

OHIO WEIGHTS & MEASURES LAWS & RULES



Mike DeWine, Governor

John Husted, LT. Governor

Dorothy Pelanda, Director

Sean Brown, Chief

Revised March 2021

TABLE OF CONTENTS

OHIO REVISED CODE.....	3
1. STATE SEALER	
a. ORC 901.08 Appointment of Division Chief	3
b. ORC 901.10 State Sealer Duties	3
c. ORC 901.16 Inspection of Gas Meters & Meter Provers	3
2. COUNTY SEALER	
a. ORC 319.55 County Sealer.....	4
b. ORC 319.57 County Sealer Shall Deliver Copies to Successor	4
c. ORC319.58 Use of False Weights & Measures.....	4
d. ORC 319.59 Appointment of Inspectors; Salaries.....	4
e. ORC 319.60 Injunctions	5
3. CITY SEALER	
a. ORC 733.63 Sealer of Weights & Measures	6
b. ORC 733.64 Qualifications and Compensation of Sealer	6
c. ORC 733.65 Oath and Bond of Sealer; Appointment of Inspectors.....	6
d. ORC 733.66 Comparison with State Standards.....	6
e. ORC 733.671 Seeking Injunction Against Violation of Weights & Measures Laws	6
4. COMMERCIAL TRANSACTIONS – WEIGHTS & MEASURES	
a. ORC 1327 Weights & Measures.....	7
OHIO ADMINISTRATIVE CODE	19
1. NIST Handbook	
a. OAC 901:6-1.....	19
2. National Type Evaluation Program (“NTEP”)	
a. OAC 901:6-2.....	20
3. Labeling & Packaging	
a. OAC 901:6-3.....	26
4. Device Registration & Permitting	
a. OAC 901:6-4.....	63
5. Motor Fuel Devices	
a. OAC 901:6-5.....	64
6. Method of Sale	
a. OAC 901:6-7.....	69
7. Voluntary Service Person/Agency Registration	
a. OAC 901:6-8.....	96
8. Minimum Training Requirements	
a. OAC 901:6-9.....	100

OHIO REVISED CODE

WEIGHTS & MEASURES LAWS – STATE SEALER

ORC 901.08 Appointment of chiefs of divisions.

The director of agriculture shall appoint a chief of the division of administration, a chief of the division of animal health, a chief of the division of livestock environmental permitting, a chief of the division of soil and water conservation, a chief of the division of dairy, a chief of the division of food safety, a chief of the division of markets, a chief of the division of plant health, a chief of the division of weights and measures, a chief of the division of meat inspection, a chief of the division of consumer protection laboratory, a chief of the division of enforcement, and a chief of the division of amusement ride safety.

ORC 901.10 Division of weights and measures - state sealer - duties.

(A) There is hereby created in the department of agriculture a division of weights and measures. The director of agriculture shall be the state sealer of weights and measures. The director shall appoint a deputy state sealer as prescribed by section 901.08 of the Revised Code. Such deputy shall be chief of the division and shall be responsible to the director for the administration and enforcement of all weights and measures laws.

(B) The director may call training sessions for sealers of weights and measures from counties and municipal corporations and their inspectors for the purpose of instructing them in the proper administration of weights and measures laws and rules adopted pursuant thereto. Traveling expenses incurred by such officials shall be paid out of the treasury of the proper county or municipal corporation upon the presentation of a certificate from the director certifying the fact of such attendance, and upon allowance by the proper authority of the county or municipal corporation.

ORC 901.16 Inspection of gas meters and meter provers.

The state sealer shall have charge of all the apparatus and property, belonging to the state, intended for the inspection of illuminating gas and gas meters, and the testing of the registration of meter provers; he shall test the registration of all meter provers that are presented to him for that purpose, and stamp and seal all such meter provers, so tested, that are found correct. For testing the registration of gas meter provers, to be paid by the persons requiring such service, he shall be allowed the sum of five dollars per hour, but not more than fifty dollars for each meter prover tested.

