



Agriculture and Markets

ANDREW M. CUOMO

Governor

RICHARD A. BALL

Commissioner

Express Terms - 1 NYCRR Part 221

221.2 Definitions.

Subdivision (d) of section 221.2 of 1 NYCRR is amended to read as follows:

(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] net contents.

Subdivision (a) of section 221.4 of 1 NYCRR is amended to read as follows:

(a) Any packaged commodity, 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 (or country if outside the United States) and ZIP code (or the mailing code, if any, used in countries other than the United States); however, the street address may be omitted if [this is shown in a current city directory or telephone directory] it is listed in any readily accessible, well-known, widely published, and publicly available resource, including but not limited to a printed directory, electronic database, or website. [The requirement for inclusion of the ZIP code shall apply only to labels that have been developed or revised after July 1, 1969.]

Subdivision (a) of section 221.5 of 1 NYCRR is amended to read as follows:

(a) General. The International System of Units (SI) [of] known as 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.

Subdivision (d) of section 221.5 of 1 NYCRR is amended to read as follows:

(d) Use of "net mass" or "net weight". A quantity declaration may stand alone or may include [The] the term "net mass" or "net weight" [or its abbreviation "net wt" shall be used when stating the

net quantity of contents in terms of weight] either preceding or following the declaration. The term “net” by itself may be used on food labels. However, the quantity of contents shall always declare the net quantity of contents even when such terms are not used.

Subparagraph (iv) of paragraph (1) of subdivision (m) of section 221.5 of 1 NYCRR is amended to read as follows:

(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] three decimal places.

Paragraph (2) of subdivision (m) of section 221.5 of 1 NYCRR is amended to read as follows:

(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] three places;

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

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

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

Paragraph (1) and (2) of subdivision (n) of section 221.5 of 1 NYCRR are amended to read as follows:

(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 a 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 fraction 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] three decimal places.

- (2) [Four feet, four square feet, four pounds] One foot, one square foot, one pound, one pint, one gallon, or more. The declaration of quantity shall be expressed in the following terms [of the largest whole unit in the case of]:

(i) length measure of [four feet] one foot or more, the declaration of quantity shall be expressed in terms of feet or yards with any remainder expressed in inches and fractions of the inch or in fractions of the foot or yard, except that it shall be optional to include a statement of length in terms of inches [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] one square foot or more but less than four square feet, expressed in square feet with any remainder expressed in square inches and fractions of a square inch or in fractions of a square foot; or

(iii) area measure of four square feet or more, expressed in square yards or square feet with any remainder in expressed in square inches and fractions of a square inch or in fractions of the square foot or square yard;

~~[(iii)]~~ (iv) weight of [four] one [pounds] pound or more[;] expressed in terms of the largest whole unit with any remainder expressed in ounces and fractions of an ounce or in fractions of the pound;

~~[(iv)]~~ (v) fluid measure of one [gallon] pint or more but less than one gallon, expressed in quarts, quarts and pints, or pints with any remainder expressed in fluid ounces or fractions of the pint or quart, except that two quart may be declared as one-half gallon; or

(vi) fluid measure of one gallon or more, expressed in terms of gallons followed by fractions of a gallon or by the next smaller whole unit with any remainder expressed in fluid ounces or fractions of the pint or quart;

(vii) dry measure of one dry pint or more, expressed in terms of the largest whole unit with the remainder expressed in fractions of a dry pint, dry quart, peck, or bushel, provided the quantity declaration on a random package may be expressed in decimal fractions of the largest appropriate unit carried out to no more than three decimal places.

Paragraph (3) of subdivision (n) of section 221.5 of 1 NYCRR is repealed and paragraph (4) of subdivision (n) of section 221.5 of 1 NYCRR is renumbered to be paragraph (3).

