whole Unit). (7-1-93)
02. 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. (7-1-93)
03. Units: Weight, Measure. A declaration of quantity: (7-1-93)

- a. In units of weight shall be in terms of the avoirdupois pound or ounce; (7-1-93)
- b. In units of liquid measure shall be in terms of the United States gallon of two hundred thirty one (231) cubic inches or liquid-quart, liquid-pint, or fluid-ounce subdivisions of the gallon, and shall express the volume at sixty-eight (68) Degrees F twenty (20) Degrees C, except in the case of petroleum products, for which the declaration shall express the volume at sixty degrees (60) Degrees F fifteen point six degrees (15.6) 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 forty degrees (40) Degrees F, four degrees (4) Degrees C; (7-1-93)
- c. In units of linear measure shall be in terms of the yard, foot, or inch; (7-1-93)
- d. In units of area measure, shall be in terms of the square yard, square foot, or square inch; (7-1-93)
- e. In units of dry measure shall be in terms of the United States bushel of two thousand one hundred fifty point forty-two one hundreths (2,150.42) cubic inches, or peck, dry-quart and dry-pint subdivisions of the bushel; (7-1-93)
- f. In units of cubic measure shall be in terms of the cubic yard, cubic foot, or cubic inch, provided that nothing in this subsection shall prohibit the labeling of nonconsumer packages in terms of units on the metric system. (7-1-93)

04. Abbreviations. Any generally accepted abbreviation of a unit name may be employed in the quantity statement on a nonconsumer package of commodity. (For commonly accepted abbreviations, see Subsection 171.08, Abbreviations). (7-1-93)

05. Character of Declaration: Average. The average quantity of contents in the nonconsumer package of a particular lot, shipment, or delivery shall at least equal the declared 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. (7-1-93)

**181. -- 199. (RESERVED).**

**200. PROMINENCE AND PLACEMENT: CONSUMER PACKAGES.**

01. 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. (7-1-93)

02. Location. The declaration or declarations of quantity of the contents of a package shall appear in the bottom thirty percent (30%) of the principal display panel or panels, except as otherwise provided in Subsection 220.07, Cylindrical Containers. (7-1-93)

03. 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. (7-1-93)

04. 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. (7-1-93)

05. Free Area. The area surrounding the quantity declaration shall be free of printed information as follows: (7-1-93)

- a. Above and below, by a space equal to at least the height of the lettering in the declaration: and (7-1-93)
- b. 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. (7-1-93)
06. 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. (7-1-93)
07. Calculation of Area of Principal Display Panel for Purposes of Type Size. The square-inch area of the principal display panel shall be as follows: (7-1-93)
- a. In the case of a rectangular container, one (1) entire side which properly can be considered to be the principal display panel, the product of the height times the width of that side; (7-1-93)
- b. In the case of a cylindrical or nearly cylindrical container, forty percent (40%) of the product of the height of the container times the circumference; or (7-1-93)
- c. In the case of any other shaped container, forty percent (40%) 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. (7-1-93)
- d. 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. (7-1-93)
08. 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 Subsection 200.10, Table 1 with respect to the square-inch area of the panel, and the height of each number of a common fraction shall meet one-half (1/2) the minimum height standards. (7-1-93)
09. Numbers and Letters: Proportion. No number or letter shall be more than three times as high as it is wide. (7-1-93)
10. Minimum Height of Numbers and Letters - Table 1.

<b>Square-inch Area of Principal Display Panel</b>	<b>Minimum Height of Numbers and Letters</b>	<b>Minimum Height: Label Information Blown, Formed, or Molded on Surface of Container</b>
5 square inches and less	1/16 inch	1/8 inch
Greater than 5 square inches and not greater than 25 square inches.	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

(7-1-93)

**201. -- 209. (RESERVED).**

**210. 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. (7-1-93)

**211. -- 219. (RESERVED).**

**220. REQUIREMENTS: SPECIFIC CONSUMER COMMODITIES, PACKAGES, CONTAINERS.**

01. 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. (7-1-93)

02. Eggs. When cartons containing twelve (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. (7-1-93)

03. 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. (7-1-93)

04. Multi-Unit Packages. Any package containing more than one (1) individual "commodity in package form" (see Subsection 151.01) of the same commodity shall bear on the outside of the package a declaration of the following: (7-1-93)

a. The number of individual units; (7-1-93)

b. The quantity of each individual unit; and (7-1-93)

c. The total quantity of the contents of the multi-unit package, provided, that the requirement for a declaration of the total quantity of contents of a multi-unit package shall be effective with respect to those labels revised after the effective date of this rule. Any such declaration of total quantity shall not be required to include the parenthetical quantity statement of a dual quantity representation. (7-1-93)

05. Combination Packages. Any package containing individual units of dissimilar commodities (such as an antiquing kit, for example) shall bear on the label of the package a quantity declaration for each unit. (7-1-93)

06. 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. (7-1-93)

07. Cylindrical Containers. In the case of cylindrical or nearly cylindrical containers, information required to appear on the principal display panel shall appear within that forty percent (40%) of the circumference which is most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale. (7-1-93)