WEIGHTS & MEASURES LAWS – COUNTY SEALER

ORC 319.55 County sealer.

The county auditor shall be county sealer of weights and measures and shall be responsible for the preservation of the copies of all standards in his possession. He shall submit such standards to the state sealer at such times as may be required by regulation of the director of agriculture. The auditor shall see that all state laws relating to weights and measures are strictly enforced throughout his county, and shall assist generally in the prosecution of all violations of such laws.

ORC 319.57 County sealer shall deliver copies to successor.

When a county sealer resigns, is removed from office, or removes from the county, he shall deliver to his successor in office the standards, beams, weights, measures, and records in his possession. In case of the death of a county sealer, his representatives, in like manner, shall deliver to his successor in office such beams, weights, measures, and records.

In case of neglect or refusal to deliver such standards and records entire and complete, the successor in office may maintain a civil action against the person so refusing or neglecting, and recover double the value of such standards as have not been delivered, with costs of suit, which shall be appropriated by such successor to the purchase of such standards as are required in his office.

ORC 319.58 Use of false weights and measures.

If any person uses any weights, measures, or beams, in weighing or measuring, which do not conform to the standards of the state, or any other measures established by law, whereby a dealer in, purchaser of, or seller of any commodity or article of traffic is injured or defrauded, such dealer, purchaser, or seller may maintain a civil action against the offender, and if judgment is rendered him, he shall receive double damages and costs of suit.

ORC 319.59 Appointment of inspectors - salary.

Each county sealer of weights and measures shall appoint, by writing under his hand and seal, one or more inspectors, who shall compare weights and measures wherever they are used or maintained for use within his county, or which are brought to the office of the county sealer for that purpose, with the copies of the standards in the possession of the county sealer. Such inspectors shall receive a salary fixed by the county sealer, to be paid by the county, which shall be instead of all fees or charges otherwise allowed by law. Such inspectors shall also be employed by the county sealer to assist in the prosecution of all violations of law relating to weights and measures.

ORC 319.60 Injunctions.

The county sealer or his inspector may apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating any provisions of the weights and measures laws or regulations issued by the director of agriculture pursuant thereto.

WEIGHTS & MEASURES LAWS – CITY SEALER

ORC 733.63 Sealer of weights and measures.

The mayor of a municipal corporation may appoint a sealer of weights and measures, who shall hold office coextensive with the term of office of the mayor who made his appointment, unless otherwise removed from office.

ORC 733.64 Qualification and compensation of sealer.

The sealer of weights and measures of a municipal corporation shall be a competent person for the position, and shall receive a salary fixed by ordinance, to be paid by the municipal corporation, which salary shall be in lieu of all fees or charges.

ORC 733.65 Oath and bond of sealer - appointment of inspectors.

The sealer of weights and measures, before entering upon official duties, shall take the oath of office required by section 733.68 of the Revised Code. Except as otherwise provided in the municipal charter or in section 3.061 of the Revised Code, the sealer shall give bond to the municipal corporation in such amount as is prescribed by ordinance, with security to the approval of the mayor, and conditioned for the faithful performance of official duties. The sealer may appoint inspectors to assist the sealer in the sealer's duties if authorized by the legislative authority.

ORC 733.66 Comparison with state standards.

The sealer of weights and measures of a municipal corporation shall, at such times as may be required by regulation of the director of agriculture, submit all of his standards to the state sealer for comparison with the state standards.

ORC 733.671 Seeking injunction against violation of weights and measures laws.

The municipal sealer may apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating any provision of the weights and measures laws or regulations of the director of agriculture issued pursuant thereto.

COMMERCIAL TRANSACTIONS – WEIGHTS & MEASURES

ORC 1327: Weights & Measures

ORC 1327.291 Prohibited agreements to gain competitive advantage in sale of milk or milk products.

No milk dealer shall directly or indirectly through arrangements with other persons provide refrigerated bulk milk dispensers or parts or accessories thereof to any other person as a means of awarding a premium, rebate, or discount in order to gain competitive advantage in the sale of milk or milk products. Whenever any such item is provided or sold at less than its prevailing wholesale price, it shall be presumed it was provided as a premium, rebate, or discount.

