



National Conference on Weights and Measures  
"That Equity May Prevail"

May 21, 2014

Federal Trade Commission  
Office of the Secretary, Room H-113 (Annex G)  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

**RE: FPLA Rules, 16 CFR Parts 500-503, Project No. R411015  
Rules, Regulations, Statements of General Policy or Interpretation and  
Exemptions Under the Fair Packaging and Labeling Act**

Dear Sir or Madam:

The Packaging and Labeling Subcommittee of the National Conference on Weights and Measures welcomes the opportunity to submit comments pertaining to FTC's Notice of Proposed Rulemaking for Current Good Manufacturing Practice and Hazard Analysis and Risk-Based Preventive Controls for Human Food published on March 19, 2014 (FR Vol. 79, No. 53; pp. 15272-15275).

The National Conference on Weights and Measures (NCWM) is a professional nonprofit association of state and local weights and measures officials, federal agencies, manufacturers, retailers and consumers which has developed national weights and measures standards since 1905. The National Institute of Standards and Technology (NIST) publishes the uniform laws, regulations and standards adopted by NCWM in NIST Handbook 130 which is used and adopted by the states. The NCWM focuses on creating new standards to accommodate innovation in the marketplace and to promote uniformity in net content regulation. The Packaging and Labeling Subcommittee, comprised of both regulatory and industry members, works within the standards development structure of the NCWM to make recommendations for conference adoption.

The National Conference on Weights and Measures and its members were very active participants in the previous revision of FTC's FPLA regulations



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which occurred in 1993 and 1994 following adoption of the 1992 Act which required the inclusion of metric units in the required statement of net quantity. The NCWM provided an important forum for NIST, FTC, FDA, state regulators, consumer groups and product manufacturers to identify, discuss and resolve issues associated with the addition of these metric requirements, leading to the development of workable regulations which met the needs of regulators, manufacturers and U.S. consumers at that time. We applaud FTC for making periodic reviews of its regulations to ensure they are still relevant and effective.

One important long term trend which has become increasingly visible since the last update to FTC's FPLA regulations is globalization. Products and product ingredients are sourced more globally, and the population within the U.S. itself has become more diverse. In an increasingly global environment, label consistency and uniformity are increasingly becoming important to avoid undue complexity and consumer confusion. Several of our comments below are related to issues related to increasing globalization.

Our specific comments are provided below:

**1. The label exemption for the street address of the manufacturer, packer, or distributor should be maintained when company contact information such as street addresses and phone numbers are readily available electronically.**

**RE: §500.5 Name and Place of Business of manufacturer, packer, or distributor**

When the FPLA was developed, Congressional intent was to inform the public of the location of the responsible party for the product (manufacturer, packer or distributor) and how the responsible party could be contacted. Physical phone directories were readily available which allowed the required labeling to be shortened by removing street addresses. Today, it is more prevalent for the public to reference a company location electronically. In fact, physical phone directories may or may not exist currently or in the



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future. We recommend that FTC recognize that electronically available contact information meets the intent of the phone directory.

To remove the exemption of the street address and require a full address would create an undue burden of cost on the manufacturer, packer or distributor to make changes to their labeling. We believe recognition of electronic directories is consistent with the intent of this exemption.

**We recommend the following:**

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

(a) *The label of a consumer commodity shall specify conspicuously the name and place of business of the manufacturer, packer, or distributor. Where the consumer commodity is not manufactured by the person whose name appears on the label, the name shall be qualified by a phrase that reveals the connection such person has with such commodity; such as "Manufactured for \_\_," "Distributed by \_\_," or any other wording that expresses the facts.*

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

**2. The label exemption for the street address of the manufacturer, packer or distributor should be maintained when company contact information is provided on a website included as part of the official statement of name and place of business.**

**RE: §500.5 Name and Place of Business of manufacturer, packer, or distributor**

As stated in Comment #1, the prevalence of traditional telephone directories is decreasing in lieu of electronically available information. While electronic



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directories are one means by which the public can find company contact information, another effective way to find and contact a company is through its own website. We believe the regulation should recognize formally that company websites are one means to ensure that contact information is publically accessible. The inclusion of the company website in the required name and place of business requirement will provide the public and the manufacturer, packer or distributor assurance that contact information is readily available and the label exemption for street address warranted.