**221. -- 229. (RESERVED).**

**230. MEASUREMENT OF CONTAINER-TYPE COMMODITIES, HOW EXPRESSED.**

01. 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: (7-1-93)

a. For bag-type commodities, in terms of count followed by linear dimensions of the bag (whether packaged in a perforated roll or otherwise). (7-1-93)

b. When the unit bag is characterized by two (2) dimensions because of the absence of a gusset, the width and length will be expressed in inches, except that a dimension of two (2) feet or more will be expressed in feet with any remainder in terms of inches or common or decimal fractions of the foot. (Example: "25 bags, 17 in x 20 in" or "100 bags, 20 in x 2 ft 6 in" or " 50 bags, 20 in x 2-1/2 ft"). (7-1-93)

c. When the unit bag is gusseted, the dimensions will be expressed as width, depth, and length, in terms of inches, except that any dimension of two (2) feet or more will be expressed in feet with any remainder in terms of inches or the common or decimal fractions of the foot. (Examples: "25 bags, 17 in x 4 in x 20 in" or "100 bags, 20 in x 12 in x 2-1/2 ft"). (7-1-93)

d. 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 two (2) inches. (Example: "2 cake pans, 8 in x 8 in" or "roasting pan, 12 in x 8 in x 3 in"). (7-1-93)

e. 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 two (2) inches. (Example: "4 pie pans, 8 in diameter x 4 in"). (7-1-93)

02. 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: (7-1-93)

a. 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), with any remainder in terms of the common or decimal fraction of that unit. (Example: Freezer Boxes "4 boxes, 1-qt capacity, 5 in x 4 in x 3 in."). (7-1-93)

b. 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), with any remainder in terms of the common or decimal fraction of that unit. (Example: Leaf bags "8 bags, 6-bushel capacity, 3 ft x 5 ft"). (7-1-93)

c. Where containers are used as liners for other more permanent containers, in the same terms as are normally used to express the capacity of the more permanent container. (Example: Garbage Can Liners "10 liners, 2 ft 6 in x 3 ft 9 in, fits up to 30-gallon cans"). (7-1-93)

d. Notwithstanding the above requirements, the net quantity statement for containers such as cups will be listed in terms of count and liquid capacity per unit. (Example: "24 cups, 6 fl oz capacity"). For purposes of this section, the use of the terms "capacity," "diameter," and "fluid" is optional. (7-1-93)

**231. -- 239. (RESERVED).**

**240. TEXTILE PRODUCTS, THREADS, AND YARNS.**

01. Wearing Apparel. Wearing apparel (including nontextile 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 Subsection 171.05 of this rule. (7-1-93)

02. 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, and appliance covers, non-rectangular diapers, slip covers, etc., shall be exempt from the requirements of Subsection 172.07 of this rule, provided that: (7-1-93)

a. The quantity statement for fitted sheets and mattress covers shall state, in inches, the length and width of the mattress for which the item is designed, such as "twin," "double," "king," etc. (Example: "Twin Fitted Sheet for thirty-nine by seventy-five (39 x 75) inch mattress") (7-1-93)

b. 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 inches, the length and width of the mattress for which the sheet is designed, followed in parentheses by a statement, in inches, of the length and width of the sheet before hemming. (Example: "Double Flat Sheet for fifty-four by seventy-five (54 x 75) inch mattress (eighty one by one hundred four (81 x 104) inch before hemming") (7-1-93)

c. 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 inches, the length and width of the pillow for which the pillowcase is designed, followed in parentheses by a statement, in inches, of the length and width of the pillowcase before hemming. (Example: "Standard Pillowcase for twenty by twenty-six (20 x 26) inch pillow (forty-two by thirty-six (42 x 36) inch before hemming")) (7-1-93)

d. The quantity statement for blankets, comforters, quilts, bedspreads, mattress pads, afghans, and throws shall state, in 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. (7-1-93)

e. The quantity statement for tablecloths and napkins shall state, in inches, the length and width of the finished item. The quantity statement also may state parenthetically, in inches, the length and width of the items before hemming and properly identified as such. (7-1-93)

f. The quantity statement for curtains, drapes, flags, furniture scarfs, etc., shall state, in inches, the length and width of the finished item. The quantity statement also may state parenthetically, in inches, the length of any ornamentation. (7-1-93)

g. The quantity statement for carpets and rugs shall state, in feet, with any remainder in common or decimal fractions of the foot or in inches, the length and width of the item. The quantity statement also may state parenthetically, in inches, the length of any ornamentation. (7-1-93)

h. The quantity statement for woven dish towels, dish cloths, towels, face cloths, utility cloths, bath mats, etc., shall state, in inches, the length and width of the item. The quantity statement for such items, when knitted, need not state the dimensions. (7-1-93)

i. 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. (7-1-93)

j. The quantity statement for other than rectangular textile products identified in Subsections 240.02.a. through 240.02.h. shall state the geometric shape of the product and the dimensions which are customarily used in describing such geometric shape. (Example: "Oval Tablecloth fifty-four by forty-two (54 x 42) inch" representing the maximum length and width in this case). (7-1-93)

k. 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. (7-1-93)

**03. Textiles: Variations from Declared Dimensions. (7-1-93)**

a. For an item with no declared dimension less than twenty four (24) inches, a minus variation greater than three percent (3%) of a declared dimension and a plus variation greater than six percent (6%) of a declared dimension should be considered unreasonable. (7-1-93)

b. For an item with a declared dimension less than twenty four (24) inches, a minus variation greater than six percent (6%) of a declared dimension and a plus variation greater than twelve percent (12%) of a declared dimension should be considered unreasonable. (7-1-93)

**04. Exemption: Variety Textile Packages.** Variety packages of textiles which are required by reason of Subsection 171.06 to provide a combination declaration stating the quantity of each individual unit, shall be exempt

from the requirements in this rule for the following: (7-1-93)

- a. Location (see Subsection 200.02); or (7-1-93)
- b. Free area (see Subsection 200.05); or (7-1-93)
- c. Minimum height of numbers and letters. (see Subsection 200.08). (7-1-93)