ORC 1327.46 Standard provisions definitions.

As used in sections 1327.46 to 1327.61 of the Revised Code:

(A) "Weights and measures" means all weights and measures of every kind, instruments and devices for weighing and measuring, and any appliances and accessories associated with any such instruments and devices, except that "weights and measures" shall not be construed to include meters for the measurement of electricity, gas, whether natural or manufactured, or water when the same are operated in a public utility system. Such electricity, gas, and water meters, and appliances or accessories associated therewith, are specifically excluded from the purview of the weights and measures laws.

(B) "Intrastate commerce" means all commerce or trade that is begun, carried on, and completed wholly within the limits of this state, and "introduced into intrastate commerce" defines the time and place in which the first sale and delivery of a commodity is made within the state, the delivery being made either directly to the purchaser or to a common carrier for shipment to the purchaser.

(C) "Package" means any commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale.

(D) "Consumer package" means a package that is customarily produced or distributed for sale through a retail sales agency for consumption by an individual or use by an individual.

(E) "Weight" as used in connection with any commodity means net weight.

(F) "Correct" as used in connection with weights and measures means conformity with all applicable requirements of sections 1327.46 to 1327.61 of the Revised Code and rules adopted pursuant to those sections.

(G) "Reference standards" means the physical standards of the state that serve as the legal reference from which all other standards and weights and measures are derived.

(H) "Working standards" means the physical standards that are traceable to the reference standards through comparisons, using acceptable laboratory procedures, and used in the enforcement of weights and measures laws and rules.

(I) "Sale from bulk" means the sale of commodities when the quantity is determined at the time of sale.

(J) "Net weight" means the weight of a commodity, excluding any materials, substances, or items not considered to be a part of the commodity. Materials, substances, or items not considered to be part of the commodity include, but are not limited to, containers, conveyances, bags, wrappers, packaging materials, labels, individual piece coverings, decorative accompaniments, and coupons.

(K) "Random weight package" means a package that is one of a lot, shipment, or delivery of packages of the same commodity with no fixed pattern of weights.

(L) "Sold" includes keeping, offering, or exposing for sale.

(M) "Commercially used weighing and measuring device" means a device described in the national institute of standards and technology handbook 44 or its supplements and revisions and any other weighing and measuring device designated by rules adopted under division (C) of section 1327.50 of the Revised Code. "Commercially used weighing and measuring device" includes, but is not limited to, a livestock scale, vehicle scale, railway scale, vehicle tank meter, bulk rack meter, and LPG meter.

(N) "Livestock scale" means a scale equipped with stock racks and gates that is adapted to weighing livestock standing on the scale platform.

(O) "Vehicle scale" means a scale that is adapted to weighing highway, farm, or other large industrial vehicles other than railroad cars.

(P) "Railway scale" means a rail scale that is designed to weigh railroad cars.

(Q) "Vehicle tank meter" means a vehicle mounted device that is designed for the measurement and delivery of liquid products from a tank.

(R) "Bulk rack meter" means a wholesale device, usually mounted on a rack, that is designed for the measurement and delivery of liquid products.

(S) "LPG meter" means a system, including a mechanism or machine of the meter type, that is designed to measure and deliver liquefied petroleum gas in the liquid state by a definite quantity whether installed in a permanent location or mounted on a vehicle.

(T) "Service person" means an individual who installs, services, repairs, reconditions, or places into service a commercially used weighing and measuring device for any type of compensation.

ORC 1327.47 Customary system of weights and measures - metric system.

The system of weights and measures in customary use in the United States and the metric system of weights and measures are jointly recognized, and one or the other of these systems shall be used for all commercial purposes in this state. The definitions of basic units of weight and measure, the tables of weight and measure, and weights and measures equivalents, as published

by the national institute of standards and technology, are recognized and shall govern weighing and measuring equipment and transactions in this state.

ORC 1327.48 State reference standards of weights and measures.