Web addresses and toll free phone numbers are becoming more prevalent on labels, but it is understandable that they may not satisfy fully the requirement of providing a street address, city state, and zip code. However, when the street address, city, state and zip code are located conspicuously on a company's website, we recommend that the exemption should remain.

**We recommend the following:**

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

*(a) The label of a consumer commodity shall specify conspicuously the name and place of business of the manufacturer, packer, or distributor. Where the consumer commodity is not manufactured by the person whose name appears on the label, the name shall be qualified by a phrase that reveals the connection such person has with such commodity; such as "Manufactured for \_\_," "Distributed by \_\_," or any other wording that expresses the facts.*

*(c) The statement of the place of business shall include the street address, city, State, and Zip Code; however, the street address may be omitted if it is shown in a current city directory, telephone directory, electronic directory, or official company website appearing clearly and conspicuously on the label.*



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**3. The prohibition for certain terms in the required declaration of net quantity should be amended to also include comparative expressions such as “equivalent to”, “same as” and “approximately”.**

**RE: §500.6 Net quantity of contents declaration, location**

The required declaration of net quantity should be provided to the consumer in a clear, objective and consistent manner to facilitate value comparisons. In some instances, additional language has been added to the net quantity statement in order to provide information which compares the labeled content to the content or performance of another product. This added information may state that the labeled net quantity is “equivalent to” a different quantity of another product, provides the “same as” a different product, or is “approximately” equal to a certain volume, count or weight. While manufacturers can and should use advertising and labeling to inform and communicate with consumers, the net quantity statement, and analogous supplemental net quantity statements, should be reserved for accurate and objective declarations, free of these statements. Adding that net quantity statements must be quantifiable and non-ambiguous will serve the purpose of aiding consumers to make better purchase decisions and provide greater and more tangible guidance to manufacturers, packagers, and Weights and Measures officials.

**We recommend this section be updated as follows:**

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



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*expressed in terms that are ambiguous to the average consumer such as “equivalent to”, “same as” or “approximately”.*

**4. The term “U.S. Customary” should be used in lieu of “Inch-Pound” when referencing traditional U.S. units for weight, volume, length, area, etc. We further recommend §500.19 reference one or more NIST sites which provide a complete and comprehensive listing of U.S. Customary/SI unit conversion factors.**

**RE: §500.19 Conversion of SI metric quantities to U.S. Customary inch/pound quantities and U.S. Customary inch/pound quantities to SI metric quantities.**

The term “inch-pound units” is an inaccurate and incomplete expression of the measurement system traditionally used in the U.S. The “Inch-pound” term includes expressions in units of length, area, and weight but does not reference volume. This distinction, which may appear trivial to a U.S. native, is important globally since two measurement systems (imperial and avoirdupois) use the same terms for volume declarations, but define those terms differently. Use of “U.S. Customary units” is more complete, accurate and historically correct.

Additionally, the U.S. Customary/SI unit conversion table provided in §500.19, while representative, does not contain a complete listing of possible conversion factors that a packager may use. We recommend FTC reference more complete conversion tables developed and maintained by the National Institute of Standards and Technology (NIST). Relevant tables exist in NIST Special Publications 811 and 1038, Handbook 44, and Handbook 130. Absent of referencing a conversion table from a NIST publication, we encourage FTC to include a NIST recommended table in §500.19.

**We recommend the regulation be updated as follows:**

*500.19(a) “For calculating the conversion of SI metric quantities to U.S. Customary quantities and U.S. Customary quantities to metric*



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*quantities, the factors published in NIST Handbook 44, Handbook 130, or an analogous NIST reference and none others shall be employed:*

**5. While the FPLA currently requires net quantity statements to be in both U.S. Customary and metric units, we strongly encourage FTC to use enforcement discretion to allow optional use of metric unit only net quantity statements.**

Federal policy states that the metric system is the preferred system of weights and measures for commerce in the United States (15 U.S.C. 205b). In 1992, the Fair Package and Labeling Act was amended to require that International System of Units (also recognized as SI units or metric units) as well as the customary inch/pound system of measure be present in the required label declaration of net quantity of contents of consumer commodities. This requirement to use units from two different measurement systems is globally unique and results in increased complexity for both consumers and manufacturers both inside and outside the U.S. We strongly encourage FTC to adopt policies which support the continued transition to metric only net quantity requirements in the U.S.