05. Sewing Threads, Handicraft Threads, and Yarns. Sewing and handicraft threads shall be exempt from the requirements of Subsection 172.02.a. through 172.02.d. of this rule, provided that: (7-1-93)

- a. The net quantity statement for sewing and handicraft threads shall be expressed in terms of yards. (7-1-93)
- b. The net quantity statement for yarns shall be expressed in terms of weight. (7-1-93)
- c. 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 Director. (7-1-93)
- d. Each unit of industrial thread shall be marked to show its net measure in terms of yards or its net weight in terms of 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 yards of thread on each bobbin. (7-1-93)

**241. -- 249. (RESERVED).**

**250. EXEMPTIONS.**

01. 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 Subsection 220.04.c., Multi-Unit Packages). (7-1-93)

02. Random Packages. A random package bearing a label conspicuously declaring: (7-1-93)

- a. The net weight; (7-1-93)
- b. The price per pound, or other unit of weight, measure or count; and (7-1-93)

c. The total price shall be exempt from the type size, dual declaration, placement, and free area requirements of this rule. 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. (7-1-93)

03. Small Confections. Individually wrapped pieces of "penny candy" and other confectionery of less than one-half (1/2) ounce net weight per individual piece shall be exempt from the labeling requirements of this rule when the container in which such confectionery is shipped is in conformance with the labeling requirements of this rule. Similarly, when such confectionery items are sold in bags or boxes, such items shall be exempt from the labeling requirements of this rule including the required declaration of net quantity of contents, when the declaration of the bag or box meets the requirements of this rule. (7-1-93)

04. Individual Servings. Individual-serving-size packages of foods containing less than one-half (1/2) ounce or less than one-half (1/2) 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 rule. (7-1-93)



05. 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 rule, such individual cuts, plugs, and twists of tobacco and cigars shall be exempt from such labeling requirements.

(7-1-93)

06. Reusable (Returnable) Glass Containers. Nothing in this rule shall be deemed to preclude the continued use of reusable (returnable) glass containers; provide, that such glass containers ordered after the effective date of this rule shall conform to all requirements of this rule.

(7-1-93)

07. Cigarettes and Small Cigars. Cartons of cigarettes and small cigars, containing ten (10) individual packages of twenty (20), labeled in accordance with the requirements of this rule shall be exempt from the requirements set forth in Subsection 200.02, Location, Subsection 200.08, Minimum Height of Numbers and Letters, and Subsection 220.04, Multi-Unit Packages, provided that such cartons bear a declaration of the net quantity of commodity in the package.

(7-1-93)

08. 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, alcoholic beverages, and seeds shall be exempt from the requirements set forth in Subsection 172.03, Weight: Dual Quantity Declaration; 172.04, Fluid Measure: Dual Quantity Declaration; 172.05, Length Measure: Dual Quantity Declaration; 172.06, Area Measure: Dual Quantity Declaration; 200.02, Location; and 200.08, Minimum Height of Numbers and Letters, provided that quantity labeling requirements for such products are specified in Federal Law, so as to follow reasonably sound principles of providing consumer information.

(7-1-93)

09. Fluid Dairy Products, Ice Cream, and Similar Frozen Desserts.

(7-1-93)

a. When packaged in one-half (1/2) liquid pint and one-half (1/2) gallon containers, are exempt from the requirements for stating net contents of eight (8) fluid ounces and sixty-four (64) fluid ounces, which may be expressed as one-half (1/2) pint and one-half (1/2) gallon, respectively.

(7-1-93)

b. When packaged in one (1) liquid pint, one (1) liquid quart, and one-half (1/2) gallon containers, are exempt from the dual net contents declaration requirements of Subsection 172.04, Fluid Measure: Dual Quantity Declaration.

(7-1-93)

c. When measured by and packaged in one-half (1/2) liquid pint, one (1) liquid pint, one (1) liquid quart, one-half (1/2) gallon and one (1) gallon measure containers as defined in "Measure Container Code of National Bureau of Standards, or its successor organization, the National Institute of Standards and Technology, Handbook 44," are exempt from the requirement of Subsection 200.02, Location, that the declaration of net contents be located within the bottom thirty percent (30%) of the principal display panel.

(7-1-93)

d. Milk and milk products when measured by and packaged in glass or plastic containers of one-half (1/2) liquid pint, one (1) liquid pint, one (1) liquid quart, one-half (1/2) gallon, and one (1) gallon capacities are exempt from the placement requirement of Subsection 200.02, Location, that the declaration of net contents be located within the bottom thirty percent (30%) 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.

(7-1-93)

10. Single Strength and Less Than Single Strength Fruit Juice Beverages, Imitations Thereof, and Drinking Water.

(7-1-93)

a. When packaged in glass, plastic, or fluid milk type paper containers of eight (8) and sixty-four (64) fluid ounce capacity, are exempt from the requirements of Subsection 171.07.b., Units: Weight, Measure, to the extent that net contents of eight (8) fluid ounces and sixty-four (64) fluid ounces (or two (2) quarts) may be expressed as one-half (1/2) pint (or half pint) and one-half (1/2) gallon (or half gallon), respectively.

(7-1-93)

b. When packaged in glass, plastic, or fluid milk type paper containers of one (1) pint, one (1) quart, and one-half (1/2) gallon capacities, are exempt from the dual net contents declaration requirements of subsection

172.04, Fluid Measure: Dual Quantity Declaration.

