

**Institute of Electrical and Electronics Engineers  
Standards Coordinating Committee 14**

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**FPLA Rules, 16 CFR Parts 500-503, Project No. R411015**

Standards Coordinating Committee 14 (SCC14) of the Institute of Electrical and Electronics Engineers (IEEE) submits the following comments in response to the FTC NPRM and RPC regarding the Fair Packaging and Labeling Act (FPLA).

IEEE/SCC14 is the committee within IEEE's Standards Association that is concerned with metric standards and related issues. This committee provides half of the joint committee that publishes IEEE/ASTM SI 10 "The National Standard for Metric Practice". As such, SCC14 is well equipped to possess a broad overview of metric issues.

**(1) Is there a continuing need for the Rules as currently promulgated? Why or why not?**

The FPLA is indeed essential to ensure that consumers are presented with easily understood statements of content. The free marketplace enjoyed in the United States depends on a well-informed consumer.

**(2) What benefits have the Rules provided to, or what significant costs have the Rules imposed on, consumers? Provide any evidence supporting your position.**

The FPLA has provided logical direction on labeling that is meaningful. For example, liquids are usually required to be labeled by volume and solids by mass. Moreover, similar products from various vendors must be labeled essentially the same way, which promotes enlightened comparative shopping. This is of great benefit to the public. The evidence for this lies within the aisles of every affected store.

In 1992 dual labeling was added as a requirement. See <http://www.nist.gov/pml/wmd/metric/pack-lab.cfm> as a citation for this assertion. This specified use in most cases of both metric and non-metric labeling. The promotional announcements of this FPLA amendment was that the public would then be provided with an opportunity to see the two sets of units side-by-side which then would ease the expected transition to increased and eventually full use of the metric system in the United States. The evidence for this is in the federal government's own public record and in the Omnibus Act of 1988.

Unfortunately, in this country labeling is controlled by several agencies, depending on the product being labeled. This has resulted in some inconsistencies. For example, the FTC, USDA, and others specify the symbol  $\mu$  for the metric prefix micro while the FDA specifies the symbol mc. All agencies should adhere to the guidance of National Institute of Standards and Technology (NIST) Special Publication 330. However, that is outside the scope of this NPRM and RPC.

**(3) What modifications, if any, should the Commission make to the Rules to increase their benefits or reduce their costs to consumers?**

We have exposed the public to more than 20 years to dual labeling. The public has obviously taken advantage of that and is now much more knowledgeable about metric units.

The time has come for the federal government to move ahead by permitting metric-only labeling. That need not be a requirement, but should be allowed as an option to vendors.

**(a) Provide any evidence supporting your proposed modifications.**

Public awareness is evident in the increased use of metric only labeling on some products despite the dual-label requirements of the FPLA. NIST has a database of such items and notes that no complaints have been lodged as a result of those products failing to show non-metric indications!

Even more evident is the acceptance of the model Uniform Packaging and Labeling Regulation (UPLR) developed by the National Conference of Weights and Measures (NCWM) in 1999 with a starting date of January 1, 2000. All states and regulatory districts but for the State of New York now permit metric-only labeling on goods that fall under their jurisdictions! And New York states that it is waiting only for the FPLA to be modified similarly.

There are those who say permitting metric only labeling will be harmful to those business that chose to do so and benefit those who do not change (i.e., retain dual labeling). If consumers begin to make purchasing decisions based on product unit labeling, the market will quickly sort itself out and manufactures will adjust. It is just as likely that certain market segments will collaborate to offer standardized packaging labeling to aid consumers and increase overall market share. It may also encourage better labeling consistency. Where this is not the case, natural market competition will dictate if a product should be dual labeled or if metric only labeling will provide benefits. The rule changes will therefore have a neutral impact on competition and should be strongly supported by free market advocates as it gives flexibility to producers without compromising consumers' ability to make smart choices in the marketplace.

The NIST web page <http://www.nist.gov/pml/wmd/metric/pack-lab.cfm> provides a wealth of pertinent data supporting this proposal. In particular, a link on that page points to a marketing survey that NIST performed in 2009 on at least 1137 items in 19 retail stores. This survey report states:

Of those packages examined, 17 % declared the net quantity of contents in only metric units. Almost 57.5 % of those metric packages were found to be non-compliant with current FPLA dual labeling requirements. The majority of the parties responsible for manufacturing or distributing 61 % of the metric products were U.S. companies. Metric packages are present in the U.S. marketplace and consumer exposure to metric packaging is growing as demonstrated by their availability in a broad range of retail stores.

and

The long standing convention that the marketplace will determine when metric labeling is appropriate is becoming a reality. Some U.S. manufacturers are choosing to use metric labeling for their products, which is in conflict with the current FPLA. Metric labeling has emerged into the retail distribution supply chain without causing disruption to U.S. consumers and retailers. Consumers purchase packages that are labeled exclusively with metric units every day. Impacts appear to be minimal as metric labeled products are absorbed into normal retail functions. Metric packages are displayed alongside other dual labeled products and do not appear to interfere with normal retail operations, such as machinery, packaging and shipping containers, or shelving.

This study is described in detail in <http://www.nist.gov/pml/wmd/metric/upload/Marketplace-Assessment-Metric-Labeling-Retail-Stores-Dec2009.pdf>.

**(b) How would these modifications affect the costs and benefits of the Rules for consumers and businesses, including small businesses?**

The costs of labeling are expected to fall if metric-only labeling is permitted. Also, goods produced in the United States would then have more market opportunities outside the United States, where virtually all measurements are in terms of metric units. In short, not permitting metric-only labeling puts businesses in the United States at a disadvantage in the global marketplace, in addition to unnecessarily encumbering them with extraneous labeling costs.