Use of metric units in U.S. consumer product labeling has a long history. Even prior to the 1992 FPLA amendments, metric information was present on product labels in areas such as directions for use and voluntarily added information supporting metric size packages. For example, 2-liter bottles were marketed as 2-liter bottles prior to the FPLA amendment which allowed the inclusion of 2 liters to the net quantity statement.

The visibility of the metric labeling continues to increase within the U.S. Many manufacturers have converted their packages and product sizes to metric sizes, especially for liquid products, and the label net quantity statement often begins with the metric declaration. Metric sizes are more common in advertising. The next step in this transition is to allow increased use of metric only net quantity statements.



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When permitted, the transition to metric only net quantity statements will not be instantaneous since manufacturers do not want to alienate their consumers. Allowing the option to convert to metric provides interested manufacturers with the incentive and responsibility to educate their consumers before making a change. In some cases such as the 2-liter bottle, minimal education may be necessary. In other cases, manufacturers may have to do extensive planning over months or years. Importantly, allowing metric only content declarations still preserves the consumer's ability to make fair value comparisons since metric declarations will remain on all packages.

While the FPLA currently requires dual U.S. Customary and metric labeling, the NCWM in 1999 voted to amend the Uniform Packaging and Labeling Regulation (UPLR) to allow products regulated by states to use metric only quantity statements. The UPLR applies to consumer products which are not subject to FPLA. In 2009, NIST conducted a study of U.S. marketplace labeling practices, evaluating 1137 packages in 19 retail stores which covered food, home products, personal care products, hobby and craft products, automotive, hardware, office products and pet supplies. This study found that 17% of products declared net quantity in only metric units. Significantly, over half of the products which were being sold with metric only quantity statements were required to provide both U.S. Customary and metric quantity statements. The fact that this practice was occurring in 2009 (and presumably continues to occur today) without incident, suggests U.S. consumer exposure and acceptance to metric only packaging is growing.

The requirement for dual net content declarations creates additional issues for manufacturers and consumers alike. From a consumer standpoint, dual requirements are longer which makes finding the desired quantity information harder to find. This is especially true for products which require multiple declarations such as paper towels which require declarations for length, width, area, count, and thickness. Further finding this information becomes more complicated when a manufacturer is required to or voluntarily elects to provide labels in two or more languages.



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Another consumer observation is that similarly sized products do not always have an identical net content declaration as a result of rounding. While two products may have an identical first declaration, the second declarations may be slightly different as a result of rounding. Rounding differences can become more pronounced in multiunit and variety packages.

For manufacturers within the U.S., the dual declaration requirement creates added complexity to assure conversions are accurate. This is especially true when sending products to countries with a history of using imperial units for volume rather than avoirdupois units for volume. An imperial fluid ounce is smaller than an avoirdupois fluid ounce. An imperial pint, quart, and gallon are larger than their avoirdupois "equivalents". Outside the U.S., these units are interpreted as imperial declarations.

For manufacturers outside of the U.S., awareness of and compliance with the U.S. dual declaration requirement can be a challenge. The U.S. inch-pound system is unfamiliar and uses terms for units which have different definitions outside the U.S.

For net content declarations, the one elegant solution is metric only labeling. Its units are defined to be the same country to country, its abbreviations are broadly recognized by citizens from many countries and who speak many languages, and it can be consistently applied country to country.

**6. We recommend elimination of the option to use abbreviation periods and plurals from required U.S. Customary unit declarations of net contents.**

**RE: §500.22 Abbreviations and §500.23 Expression of net quantity of contents in SI Metric units**

Use of abbreviation periods and plural forms has virtually disappeared from package net quantity statements, and we encourage FTC to update their regulations to make them consistent with current practice and with the NIST



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Handbooks. Use of both abbreviation periods and plurals has largely been abandoned in order to promote consistency and uniformity in product labeling and to reduce complexity for manufacturers. The requirement to include metric units in the required statement was one primary driver for this since the SI system specifically excludes plurals and abbreviation periods from metric abbreviations. In order to minimize confusion for both consumers and manufacturers, the consensus was that elimination of all plurals and periods from all net quantity statement abbreviations would be the best approach to encourage consistency and simplify requirements. Finally, consumer feedback tells us that abbreviations with periods and plurals are harder to read.