(7-1-93)

c. When packaged in glass or plastic containers of one-half (1/2) pint, one (1) pint, one (1) quart, one (1/2) gallon, and one (1) gallon capacities, are exempt from the placement requirement of Subsection 200.02, Location, that the declaration of net contents be located within the bottom thirty percent (30%) 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. (7-1-93)

11. Soft-Drink Bottles. Bottles of soft drinks shall be exempt from the placement requirements for the declaration of: (7-1-93)

a. Identity, when such declaration appears on the bottle closure; and (7-1-93)

b. 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 rule appears only on the bottle closure. (7-1-93)

12. Multi-Unit Soft Drink Packages. Multi-unit packages of soft drinks are exempt from the requirement for a declaration of: (7-1-93)

a. 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 (7-1-93)

b. Identity, when such declaration appears on the individual units and is not obscured by the multi-unit packaging. (7-1-93)

13. Butter. When packaged in four (4) ounce, eight (8) ounce, and one (1) pound units with continuous label copy wrapping, butter is exempt from the requirements that the statement of identity (Subsection 170.01) and the net quantity declaration (Subsection 200.06) be generally parallel to the base of the package. When packaged in eight (8) ounce and one (1) pound units, butter is exempt from the requirement for location (Subsection 200.02) of net quantity declaration and, when packaged in one (1) pound units, is exempt from the requirement for dual quantity declaration (Subsection 172.03). (7-1-93)

14. Eggs. Carton containing twelve (12) eggs shall be exempt from the requirement for location (Subsection 200.02) of net quantity declaration. When such cartons are designed to permit division in half, each half (1/2) shall be exempt from the labeling requirements of this regulation if the undivided carton conforms to all such requirements. (7-1-93)

15. Flour. Packages of wheat flour packaged in units of two (2), five (5), ten (10), twenty-five (25), fifty (50), and one-hundred (100) pounds shall be exempt from the requirement in this rule or location (Subsection 200.02) of the net quantity declaration and, when packaged in units of two (2) pounds, shall be exempt also from requirement for a dual quantity declaration (Subsection 172.03). (7-1-93)

16. Small Packages. On a principal display panel of five (5) square inches or less, the declaration of quantity need not appear in the bottom thirty (30%) of the principal display panel if that declaration satisfies the other requirements of this rule. (7-1-93)

17. 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 (1/4) 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 rule. (7-1-93)

18. Combination Packages. Combination packages are exempt from the requirements in this rule for: (7-1-93)

a. Location (see subsection 200.02); (7-1-93)

- b. Free area (see Subsection 200.05); and (7-1-93)
- c. Minimum height of numbers and letters (see Subsection 200.08). (7-1-93)
- 19. **Margarine.** Margarine in one (1) pound rectangular packages, except for packages containing whipped or soft margarine or packages containing more than four (4) sticks, shall be exempt from the requirement in this rule for location (see Subsection 200.02) of the net quantity declaration, and shall be exempt from the requirement for a dual quantity declaration (see Subsection 172.03). (7-1-93)
- 20. **Corn Flour.** Corn flour packaged in conventional five (5), ten (10), twenty-five (25), fifty (50), and one-hundred (100) pound bags shall be exempt from the requirement in this rule for location (see Subsection 200.02) of the net quantity declaration. (7-1-93)
- 21. **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 rule. (7-1-93)
- 22. **Camera Film.** Camera film packaged and labeled for retail sale is exempt from the net quantity statement requirements of this rule which specify how measurement of commodities should be expressed, provided that: (7-1-93)
  - a. The net quantity of contents on packages of movie film and bulk still film is expressed in terms of the number of lineal feet of usable film contained therein. (7-1-93)
  - b. The net quantity of contents on packages of still film is expressed in terms of the number of exposures the contents will provide. The length and width measurements of the individual exposures, expressed in millimeters or inches, are authorized as an optional statement. (Example: "36 exposures, 36 x 24 mm" or "12 exposures, 2-1/4 x 2-14/ in"). (7-1-93)
- 23. **Paints and Kindred Products.** Paints, varnishes, lacquers, thinners, removers, oils, resins, and solvents, when packed in one (1) liquid pint and one (1) liquid quart units shall be exempt from the dual quantity declaration requirements of Subsection 172.04. (7-1-93)
- 24. **Automotive Cooling System Antifreeze.** Antifreeze, when packed in one (1) liquid quart units, in metal or plastic containers, shall be exempt from the dual quantity declaration requirements of Subsection 172.04. (7-1-93)
- 25. **Motor Oils.** Motor oils, when packed in one (1) liquid quart units, shall be exempt from the dual quantity declaration requirements of Subsection 172.04. Additionally, motor oil in one (1) liquid quart, one (1) gallon, one and one-fourth (1-1/4) gallon, two (2) gallon, and two and one-half (2-1/2) gallon units, bearing the principal display panel on the body of the container, is exempt from the requirements of Subsection 170.01 through 170.03. Identity, to the extent that the SAE grade is required to appear on the principal display panel, provided the SAE grade appears on the can lid and is expressed in letters and numerals in type size of at least one-fourth (1/4) inch. (7-1-93)

**251. -- 259. (RESERVED).**

**260. VARIATIONS TO BE ALLOWED.**

- 01. **Packaging Variations.** (7-1-93)
  - a. Variations from declared net quantity. Variations from the declared net weight, measure, or count shall be permitted when caused by unavoidable deviations in weighing, measuring, or counting the contents of individual packages that occur in good packaging practice, but such variations shall not be permitted to such extent that the average of the quantities in the packages of a particular commodity, or a lot of the commodity that is kept, offered, or exposed for sale, or sold, is below the quantity stated, 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. Variations above the declared quantity shall not be unreasonably large. (7-1-93)

b. Variations resulting from exposure. Variations from the declared weight or measure shall be permitted when caused by ordinary and customary exposure to conditions that normally occur in good distribution practice and that unavoidably result in change of weight or measure, but only after the commodity is introduced into intrastate commerce, provided that the phrase "introduced into intrastate commerce" as used in this paragraph shall be construed to define the time and the place at which the first sale and delivery of a package is made within the state, the delivery being either: (7-1-93)

i. Directly to the purchaser or to his agent; or (7-1-93)

ii. To a common carrier for shipment to the purchaser, and this paragraph shall be construed as requiring that, so long as a shipment, delivery, or lot of packages of a particular commodity remains in the possession or under the control of the packager or the person who introduces the package into intrastate commerce, exposure variations shall not be permitted. (7-1-93)