Weights and measures that are traceable to the United States prototype standards supplied by the federal government, or approved as being satisfactory by the national institute of standards and technology, shall be the state reference standards of weights and measures, and shall be maintained in such calibration as is prescribed by the national institute of standards and technology. All working standards may be prescribed by the director of agriculture and shall be verified upon their initial receipt, and as often as found necessary by the director.

ORC 1327.49 Standards for commercial weighing and measuring devices.

The specifications, tolerances, and regulations for commercial weighing and measuring devices, as adopted by the national conference on weights and measures, recommended by the national institute of standards and technology and published in national institute of standards and technology handbook 44, shall be the specifications, tolerances, and regulations for commercial weighing and measuring devices of the state, except insofar as specifically modified, amended, or rejected by rule by the director of agriculture.

Supplements to and revisions of the above publication shall be subject to adoption by the director of agriculture, in accordance with Chapter 119. of the Revised Code.

ORC 1327.50 Director of agriculture - powers and duties.

The director of agriculture shall:

- (A) Maintain traceability of the state standards to those of the international system of units ;
- (B) Enforce sections 1327.46 to 1327.61 of the Revised Code;
- (C) Issue reasonable rules for the uniform enforcement of sections 1327.46 to 1327.61 of the Revised Code, which rules shall have the force and effect of law;
- (D) Establish standards of weight, measure, or count, reasonable standards of fill, and standards for the voluntary presentation of cost per unit information for any package;
- (E) Grant any exemptions from sections 1327.46 to 1327.61 of the Revised Code, or any rules adopted under those sections, when appropriate to the maintenance of good commercial practices in the state;
- (F) Conduct investigations to ensure compliance with sections 1327.46 to 1327.61 of the Revised Code;

(G) Delegate to appropriate personnel any of these responsibilities for the proper administration of the director's office;

(H) Test as often as is prescribed by rule the standards of weight and measure used by any municipal corporation or county within the state, and approve the same when found to be correct;

(I) Inspect and test weights and measures that are sold;

(J) Inspect and test to ascertain if they are correct, weights and measures commercially used either:

(1) In determining the weight, measure, or count of commodities or things sold on the basis of weight, measure, or count;

(2) In computing the basic charge or payment for goods or services rendered on the basis of weight, measure, or count.

(K) Test all weights and measures used in checking the receipt or disbursement of supplies in every institution, for the maintenance of which funds are appropriated by the general assembly;

(L) Approve for use, and may mark, such weights and measures as the director finds to be correct, and shall reject and mark as rejected such weights and measures as the director finds to be incorrect. Weights and measures that have been rejected may be seized if not corrected within the time specified or if used or disposed of in a manner not specifically authorized, and may be condemned and seized if found to be incorrect and not capable of being made correct.

(M) Weigh, measure, or inspect packaged commodities that are sold or in the process of delivery to determine whether they contain the amounts represented and whether they are sold in accordance with sections 1327.46 to 1327.61 of the Revised Code or rules adopted under those sections. In carrying out this section, the director shall employ recognized sampling procedures, such as those designated in the national institute of standards and technology handbook 133 "checking the net contents of packaged goods."

(N) Prescribe by rule the appropriate term or unit of weight or measure to be used, whenever the director determines in the case of a specific commodity that an existing practice of declaring the quantity by weight, measure, numerical count, or combination thereof, does not facilitate value comparisons by consumers, or offers an opportunity for consumer confusion;

(O) Allow reasonable variations from the stated quantity of contents, which shall include those caused by unavoidable deviations in good manufacturing practice and by loss or gain of moisture during the course of good distribution practice, only after the commodity has entered intrastate commerce;

(P) Provide for the weights and measures training of inspector personnel and establish minimum training requirements, which shall be met by all inspector personnel, whether county, municipal, or state;

(Q) Prescribe the methods of tests and inspections to be employed in the enforcement of sections 1327.46 to 1327.61 of the Revised Code. The director may prescribe the official test and inspection forms to be used.