The existing references and examples in the FTC regulation which allow and show periods and plurals can be misinterpreted by a packager to mean that a plural or period should be used. Therefore, we believe the best approach is for FTC to modify or remove these examples and to place less emphasis or remove the option for their use.

## **7. We recommend general recognition and usage of exponents in the U.S. Customary symbol abbreviations used in net quantity statements.**

**RE: §500.22 Abbreviations and §500.23 Expression of Net Quantity of Contents in SI Metric units.**

Current FTC regulations define a very narrow set of permitted abbreviations allowed to appear in the required quantity declaration and declare that none other than those present may be used. We believe FTC should re-examine this list to make it more consistent between allowed practices for U.S. Customary units and SI (metric) units.

The FTC regulations allow use of SI units with exponents such as the cubic centimeter-cm<sup>3</sup>, cubic decimeter-dm<sup>3</sup>, square decimeter-dm<sup>2</sup>, cubic meter-m<sup>3</sup>, square meter-m<sup>2</sup>, square centimeter-cm<sup>2</sup> while simultaneously not allowing the analogous symbols for U.S. Customary units. This provides a label which is at best non-uniform and at worst confusing to the consumer. We recommend U.S. Customary units analogous to their metric counterparts be



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permitted in the FTC regulation. These would include the square inch – in<sup>2</sup>, cubic inch – in<sup>3</sup>, square foot or feet – ft<sup>2</sup>, cubic foot or feet - ft<sup>3</sup>, square yard – yd<sup>2</sup>, and cubic yard – yd<sup>3</sup>.

Use of exponents for U.S. customary units is prevalent in the marketplace and well understood by consumers. In 1994, the Uniform Packaging and Labeling Regulation (UPLR) was amended by the NCWM to allow the use of exponents for square and cubic measures for U.S. Customary units, though they are not explicitly stated as an acceptable abbreviation in §500.22. This was allowed due to manufacturer concern over the space in expanding net quantity declarations from the addition of the metric declarations.

**8. We recommend that §502.100, §502.101 and §502.102 be eliminated because they are no longer relevant to current retail practice and FTC possesses other enforcement tools to address related issues.**

**RE: §502.100 Cents Off Representation, §502.101 Introductory Offers, and §502.102 Economy Size**

We recommend these three sections be eliminated in part because their relevance has been diminished, and FTC regulation and control is better applied through its general advertising laws. The 1970 era retail practices that these regulations were developed to address are rarely utilized in today's marketplace, and there is no reason to expect that elimination of these requirements would prompt a sudden reversion to the practices which prompted them. Importantly, some of these requirements are also very difficult to enforce, such as the §502.100 (5) (i) requirement that "The packager or labeler: does not initiate more than three "cents – off" promotions of any single size commodity in the same trade area within a 12-month period".

**9. Regulatory officials and industry representatives would mutually benefit from clearer guidance on non-functional slack fill.**



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**Re: §502.300 – 502.399, Non-Functional Slack Fill**

Both product manufacturers and regulators would benefit substantially from clearer guidance detailing when slack fill becomes a regulatory issue. While virtually every product has some amount of enclosed empty space, current recommendations and guidances used for defining what is and is not non-functional slack fill are subjective and variable. Without better objective criteria, consistency in making slack fill determinations is a challenge for both manufacturers and regulators. The major questions on slack fill are whether some small amount of empty space, for example, 5 to 10%, should be expected and need not be distinguished between functional and non-functional slack fill, whether functional and nonfunctional slack can be more objectively defined, and can objective and repeatable criteria define when a product is in compliance and not in compliance. The State of California worked with the U.S. cosmetics industry in the late 1980s to establish a more detailed guidance on slack fill. While this guidance is the best information available to educate manufacturers and regulators about slack fill principles and concerns, it lacks the degree of specificity necessary to make objective decisions. We encourage the FTC to work with regulators and industry to develop clearer and more objective guidance on this topic.