02. Magnitude of Permitted Variations. The magnitude of variations permitted under Section 260 of this rule shall, in the case of any shipment, delivery, or lot, be determined by the facts in the individual case. (7-1-93)

**261. -- 269. (RESERVED).**

**270. MISLEADING PACKAGES.**

No commodity in package form shall be so wrapped, nor shall it be in a container so made, formed, or filled as to mislead the purchaser as to the quantity of the package, and the contents of a container shall not fall below such reasonable standard of fill as may have been prescribed for the commodity in question by the Director. (7-1-93)

**271. ADVERTISING PACKAGES FOR SALE.**

Whenever a packaged commodity is advertised in any manner with the retail price stated, there shall be closely and conspicuously associated with the retail price a declaration of quantity as is required by law or rule to appear on the package. Where a dual declaration is required, only the declaration that sets forth the quantity in terms of the smaller unit of weight or measure need appear in the advertisement. And provided further, that there shall not be included as part of the package declaration required under this section such qualifying terms as "when packed," "minimum," "not less than," or any other terms of similar import, nor any term qualifying a unit of weight, measure, or count (for example, "jumbo," "giant," "full," and the like) that tends to exaggerate the amount of commodity in the package. (7-1-93)

**272. -- 299. (RESERVED).**

**300. PETROLEUM PRODUCTS.**

01. Liquefied Petroleum. Liquefied petroleum gas shall be considered to be a petroleum product and shall be sold only by weight or liquid measure as provided in Sections 71-232 and 71-241, Idaho Code, of the Idaho Weights and Measures Law. (7-1-93)

02. Metering System Installation. A liquefied petroleum gas metering system installation shall be complete, that is, so installed to insure that liquefied petroleum gas is maintained in a liquid state while being metered. This includes an adequate means for vapor elimination upstream of meter and a properly installed and functioning differential valve downstream from meter. (7-1-93)

03. Maintaining Scales. Scales used for liquefied petroleum gas bottle filling shall be maintained in an adequate and accurate functioning condition. This means the periodic checking by a competent scale repairman, and checked regularly by your company's serviceman for any foreign material and clearances around lever system and working parts. Scales shall be installed so that they are protected against weather effects so that weight value indicating elements can be accurately read. (7-1-93)

04. Gauge Stick Measurement. Petroleum products shall not be sold by gauge stick measurement. (7-1-93)

05. Single Meters. Trucks with a single meter which are used to meter oils and gasolines shall be calibrated and adjusted on one of the following only: furnace or heating oils, diesel fuels, kerosene and/or high flash solvents. (7-1-93)

06. Modified Procedure. In addition to standard gallon pricing, the following modified procedures for retail motor fuel dispenser (gas pumps) with limited variator capability of ninety-nine cents (\$0.999) shall be permitted until January 1, 1983, for all establishments charging more than ninety-nine (\$0.999) per gallon: (7-1-93)

a. When using "half-gallon" pricing, the price per gallon of gasoline computed in fractional cents per gallon shall end in even tenths of a cent. (Examples: \$1.012, \$1.014, \$1.016, etc.) (7-1-93)

b. Each establishment shall use only "gallon," "half-pricing," or "liter" pricing or any combination thereof. (7-1-93)

c. All establishments selling by the "liter" shall post in a conspicuous place on the premises a chart allowing comparisons between gallon and liter prices. (7-1-93)

d. Establishments using "half-pricing" shall set the unit price on the pump at one-half of the selling price and legible decals shall be affixed to the face of each pump using figures that are the approximate size and print as the pump figures in the following manner: (Illustrations of the following may be obtained from the Bureau of Weights and Measures, Idaho Department of Agriculture.) (7-1-93)

i. Immediately following the unit price indications add the term "per one-half (1/2) gallon." (7-1-93)

ii. Immediately beneath the unit price indication, add the correct unit price "per gallon." (7-1-93)

iii. Immediately following the total price, add the term "one-half total price." (7-1-93)

e. Establishments using half-pricing shall post a notice in the vicinity of each island or group of pumps stating that the money values on the pump are computed at the one-half gallon price basis. (7-1-93)

f. All roadside price signs must be complete and accurate. Price advertising using "liter" pricing must also use comparison gallon pricing. (7-1-93)

g. All sales must be within one (1) cent mathematical agreement, when total sales price is compared with volume actually dispensed. (7-1-93)

h. Half-gallon pricing with full total price retail motor fuel dispensers shall be considered to be in compliance with Handbook 44 requirements, but only at each dispenser's present installation site and only until such time as any one of the following conditions has occurred: (7-1-93)

i. The selling unit price of the product being dispensed exceeds one dollar and ninety-nine cents (\$1.99) per gallon; or (7-1-93)

ii. The dispensing device or its computing head is retired from service or replaced; or (7-1-93)

iii. the date of January 1, 1983, has arrived. (7-1-93)

i. The correct price per gallon of the product being dispensed must be posted conspicuously next to, but not obscuring, the indicated price per half-gallon display on both sides of the dispenser face. (7-1-93)

j. The above sections relating to one half-gallon pricing shall not apply when the retail motor fuel dispenser is modified by a one hundred (100) cent wheel kit (see Subsection 300.06.k.i. below) prior to January 1, 1983. (7-1-93)

k. This section is an exemption to the National Bureau of Standards, or its successor organization, the