(R) Provide by rule for registration with the director of service persons who are employed by commercially used weighing and measuring device servicing agencies ;

(S) In conjunction with the national institute of standards and technology, operate a type evaluation program for certification of weighing and measuring devices as part of the national type evaluation program. The director shall establish a schedule of fees for services rendered by the department of agriculture for type evaluation services. The director may require any weighing or measuring instrument or device to be traceable to a national type evaluation program certificate of conformance prior to use for commercial or law enforcement purposes.

(T) Verify advertised prices, price representations, and point-of-sale systems, as necessary, to determine both the accuracy of prices and computations and the correct use of the equipment and the accuracy of prices printed or recalled from a database if a system utilizes scanning or coding in lieu of manual entry. In order to implement this division, the director shall do all of the following:

(1) Employ recognized procedures such as those designated in the national institute of standards and technology handbook 130, uniform laws and regulations, "examination procedures for price verification";

(2) Adopt rules establishing requirements governing the accuracy of advertised prices and point-of-sale systems and establishing requirements and procedures for the enforcement of this division;

(3) Conduct necessary inspections.

ORC 1327.501 Weighing and measuring device operation permits.

(A) No person shall operate in this state a commercially used weighing and measuring device that provides the quantity or cost of a final transaction and for which a fee is established in division (G) of this section unless the operator of the device obtains a permit issued by the director of agriculture or the director's designee.

(B) An application for a permit shall be submitted to the director on a form that the director prescribes and provides. The applicant shall include with the application any information that is specified on the application form as well as the application fee established in this section.

(C) Upon receipt of a completed application and the required fee from an applicant, the director or the director's designee shall issue or deny the permit to operate the commercially used weighing and measuring device that was the subject of the application.

(D) A permit issued under this section expires on the thirtieth day of June of the year following its issuance and may be renewed annually on or before the first day of July of that year upon payment of a permit renewal fee established in this section.

(E) If a permit renewal fee is more than sixty days past due, the director may assess a late penalty in an amount established under this section.

(F) The director shall do both of the following:

(1) Establish procedures and requirements governing the issuance or denial of permits under this section;

(2) Establish late penalties to be assessed for the late payment of a permit renewal fee and fees for the replacement of lost or destroyed permits.

(G) An applicant for a permit to operate under this section shall pay an application fee in the following applicable amount:

(1) Seventy-five dollars for a livestock scale;

(2) Seventy-five dollars for a vehicle scale;

(3) Seventy-five dollars for a railway scale;

(4) Seventy-five dollars for a vehicle tank meter;

(5) Seventy-five dollars for a bulk rack meter;

(6) Seventy-five dollars for an LPG meter.

A person who is issued a permit under this section and who seeks to renew that permit shall pay an annual permit renewal fee. The amount of a permit renewal fee shall be equal to the application fee for that permit established in this division.

(H) All money collected through the payment of fees and the imposition of penalties under this section shall be credited to the metrology and scale certification and device permitting fund created in section 1327.511 of the Revised Code.

ORC 1327.502 Registration required.

A service person who is employed by a commercially used weighing and measuring device servicing agency shall register with the director of agriculture in accordance with rules adopted under section 1327.50 of the Revised Code.

ORC 1327.51 Entry on premises - orders to prevent violation - seizure of property - hearing.

(A) When necessary for the enforcement of sections 1327.46 to 1327.61 of the Revised Code or rules adopted pursuant thereto, the director of agriculture and any weights and measures official acting under the authority of section 1327.52 of the Revised Code may do any of the following:

- (1) Enter any commercial premises during normal business hours, except that in the event such premises are not open to the public, the director or official shall first present the director's or official's credentials and obtain consent before making entry thereto, unless a search warrant previously has been obtained;
- (2) Issue stop-use, hold, and removal orders with respect to any weights and measures commercially used, and stop-sale, hold, and removal orders with respect to any packaged commodities or bulk commodity observed to be or believed to be sold;
- (3) Seize for use as evidence any incorrect or unapproved weight or measure or any package or commodity found to be used, retained, or sold in violation of sections 1327.46 to 1327.61 of the Revised Code or rules adopted pursuant thereto.