**10. We recommend that §503.2 specifically state that products exempt from Federal FPLA are still subject to state labeling laws.**

**RE: §503.2 – Status of Specific Items Under the FPLA**

When a commodity does not fall under FTC jurisdiction or is specifically exempted from FPLA requirements, we recommend FTC regulations formally communicate that individual states are not prohibited from requiring labeling requirements under their own laws. While the FTC web page states that “Many products that are exempt from the FPLA nevertheless fall within the purview of the Weights and Measures laws of the individual states.” ([www.ftc.gov/os/statutes/fpla/outline.html](http://www.ftc.gov/os/statutes/fpla/outline.html)), many manufacturers look to FTC regulations for direction and do not review the information on the website.



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Inclusion of a statement in the regulations similar to that on the website would be extremely helpful in eliminating confusion and promoting uniformity.

Currently, the current wording is often misinterpreted by manufacturers to mean that they are not required to label their product because it is exempted by the FTC.

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

In addition, the current listing of items exempted in §503.2 Status of Specific Items Under the Fair Packaging and Labeling Act should be reviewed for relevance.

**11. We recommend consideration of whether the current definition of consumer commodity should be revised to reflect current market practice.**

**RE: §503.5 Interpretation of the definition of a “consumer commodity” as contained in section 10(a) of the FPLA and §500.2(c) Terms defined.**

Consideration should be used to revise and expand the definition of a consumer commodity within the meaning of the Act to include anything offered for sale at a retail location, whether a physical or virtual (i.e., internet, smartphone, tablet) store site. The current definition appears to be somewhat restrictive. It is believed that the intent of FPLA is that all packages should have labels that enable consumers to obtain accurate information as to the quantity of contents and should facilitate value comparisons. Exclusions under the definition should be minimal at most, as this information is needed in labeling by consumers on nearly all consumer commodities.



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This is emphasized in §503.5 (5) (g) below.

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

**12. For products labeled by count, we recommend the required statement of net quantity recognize clear and non-misleading icons as an alternative to words.**

**Section 503.4**

**Net Quantity of Contents, Numerical Count**

An increasing number of consumers within the U.S. do not speak English as their primary language. Additionally, this subset of consumers is quite diverse, speaking dozens of languages originating from Latin America, Africa, Southeast Asia, Eastern Europe, China, Japan, Korea, and the Middle East. For these consumers, comprehension of required information on U.S. product packages can be a challenge, especially when attempting to make value comparisons related to net quantity. While some manufacturers have optionally added Spanish to their product labels to assist one subgroup of



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these consumers, adding language to assist all these consumers is not practical.

Value comparisons for products labeled by count can be especially difficult since the package's required net quantity statement may not contain any of the common and familiar units required for packages labeled by weight, volume or length. One means to help minimize the language barrier is to allow products labeled by count to use a clear and non-misleading icon in the expression of net contents. In this circumstance, all other net quantity requirements including location, size, contrast, and separation would still apply, and it would be the responsibility of the manufacturer to ensure a package icon is clear and non-misleading. Regulators would have full authority to challenge whether a net content statement is accurate and clear based on the clarity of the icon. Advances in technology now allow icons on package labels to be very precise and detailed, which greatly increases the ability for icons to be clear and non-misleading.

Icons on package labels are being used both inside and outside of the U.S. already. The advantage of icons is that they are largely universal and mean the same things to consumers regardless of their primary language. The old saying, "a picture speaks one thousand words", is relevant, but in this case it means a picture speaks words in many languages. Icon use currently is most common in areas where the same product is marketed to consumers who speak different languages, either because they are together in a common country or live in a cluster of relatively small neighboring countries. Icons allow the net content information to be presented simply and clearly even on packages which otherwise might have 2, 3 or 4 languages present on the label.

**13. We recommend formal recognition of the "largest common whole unit" for the U.S. Customary Unit portion of a net content statement when several sizes of the same product are being sold to facilitate consumer value comparison.**

**Sections 500.9, 500.10, 500.11, 500.12, 500.13, 500.14,  
Expression of Units of Weight, Fluid Measure, Length, Width, Area, and Cubic Measure**



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In order to maximize a consumer's ability to make fair value comparisons at the point of purchase, we encourage FTC to interpret "largest whole unit" in the U.S. Fair Packaging and Labeling Act to mean "largest whole common unit" when a manufacturer markets several sizes of the same product. We believe this will facilitate a consumer's ability to make value comparisons by eliminating the need to attempt conversions between ounces and pounds or quarts and fluid ounces. We also believe this will simplify the product label, making it easier for consumers to find the net content information they rely upon for making purchase decisions.