National Institute of Standards and Technology, Handbook No. 44, Section GS-5.2.3., Size and Character of Indicating Elements. (7-1-93)

i. Retail motor fuel dispensers in service in the state of Idaho as of December 31, 1981, which are limited in computing capability to nine hundred ninety-nine one thousandths cents (\$.999) per gallon, but which are satisfactorily modified by zero to ninety-nine cents (0 to .99 cents) analog decal overlay strips or replacement wheels so as to change dispenser computations over to full cent per gallon increment basis from one dollar (\$1) to nine dollars and ninety-nine cents (\$9.99) per gallon, are hereby granted an exemption from Section GS-5.2.3. of Handbook No. 44 providing that the dispenser is presently installed. This exemption is temporary and lasts until (a) the dispensing device or its computing head is taken out of service, OR (b) the date of January 1, 1985, has arrived. (7-1-93)

ii. All dispensers modified pursuant to this provision must meet all other applicable provisions of the National Bureau of Standards, or its successor organization, the National Institute of Standards and Technology, Handbook No. 44, including but not limited to, general code Section GS-5.5., Money Values--Mathematical Agreement. (7-1-93)

**301. -- 349. (RESERVED).**

**350. SALE AND LABELING OF GASOLINE WHICH CONTAINS OXYGENATES.**

01. Definitions. For purposes of this rule, the following definitions shall apply: (7-1-93)

a. Spark-Ignition Motor Fuel. The terms "spark-ignition motor fuel" or "spark-ignition engine fuel" mean gasoline and its blends with oxygenates such as co-solvent and ethers. (10-26-94)

b. Gasoline-Oxygenate Blend. For labeling purposes, the term "gasoline-oxygenate blend" means any spark-ignition motor fuel containing one percent (1%) or more by volume of oxygenates or combination of oxygenates, such as but not restricted to ethanol, methanol, or methyl-tertiary-butyl ether. (10-26-94)

c. Alcohol. A volatile flammable liquid having the general formula  $C_nH_{(2n+1)}OH$  used or sold for the purpose of blending or mixing with gasoline for use in motor vehicles, and commonly or commercially known or sold as an alcohol, including ethanol and methanol. (7-1-93)

d. Co-solvent. An alcohol or any other chemical with higher molecular weight than methanol or ethanol which is blended with either or both to prevent phase separation in gasoline. (7-1-93)

e. Ethanol. Ethyl alcohol, a flammable liquid having the formula  $C_2H_5OH$  used or sold for the purpose of blending or mixing with gasoline for use in motor vehicles, and commonly or commercially known or sold as ethanol or ethyl alcohol. (7-1-93)

f. Gasoline. Any fuel sold for use in motor vehicles and commonly or commercially known or sold as gasoline whether leaded or unleaded. (7-1-93)

g. Methanol. Methyl alcohol, a flammable liquid having the formula  $CH_3OH$  used or sold for the purpose of blending or mixing with gasoline for use in motor vehicles, and commonly or commercially known or sold as methanol or methyl alcohol. (7-1-93)

h. Motor vehicles. Include all vehicles, vessels, watercraft, engines, machines, or mechanical contrivances that are propelled by internal combustion engines or motors. (7-1-93)

i. Person. The word "person" shall be construed to import both the plural and singular, as the case demands, and shall include corporations, companies, societies and associations. When construing and enforcing the provisions of this rule, the act, omission, or failure of any officer, agent, or other person acting for or employed by any corporation, company, society, or association, within the scope of his employment or office shall in every case be also deemed to be the act, omission, or failure of such corporation, company, society or association as well as that of the person. (7-1-93)

j. Retail dealer. Any person who owns, operates, controls, or supervises an establishment at which gasoline is sold or offered for sale to the public. (7-1-93)

k. Wholesale dealer. Any person engaged in the sale of gasoline to others who the seller knows or has reasonable cause to believe intends to resell the gasoline in the same or an altered form to another. (7-1-93)

02. Pump Labeling Requirements. (7-1-93)

a. All spark ignition engine fuel kept, offered, or exposed for sale, or sold, at retail containing at least one percent (1%) by volume of any oxygenate or combination of oxygenates shall be identified as "with" or "containing" (or similar wording) the specific type of oxygenate(s) in the engine fuel. For example, the label may read "contains ethanol" or "with MTBE/ETBE." This information shall be posted on the upper fifty percent (50%) of the dispenser front panel in a position clear and conspicuous from the driver's position, in a type at least one half (1/2) inch in height, one sixteenth (1/16) inch stroke (width of type). (10-26-94)

b. The labels shall be furnished by the retail owner or operator. (7-1-93)

03. Oxygenates Content Labels. (10-26-94)

a. The label shall have letters in bold face, block not less than one half (1/2) inch high. The lettering shall be in black on a contrasting background. Both colors shall be non-fade. (10-26-94)

b. The label shall be displayed on both faces of the dispenser on the upper one- half (1/2) of the dispenser as near the unit price display as practical. (10-26-94)

04. Documentation for Dispenser Labeling Purposes. The retailer must be provided, at the time of delivery of the fuel, on an invoice, bill of lading, shipping paper, or other documentation, a declaration of any oxygenate or combination of oxygenates present in concentrations of at least one percent (1%) by volume of the fuel. This documentation is only for dispenser labeling purposes; it is the responsibility of any potential blender to determine the total oxygen content of the engine fuel before blending. (10-26-94)