On November 7, 2002 and again a year later NIST hosted stakeholder meetings on this issue. See <http://www.nist.gov/pml/wmd/pubs/upload/F-009.pdf>. The response was overwhelmingly in favor of permitting (but not requiring) metric-only labeling. To date, only one group of vendors has presented significant objection, namely the Food Manufactures Institute. They claim costs would accrue due to changes in labels and package sizes. Yet the truth is that manufacturers routinely change labels and package sizes. Further, by making metric-only labeling permissive rather than a requirement, vendors could ignore that amendment to the FPLA if they chose to.

**Questions (4) and (5) are omitted here without comment.**

**(6) What modifications, if any, should be made to the Rules to increase their benefits or reduce their costs to businesses, including small businesses?**

As stated above, the FPLA should be revised to permit metric-only labeling, at the discretion of individual vendors.

**(a) Provide any evidence supporting your proposed modifications.**

Please see the above and note the minutes of the stakeholders meeting hosted by NIST several years ago. See <http://www.nist.gov/pml/wmd/pubs/upload/F-009.pdf> for example.

**(b) How would these modifications affect the costs and benefits of the Rules for consumers and businesses, including small businesses?**

As was stated by vendor after vendor in those stakeholder meetings, permissive metric-only labeling would increase the options open to businesses. Due to production scaling effects on marginal costs, small businesses should especially benefit from this. Consumers have had over 20 years to become familiar with metric labeling and their lack of complaint about such products now being sold with only metric labels is the proof of that. Still, should a consumer prefer, he or she could purchase a competing product that is dual labeled.

**(7) Provide any evidence concerning the degree of industry compliance with the Rules. Does this evidence indicate that the Rules should be modified? If so, why and how? If not, why not?**

As mentioned already, products are already being sold with metric-only labels. Some of those fall under the aegis of the states' own regulations (modeled after the UPLR) but some are under federal aegis and yet disregard the requirement to use non-metric indications. Nobody has complained!

**Questions (8) and (9) are omitted here without comment.**

**(10) What modifications, if any, should be made to the Rules to account for current or impending changes in technology or economic conditions?**

Producers in the United States are the only ones required to use non-metric labeling and then only on products where the federal government controls labeling. The other 95 % of the people in the world have poor understanding of our non-metric units and do not use them unless they market goods in the United States that fall under the FPLA. Indeed, the European Union (EU) came very close to prohibiting imports of goods into Europe for sale if the packaging, directions, or instructions included non-metric units per EU Metric Directive (80/181/EEC). That was deferred most recently and at the last minute due to the failure of the United States to amend the FPLA to accommodate permissive metric-only labeling. But the EU will again review its policy in 2018 with a goal of complete global metrication by the end of 2019. Currently, Australia, Japan, and South Korea have restrictions in place that prohibit importing goods with non-metric indications. This puts our vendors at the disadvantage of having to run two packaging lines.

**(a) Provide any evidence supporting the proposed modifications.**

NIST can provide documentation of the above. See the previous citations in this letter.

**(b) How would these modifications affect the costs and benefits of the Rules for consumers and businesses, including small businesses?**

Producers who wish to could then market globally by using metric-only labeling if they wish to do so and would then not incur the costs of running two packaging lines. Producers who do not wish to would be free to ignore this permissive metric-only labeling option.

**(11) Do the Rules duplicate or conflict with other federal, state, or local laws or rules, such as those enforced by U.S. Food and Drug Administration? If so, how?**

As noted above, several agencies impose rules that are contrary to the FPLA. The FPLA should apply government-wide. The proper symbols should be used for all units and prefixes (e.g., g instead of gm for gram,  $\mu$  instead of mc for micro, etc.)

**(a) Provide any evidence supporting your position.**

NIST SP 330 at <http://www.nist.gov/pml/pubs/sp330/index.cfm> .

**(b) With reference to the asserted conflicts, should the Rules be modified? If so, why and how? If not, why not?**

They should be modified as needed to reflect NIST SP 330 for the sake of consistency and comprehension. This will provide businesses to choose for themselves whether to use metric-only labeling. All others will be unaffected. It will benefit some people and harm nobody at all.

**Question (12) is omitted here without comment.**

**(13) Are there foreign or international laws, regulations, or standards with respect to product packaging and labeling that the Commission should consider as it reviews the Rules? If so, what are they?**

Until the United States achieves full metrication, the participants in our free marketplace should be free to use metric-only labeling since that is acceptable in every other country in the global marketplace. In fact, some of those marketplaces prohibit or soon will prohibit non-metric markings. The inclusion of the dual-label requirements in the FPLA to familiarize Americans with metric units was brilliant and wonderfully successful. Americans are ready to move on now. Failure to make metric-only labeling a permissive option would now serve only to hamper businesses in the United States. IEEE members work in thousands of those businesses and so we plead on their behalf for permissive metric-only labeling in the FPLA.

**(a) Should the Rules be modified in order to harmonize with these international laws, regulations, or standards? If so, why and how? If not, why not?**

The rules should be modified to permit the option of using metric-only labeling. This would facilitate global marketing by United States producers. Whereas large producers might be able to afford multiple product packaging and labeling lines, small businesses are less able to do so.

**(b) How would such harmonization affect the costs and benefits of the Rules for consumers and businesses, including small businesses?**

Permitting the option of using metric-only labeling allows a producer to choose the most economical method for labeling and marketing its product, thus cutting costs.

**(c) Provide any evidence supporting your position.**

This is just plain common sense!