Paragraph (4) of subdivision (p) of section 221.5 of 1 NYCRR is amended to read as follows:

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

Subdivision (b) of section 221.9 of 1 NYCRR is amended to read as follows:

- (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.
 - (1) 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.
 - (2) In the case of a random package offered for indirect sale (that is, via e-commerce, online, phone, fax, catalogue, or similar methods), neither the price per unit of weight nor the total selling price need appear on the package if:
 - (i) the unit price is set forth and established in the initial product offering;
 - (ii) the maximum possible net weight, unit price, and maximum possible price are provided to the customer by order confirmation when the product is ordered; and
 - (iii) when the product is delivered, the customer receives a receipt bearing the identity, net weight, unit price and total price.

Subdivision (h) of section 221.9 of 1 NYCRR is amended to read as follows:

- (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,] cosmetics, medical devices, over-the-counter drugs, pesticides 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.

Paragraph (2) of subdivision (i) of section 221.9 of 1 NYCRR is repealed and paragraphs (3) and (4) are renumbered to be paragraphs (2) and (3) respectively.

Paragraph (2) of subdivision (j) of section 221.9 of 1 NYCRR is repealed and paragraph (3) is renumbered to be paragraph (2).

Subdivision (m) of section 221.9 of 1 NYCRR is amended to read as follows:

(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)].

Subdivision (o) of section 221.9 of 1 NYCRR is amended to read as follows:

(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)].

Subdivision (s) of section 221.9 of 1 NYCRR is amended to read as follows:

(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 221.5[n][3] of this Part)].

Paragraph (1) of subdivision (v) of section 221.9 of 1 NYCRR is amended to read as follows:

- (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 or meters of usable film contained therein;

Subdivision (w) of section 221.9 of 1 NYCRR is amended to read as follows:

(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)] (1) 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)] (2) Wherever the conditions of [paragraphs] paragraph (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.

Subdivisions (x) and (y) of section 221.9 of 1 NYCRR are repealed.

Subdivision (z) of section 221.9 of 1 NYCRR is re-lettered to be subdivision (x) and is amended to read as follows:

[(z)] (x) 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] Department of Consumer Affairs, Bureau of Household Goods and Services 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.

Subdivisions (aa) and (bb) of section 221.9 of 1 NYCRR are re-lettered to be subdivisions (y) and (z), respectively.

Subdivision (cc) of section 221.9 of 1 NYCRR is repealed.

Section 221.9 of 1 NYCRR is amended by adding thereto new subdivisions (aa) and (bb), to read as follows:

(aa) Metric Units; Consumer Commodities. The requirements for dual declaration in metric units (except for packaged seeds in 221.8(j) of this Part and camera film in 221.9(v) of this Part) shall not apply to:

- (1) foods packaged at the retail store level;
- (2) meat and poultry products subject to the Federal Meat Products Inspection Act or the Federal Poultry Products Inspection Act;
- (3) tobacco or tobacco products;
- (4) any beverage subject to the Federal Alcohol Administration Act;
- (5) any product subject to the Federal Insecticide, Fungicide, and Rodenticide Act; and

(6) drugs and cosmetics subject to the Federal Food, Drug and Cosmetic Act.

(bb) Customary Units; Consumer Commodities. The requirements for dual declaration in customary units shall not apply to packages that bear appropriate metric units. This exemption does not apply to foods, drugs, cosmetics, or to packages subject to the Federal Fair Packaging and Labeling Act, meat and poultry products subject to the Federal Meat Inspection Act or the Federal Poultry Products Inspection Act; and tobacco or tobacco products. For a list of commodities not within the scope of the Fair Packaging and Labeling Act, see section 2.6.8 in Chapter VI, headed “NCWM Policy, Interpretations, and Guidelines” in *National Institute of Standards and Technology Handbook 130, 2020 Edition*, as adopted by the 104th National Conference on Weights and Measures. This document is available from the National Conference on Weights and Measures, 1135 M Street, Suite 110, Lincoln, NE 68508, 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, One Commerce Plaza, 99 Washington Avenue, Suite 650, Albany, NY 12231.