05. Penalties. Any person who shall violate any provisions of these rules shall be punished as provided for in Section 37-2501 and Section 37-2520, Idaho Code. (7-1-93)

**351. -- 399. (RESERVED).**

#### **400. UNATTENDED VENDING MACHINES.**

01. Vending Machine Displays. Any coin or currency operated device which automatically dispenses consumer commodities or consumer packages without a full-time attendant shall clearly display a sign or signs showing the following facts: (7-1-93)

a. The name of the commodity or commodities dispensed; (7-1-93)

b. The brand name or names of the commodity or commodities dispensed; (7-1-93)

c. A statement of the quantity of each commodity or package to be dispensed through the device, except that this paragraph shall not apply to candy bars, gum, or cigarettes; (7-1-93)

d. The name, city, street address, state, and telephone number of the local distributor or operator of such device. (7-1-93)

02. Units of Measurement. The units of measure used on such sign in the statement of quantity shall be standard units as prescribed by the Idaho Weights and Measures Law and the rules of this chapter. (7-1-93)

**401. -- 449. (RESERVED).**

**450. REGISTRATION OF SERVICEMEN AND SERVICE AGENCIES FOR COMMERCIAL WEIGHING AND MEASURING DEVICES.**

01. Definitions. (7-1-93)

a. Commercial Weighing and Measuring Device. The term "commercial weighing and measuring device" shall be construed to include any weight or measure or weighing or measuring device commercially used or employed in establishing the size, quantity, extent, area or measurement of quantities, things, product, or articles for distribution or consumption, purchased, offered or submitted for sale, hire, or award, or in computing any basic charge or payment for services rendered on the basis of weight or measure, and shall also include any accessory attached to or used in connection with a commercial weighing or measuring device when such accessory is so designed or installed that its operation affects, or may affect, the accuracy of the device. (7-1-93)

b. Registered Serviceman. The term "registered serviceman" shall be construed to mean any individual who for hire, award, commission or any other payment of any kind, installs, services, repairs or reconditions a commercial weighing or measuring device, and who voluntarily registers himself as such with the Bureau of Weights and Measures. (7-1-93)

c. Registered Service Agency. The term "registered service agency" shall be construed to mean any agency, firm, company or corporation which, for hire, award, commission or any other payment of any kind, installs, services, repairs or reconditions a commercial weighing or measuring device, and which voluntarily registers itself as such with the Bureau of Weights and Measures. Under agency registration, identification of individual servicemen shall be required. (7-1-93)

02. Policy. It shall be the policy of the Director of the Department of Agriculture or the Director's duly authorized agent, hereinafter referred to as "Director," to accept voluntary registration of (a) an individual and (b) an agency that provides acceptable evidence that he or it is fully qualified to install, service, repair or recondition a commercial weighing or measuring device; has a thorough working knowledge of all appropriate weights and measures laws, orders, rules; and has possession of, or available for use, weights and measures standards and testing equipment appropriate in design and adequate in amount. (An employee of government shall not be eligible for registration). This policy shall in no way preclude or limit the right and privilege of any qualified individual or agency not registered with the Director to install, service, repair, or recondition a commercial weighing or measuring device. (7-1-93)

03. Reciprocity. The Director may enter into an informal reciprocal agreement with any other state or states that has or have similar voluntary registration policies. Under such agreement, the registered servicemen and the registered service agencies of the states party to the reciprocal agreement are granted full reciprocal authority, including reciprocal recognition of certification of standards and testing equipment, in all states party to such agreement. (7-1-93)

04. Voluntary Registration. An individual or agency may apply for voluntary registration to service weighing devices or measuring devices on an application form supplied by the Director. Said form, duly signed and witnessed, shall include certification by the applicant that the individual or agency is fully qualified to install, service, repair, or recondition whatever devices for the service of which competence is being registered; has in possession, or available for use, all necessary testing equipment and standards; and has full knowledge of all appropriate weights and measures laws, orders, rules and regulations. An applicant also shall submit appropriate evidence or references as to qualifications. (7-1-93)

05. Certificate of Registration. Upon receipt and acceptance of a properly executed application form, the Director shall issue to the applicant a "Certificate of Registration," including an assigned registration number, which shall remain effective until either returned by the applicant or withdrawn by the Director. (7-1-93)

06. Privileges of a Voluntary Registrant. A bearer of a Certificate of Registration shall have the authority to remove an official rejection tag or mark placed on a weighing or measuring device by the authority of the Director; place in service, until such time as an official examination can be made, a weighing or measuring device



that has been officially rejected; and place in service, until such time as an official examination can be made, a new or used weighing or measuring device. (7-1-93)

07. **Placed in Service Report.** The Director shall furnish each registered serviceman and registered service agency with a supply of report forms to be known as "Placed in Service Reports." Such a form shall be executed in triplicate, shall include the assigned registration number, and shall be signed by a registered serviceman or by a serviceman representing a registered agency for each rejected device restored to service and for each newly installed device placed in service. Within twenty four (24) hours after a device is restored to service, or placed in service, the original of the properly executed Placed in Service Report, together with any official rejection tag removed from the device, shall be mailed to the Director at The Idaho state Department of Agriculture, Bureau of Weights and Measures, 2216 Kellogg Lane, Boise, Idaho, 83712. The duplicate copy of the report shall be handed to the owner or operator of the device, and the triplicate copy of the report shall be retained by the registered serviceman or agency. Also, a copy of a test report on the form used by the Bureau of Weights and Measures or a form approved by the Bureau of Weights and Measures must be submitted to the Bureau of Weights and Measures, 2216 Kellogg Lane, Boise, Idaho, 83712, on livestock, vehicle and mono-rail scales. (7-1-93)