The current regulations in §500.9, §500.10, §500.11, §500.12, §500.13 and §500.14 detail the required units for labeled net contents, based on the quantity contained in the package. For example, §500.9 specifies ounces for net content declarations under 1 pound, and pounds for packages over 1 pound. In the §500.10 fluid measure regulation, fluid ounces are specified for net contents less than 1 pint, largest whole unit (pint or quart) for sizes between 1 pint and 1 gallon, and gallon for sizes 1 gallon or more. While these requirements can be viewed as reasonable when considered uniquely and individually, these requirements can appear overly prescriptive in many instances and actually can make consumer value comparisons more complicated. This is most readily apparent in instances where a consumer attempts to make value comparisons between different sizes of the same product.

This is illustrated by the two examples below:

**Example 1:**

Powder detergent sold in sizes of 12.5 ounce, 25 ounce, and 50 ounce sizes. Rather than labeling these products simply as 12.5 ounces, 25 ounces, and 50 ounces, the current regulations mandate the net contents be 12.5 ounces, 1 pound 9 ounces, and 3 pounds 2 ounces or 12.5 ounces, 1.56 pounds, and 3.12 pounds.



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**Example 2:**

Liquid detergent sold in 18 fluid ounce, 36 fluid ounce, and 72 fluid ounce sizes. Instead of declaring 18 fluid ounces, 36 fluid ounces, and 72 fluid ounces, the current FTC regulation requires that these products be labeled as 1 pint 2 fluid ounces, 1 quart 4 fluid ounces, and 2 quart 8 fluid ounces or 1.12 pints, 1.25 quarts, and 2.5 quarts.

In both the examples cited above, it may not be obvious to the consumer that the second product is twice as big as the first and that the third product is 4 times as large. This is a result of the prescribed units themselves not lending themselves to be easily applied and used by a consumer. Further, unit pricing is often based on the package label, so in most states, there is no assurance that unit prices for the products cited above will be in a common unit.

This issue was identified and discussed with FTC at the time the existing FPLA regulations were adopted following the adoption of the 1992 Act Amendment which mandated a package's statement of net quantity be expressed in both inch-pound and metric units. At that time, the suggestion to allow the option to include the largest common whole unit (usually either ounces or fluid ounces) to appear "immediately adjacent" to the required statement was adopted into the FTC regulations. While some manufacturers do provide a second optional statement, this is totally optional and its prevalence varies by product and company.

In the past 15 to 20 years, it has become apparent that the current required statement in many instances does not easily facilitate product comparisons by consumers. A better approach is to allow a manufacturer to label a brand's product sizes in terms of a single common unit, provided other required provisions, such as the rule of 1000, are not violated. Allowing this approach could be accomplished by the addition of 1-2 statements in the sections cited above.



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Part of the justification for permitting this change is found in the following citation in §500.7 on the expression of net contents which allows some flexibility if there is a firmly established usage or custom “when such declaration provides sufficient information to facilitate value comparisons by consumers”.

**14. FTC Regulation or Guidance for providing net quantity statements for multilingual products intended for sale in the U.S. and products sold in the U.S. and at least one other country would benefit manufacturers and U.S. consumers.**

One challenge for both domestic and foreign manufacturers who are trying to comply with the labeling requirements of the U.S. and at least one foreign country is the net quantity statement. The dual Customary unit/SI unit U.S. requirements, differences in declarations for certain product forms, U.S. product label language requirements, and foreign country requirements combine to create net content challenges that we believe were simply not contemplated when these regulations were drafted. The result of this confluence of regulations is that each manufacturer is left to create their own approach based on their assessment of the regulations; package quantity declarations can become overly expansive making it hard for consumers to find the information they seek; and regulators lack guidance on how to best assist consumers and manufacturers. Despite well-intentioned efforts by manufacturers, the result is a lack of uniformity on emerging questions pertaining to package net contents.

The following 3 issues illustrate these concerns.