Section 221.11 of 1 NYCRR is amended to read as follows:

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*, [2018] 2020 Edition, *Checking the Net Contents of Packaged Goods*, as adopted by the [102nd] 104th National Conference on Weights and Measures. The document is available from the National Conference on Weights and Measures, 1135 M Street, Suite 110, Lincoln, NE 68508, 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, One Commerce Plaza, 99 Washington Avenue, Suite 650, 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*, [2018] 2020 Edition, *Checking the Net Contents of Packaged Goods*, as adopted by the [102nd] 104th National Conference on Weights and Measures.

Subdivision (a) of section 221.12 of 1 NYCRR is amended to read as follows:

(a) to commodities when sold for immediate consumption on the premises where sold (also see section 221.13(b)(25) of this Part, headed Ready-to-eat food);

Section 221.12 of 1 NYCRR is amended by adding thereto a new Subdivision (i), to read as follows:

(i) to bulk milk which must be sold by weight or weight based upon 8.6 pounds per gallon (1.03 kg/L).

Paragraph (10) of Subdivision (b) of section 221.13 of 1 NYCRR is repealed and a new paragraph (10) is added thereto, to read as follows:

(10) Method of sale by bale or lot. Baled hay or straw shall be sold by net weight unless the hay or straw offered for sale was observed by the buyer or his/her agent prior to the sale, where it may be sold by count.

Paragraph (11) of subdivision (b) of section 221.13 of 1 NYCRR is repealed and a new paragraph (11) is added thereto, to read as follows:

(11) Method of sale, animal bedding. Packaged animal bedding of all kinds shall be advertised, labeled, offered for sale and sold by volume in either a compressed or an uncompressed package. A package of compressed animal bedding shall be advertised, labeled, offered, and exposed for sale and sold by useable volume. As used in this section useable volume shall mean the volume of product that can be recovered from a package by the consumer after it is unwrapped and, if necessary, uncompressed. The display of a net or gross weight, pre-compression volume, compressed volume, or supplementary dry measure quantities anywhere on the package is prohibited. Packaged animal bedding consisting of granular corncobs and other dry (8% or less moisture), pelleted, and/or non-compressible bedding materials that are sold to non-retail, laboratory animal research industries may be sold by weight.

Subparagraphs (ii) and (iii) of Paragraph (18) of Subdivision (b) of section 221.13 of 1 NYCRR are amended to read as follows:

(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)] numbers and letters 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] font size of the selling price and units of measure the same size or greater than the font size of the identity of the item.

Paragraph (19) of Subdivision (b) of section 221.13 is amended to read as follows:

(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)] numbers and letters 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] font size of the price per pound or its unit price the same size or greater than the font size of the commodity identity. 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.

Paragraph (22) of Subdivision (b) of section 221.13 of 1 NYCRR is amended to read as follows:

(22) Milk, milk products, melloream and vegetable oil blend. Packaged milk, milk products, as defined in Part 17 of this Title, 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] 1030 grams per liter and a proportionate minimum weight for a larger or smaller unit.

Subdivision (b) of section 221.13 of 1 NYCRR is amended by adding thereto new Paragraphs (25) and (26), to read as follows:

(25) Ready-to-eat food. Ready-to-eat food sold from retail cases displaying product from bulk or in servings packed or prepared on the premises may be sold by weight, measure or count. As used in this section ready-to-eat food is restaurant style food offered or exposed for sale, whether in restaurants, supermarkets, or similar food service establishments that is ready for immediate consumption, though not necessarily on the premises where sold, and which does not require any cooking or heating. Ready-to-eat food does not include sliced luncheon products, such as meat, poultry, or cheese when sold separately.

(26) Motor oils. The label on any vehicle engine motor oil packaged in a container shall contain the Society of Automotive Engineers viscosity grade classification preceded by the letters "SAE".