08. **Standards and Testing Equipment.** A registered serviceman and a registered service agency shall submit, at least biennially, or as directed, to the Director, for his examination and certification, any standards and testing equipment that are used, or are to be used, in the performance of the service and testing functions with respect to weighing and measuring devices for which competence is registered. A registered serviceman or agency shall not use in servicing commercial weighing or measuring devices any standards or testing equipment that have not been certified by the Director. (7-1-93)

09. **Revocation of Certificate of Registration.** The Director may, for good cause, after careful investigation and consideration, suspend or revoke a Certificate of Registration. (7-1-93)

10. **Publication of Lists of Registered Servicemen and Registered Service Agencies.** The Director shall publish, from time to time as he deems appropriate, and may supply upon request, lists of Registered Servicemen and Registered Service Agencies. (7-1-93)

**451. -- 499. (RESERVED).**

**500. BREAD.**

As of October 1, 1971, eight (8) ounces, sixteen (16) ounces, twenty-four ounces (24), or a multiple of one (1) pound, labels and weights of bread loaves, shall be adhered to, and in no case shall any other labels or weights of loaves of bread be in commerce within the boundaries of the state of Idaho unless in compliance with Section 71-236 of title 71, chapter 2, Idaho Code. (7-1-93)

**501. -- 549. (RESERVED).**

**550. GENERAL REVOCATION OF PREVIOUS RULES.**

All provisions of all rules and all orders heretofore issued on the subject of weights and measures, particularly the rules on sale by count or weight for misleading the consumer adopted June 6, 1961, the regulations on meat and poultry adopted July 11, 1962, and the establishment of a guide for specifications and tolerances adopted October 10, 1963, and any other regulations or orders contrary to or inconsistent with the above rules are hereby revoked. (7-1-93)

**551. -- 599. (RESERVED).**

**600. SINGLE DRAFT VEHICLE WEIGHING.**

A highway vehicle or a coupled highway-vehicle or a coupled highway-vehicle combination shall be commercially weighed on a vehicle scale only as a single draft. That is, the total weight of such a vehicle or combination shall not be determined by adding together the results obtained by separately and not simultaneously weighing each end of such vehicle or individual elements of such coupled combination. However: (7-1-93)

01. **Coupled Combination.** The weight of a coupled combination may be determined by uncoupling the various elements (tractor, semitrailer, trailer), weighing each unit separately as a single draft, and adding together the

results. (7-1-93)

02. Vehicle. The weight of a vehicle or coupled-vehicle combination may be determined by adding together the weights obtained while all individual elements are resting simultaneously on more than one (1) scale platform. (7-1-93)

03. Effective Date. Requirements of this section shall become fully effective by July 1, 1985. (7-1-93)

**601. -- 649. (RESERVED).**

**650. RULE FOR NATIONAL TYPE EVALUATION.**

01. Application. This rule shall apply to all classes of devices and equipment as covered in the National Institute of Standards and Technology Handbooks 44, 105-1, 105-2, and 105-3. (7-1-93)

02. Definitions. (7-1-93)

a. National Type Evaluation Program. The term "National Type Evaluation Program" shall be construed to mean a program of cooperation between the National Institute of Standards and Technology, the National Conference on Weights and Measures, the states, and the private sector for determining, on a uniform basis, conformance of a type with the relevant provisions of the National Institute of Standards and Technology Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," National Institute of Standards and Technology Handbook 105-1, "Specifications and Tolerances for Reference Standards and Field Standard Weights and Measures, Specifications and Tolerances for Field Standard Weights (NIST Class F)," National Institute of Standards and Technology Handbook 105-2, "Specifications and Tolerances for Reference Standards and Field Standard Weights and Measures, Specifications and Tolerances for Field Standard Measuring Flask," or National Institute of Standards and Technology Handbook 105-3, "Specifications and Tolerances for Reference Standards and Field Standard Weights and Measures, Specifications and Tolerances for Graduated Neck Type Volumetric Field Standards." (7-1-93)

b. Type Evaluation. The term "type evaluation" shall be construed to mean the testing, examination, and evaluation of a type by a participating laboratory under the National Type Evaluation Program. (12-22-92)

c. Type. The term "type" shall be construed to mean a model or models of a particular measurement system, instrument, element or a field standard that positively identifies the design. A specific type may vary in its measurement ranges, size, performance, and operating characteristics as specified in the Certificate of Conformance. (12-22-92)

d. Participating Laboratory. The term "participating laboratory" shall be construed to mean any State Measurement Laboratory that has been certified by the National Institute of Standards and Technology, in accordance with its program for the Certification of Capability of State Measurement Laboratories, to conduct a type of evaluation under the National Type Evaluation Program. (12-22-92)

e. Certificate of Conformance. The term "certificate of conformance" shall be construed to mean a document issued by the National Institute of Standards and Technology based on testing in participating laboratories, said document constituting evidence of conformance of a type with the requirements of National Institute of Standards and Technology Handbooks 44, 105-1, 105-2, 105-3. (12-22-92)

f. Director. The term "Director" means the Director of the Department of Agriculture. (12-22-92)

03. Certificate of Conformance. The Director may require any weight or measure, or any weighing or measuring instrument or device to be issued a Certificate of Conformance prior to use for commercial or law enforcement purposes. (12-22-92)

04. Participating Laboratory. The Director is authorized to operate a participating laboratory as part of the National Type Evaluation Program. (12-22-92)

**651. -- 999. (RESERVED).**