*ISSUE 1: Semi-solid Product for sale in both U.S. and Canada*

In the United States, a semi-solid product such as a paste or viscous liquid is generally required to be labeled by weight and mass. In Canada, this same product is required to be labeled by volume. A company wishing to market the same product and package in both the U.S. and Canada therefore has the challenge of creating a net content statement compliant with both the volume



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requirements of the Canada and the weight requirements of the U.S. This relatively simple scenario creates several significant issues and currently, there is minimal guidance for how this can or must be provided. For instance, can both the weight declaration and the volume declaration appear in a single net content statement? Would two separate net quantity statements be required? Can a manufacturer provide a U.S. net quantity statement on one line and a Canadian net quantity statement on another line as part as a single overall net content statement? If a single overall net content statement is preferred, should "Canada" and "U.S." be mandated or optionally added to net content declarations to help distinguish what information applies to consumers of either country? Should manufacturers be required to create a single integrated net content statement which mixes required elements for the U.S. and Canada based on language? How will language requirements and questions about the interpretation of imperial vs. avoirdupois ounces, pints, quarts, and gallons be reconciled? Finally, is it confusing to potentially have both ounces and fluid ounces appear on the same label? Some possible net content statements for this product might be:

45 OZ (2.81 LB) 1.27 kg  
1.0L 1.06 US QT/PTE É.-U.

45 OZ (2.81 LB) 1.27 kg  
1.0L 1.06 US QT/PTE É.-U.(37.418 FL OZ LIQ)

45 OZ (2.81 LB) 1.27 kg  
1.0L 37.418 FL OZ LIQ

45 OZ (2.81 LB) 1.27 kg  
1.0L 1.87 PINT

45 OZ (2.81 LB) 1.27 kg  
1.0L 37.418 FL OZ LIQ (33.9 US FL OZ/FL OZ LIQ É.-U.)



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45 OZ (2.81 LB) 1.27 kg  
1.0 L

45 OZ (2.81 LB) 1.27 kg 1.0L

45 OZ (2.81 LB) 1.27 kg 1.0 L 1.06 US QT/PTE É.-U.

2.81 LB 1.27 kg  
1.0 L 1.06 US QT/PTE É.-U.

US: 45 OZ (2.81 LB) 1.27 kg  
Canada: 1.0L 1.06 US QT/PTE É.-U.

45 OZ (2.81 LB) 1.27 kg 1.0L 1.06 US QT/PTE É.-U.

US: 45 OZ (2.81 LB) 1.27 kg  
Canada: 1.0L

We recommend that a single net content statement be permitted which specifies information for one country followed by the information required by the second country. We believe there may be situations where including country names may be helpful to facilitate clarity. We do not believe two separate net quantity declarations should be permitted. Based on these recommendations, the following two net content statements would be preferred by our Subcommittee:

45 OZ (2.81 LB) 1.27 kg  
1.0 L

US: 45 OZ (2.81 LB) 1.27 kg  
Canada: 1.0 L

Issue 2: Multilingual Packages



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A second issue relates to the how the United States' dual U.S. Customary and SI net quantity requirement relates to packages labeled in more than one language intended for sale in the U.S. The increasing prevalence of multilingual packages coincides with the growing diversity of the U.S. population. As manufacturers attempt to establish best practices for creating multilingual packages, the required declaration of net contents creates challenges in uniformity for manufacturers. FDA regulations specify that any inclusion of a foreign language on a product label requires that all regulated elements of the package appear in that foreign language. This includes the net quantity statement. Absent any reference in FTC regulations, some firms follow the FDA approach to their products regulated by FTC. For a paper towel product, the result is the following net quantity statement:

2 ROLLS • 14.9 m<sup>2</sup> (161.3 SQ FT) • 96 TWO-PLY SHEETS PER ROLL •  
27.9 cm X 27.9 cm (11 IN X 11 IN) ESSUIE-TOUT 2 ROULEAUX • 14,9  
m<sup>2</sup> (161,3 PI<sup>2</sup>) • 96 FEUILLES DEUX ÉPAISSEURS PAR ROULEAU • 27,9  
cm X 27,9 cm (11 PO X 11 PO) CONTENDINO: 2 ROLLOS DE TOALLAS  
DE PAPEL CON 96 HOJAS DOBLES POR ROLLO • 14,9 m<sup>2</sup> (161,3 PG<sup>2</sup>)  
•27.9 cm X 27.9 cm (11 PULGADAS X 11 PULGADAS)

This label is currently in use in the U.S. market. Other companies make no change to the net content at all, while others create still other approaches which they believe to be in the best interests of consumers.

We encourage FTC to provide a reasoned approach to promote marketplace uniformity and consistency and benefit the consumer by making it easier for them to find them to find the information they need to make a value comparison. Using the example above, we believe that translations for inches and square feet are not appropriate because most consumers will focus on either the U.S. Customary declarations or the SI declarations. This would result in a simpler quantity declaration as follows:

2 ROLLS • 14.9 m<sup>2</sup> (161.3 SQ FT) • 96 TWO-PLY SHEETS PER ROLL •  
27.9 cm X 27.9 cm (11 IN X 11 IN) ESSUIE-TOUT 2 ROULEAUX • 14,9



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m<sup>2</sup> • 96 FEUILLES DEUX ÉPAISSEURS PAR ROULEAU • 27,9 cm X 27,9 cm  
CONTENDINO: 2 ROLLOS DE TOALLAS DE PAPEL CON 96 HOJAS DOBLES POR ROLLO • 14,9 m<sup>2</sup> • 27.9 cm X 27.9 cm

A further option would be to eliminate redundant declarations which would result in the following declaration:

2 ROLLS • 96 TWO-PLY SHEETS PER ROLL • ESSUIE-TOUT 2 ROULEAUX • 96 FEUILLES DEUX ÉPAISSEURS PAR ROULEAU  
CONTENDINO: ROLLOS DE TOALLAS DE PAPEL CON 96 HOJAS DOBLES POR ROLLO 14.9 m<sup>2</sup> (161.3 SQ FT) 27.9 cm X 27.9 cm (11 IN X 11 IN)

A final option would be for FTC to determine that current net content requirements satisfy the net quantity statement requirement for multilingual packages in most or all instances. For this package, this would result in the following declaration:

2 ROLLS • 14.9 m<sup>2</sup> (161.3 SQ FT) • 96 TWO-PLY SHEETS PER ROLL • 27.9 cm X 27.9 cm (11 IN X 11 IN)

Many product brands span regulation jurisdiction by FDA and FTC. For example, the paper towel above would be traditionally regulated by FTC but the same product claiming to be safe for use in microwaving food would be regulated by FDA and it is likely these 2 products would appear side-by-side on the store shelf. We encourage FTC to work with FDA to create a single common approach for multilingual net content statements which is applicable to all products regulated by both Agencies.

Issue 3: Combination Packages with FDA and FTC Products

The FDA foreign language requirement sited in Issue 2 above also becomes an issue for combination packages comprised of individually labeled packages regulated FDA and individually labeled packages regulated by FTC. Examples of these combination packages might be a razor, shaving cream and



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deodorant; or diapers, baby wipes and a diaper rash lotion. In instances like these where one or more individual products are regulated by both FTC and FDA, the combination package labeling requirements can become very complicated as a result of the FDA language requirement. For example, if the diaper package is labeled in Spanish and English, the wipe product is labeled in English and French, and the lotion product labeled in only English, the resulting combination package would require trilingual labeling for all three product's required label elements, including the net quantity statement. We believe this was not the intent of the FDA regulation however, absent any further clarification or guidance, this is how existing regulation is being interpreted for combination products spanning both FDA and FTC jurisdiction. We are also aware that there is not uniformity and consistency on this topic amongst manufacturers as each attempt to find their own solution to best meet the needs of retailers and consumers.

The Subcommittee believes that combination and variety package labeling, including the required declaration of net quantity, should be unaffected by whether an individual package is bilingual or trilingual provided it has English as one of its languages. While manufacturers may voluntarily elect to include additional language to the combination or the variety package label, they should not be required to provide this information. Requiring new translations of primary package labels present in English only labels creates the very real potential for significant combination package errors in label translations.

The Subcommittee strongly encourages FTC to establish a more practical and consumer friendly regulation for multilingual combination and variety package labeling. We further encourage FTC to coordinate with FDA to establish consistent requirements for packages spanning the jurisdiction of both agencies.

The Package and Labeling Subcommittee of the National Conference on Weights and Measures appreciates the opportunity to comment on this important proposal and would be happy to discuss any of these comments in



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more detail. For any questions or further discussion, please contact the undersigned at (513) 983-0530 or [guay.cb@pg.com](mailto:guay.cb@pg.com).

Sincerely,

Christopher B Guay  
Chairman  
Package and Labeling Subcommittee