(B) The director shall afford an opportunity for a hearing in accordance with Chapter 119. of the Revised Code to any owner or operator whose property is seized by the department of agriculture.

ORC 1327.511 Scale certification fund.

All money collected under sections 1327.50 and 1327.501 of the Revised Code from fees and for services rendered by the department of agriculture in operating the type evaluation program, a metrology laboratory program, and the device permitting program shall be deposited in the state treasury to the credit of the metrology and scale certification and device permitting fund, which is hereby created. Money credited to the fund shall be used to pay operating costs incurred by the department in administering the programs.

ORC 1327.52 Jurisdiction of county weights and measures official.

Any weights and measures official elected or appointed for a county or municipality shall have the duties enumerated in divisions (I) to (M) of section 1327.50 of the Revised Code, and the powers enumerated in section 1327.51 of the Revised Code. These powers and duties shall extend to the respective jurisdictions, except that the jurisdiction of a county official shall not extend to any municipal corporation for which a weights and measures official has been appointed. The director of agriculture shall advise and assist these officials.

ORC 1327.53 Deceptive sales or buying practices.

No person shall do any of the following:

- (A) Sell, offer, or expose for sale less than the quantity he represents;
- (B) Take any more than the quantity he represents when, as a buyer, he furnishes the weight or measure by means of which the quantity is determined;
- (C) Represent the quantity he sells or offers or exposes for sale in any manner tending to mislead or in any way to deceive.

ORC 1327.54 Misrepresentation of price of commodity or service.

No person shall misrepresent the price of any commodity or service sold or advertised for sale by weight, measure, or count, nor represent the price in any manner calculated or tending to mislead or in any way deceive a person.

ORC 1327.55 Methods of measuring commodities for sale.

Except as otherwise provided by the director of agriculture or by firmly established trade customs and practices, commodities shall be sold as follows:

- (A) Commodities in liquid form shall be sold by liquid measure or by weight;
- (B) Commodities not in liquid form shall be sold only by weight, measure, or county, or a combination thereof;
- (C) The method of sale of commodities shall provide accurate quantity information that enables the buyer to make price and quantity comparisons.

ORC 1327.56 Delivery tickets.

Whenever the quantity is determined by the seller, every bulk sale in excess of twenty dollars and every bulk delivery of heating fuel shall be accompanied by a delivery ticket containing the following information:

- (A) The name and address of the vendor and purchaser;
- (B) The date delivered;
- (C) The quantity delivered and the quantity upon which the price is based, if this differs from the delivered quantity;
- (D) The identity in the most descriptive terms commercially practicable, including any quality representation made in connection with the sale;

(E) The count of individually wrapped packages, if more than one.

ORC 1327.57 Package declarations.

(A) Except as otherwise provided by law, any consumer package or commodity in package form introduced or delivered for introduction into or received in intrastate commerce or sold in intrastate commerce shall bear on the outside of the package a definite, plain, and conspicuous declaration, as may be prescribed by rule adopted by the director of agriculture, of any of the following, as applicable:

- (1) The identity of the commodity in the package unless the same can easily be identified through the wrapper or container;
- (2) The net quantity of the contents in terms of weight, measure, or count;
- (3) In the case of any package sold at any place other than on the premises where packed, the name and place of business of the manufacturer, packer, or distributor.

This section does not apply to beer or intoxicating liquor as defined in section 4301.01 of the Revised Code, or packages thereof, or to malt or brewer's wort, or packages thereof.

(B) Under division (A)(2) of this section, neither the qualifying term "when packed" or any words of similar import, nor any term qualifying a unit of weight, measure, or count that tends to exaggerate the amount of commodity in a package, shall be used.

(C) In addition to the declarations required by division (A) of this section, any package or commodity in package form, if the package is one of a lot containing random weights, measures, or counts of the same commodity and bears the total selling price of the package, shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight, measure, or count.

(D) No package or 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 contents of the package, and the contents of a container shall not fall below any reasonable standard of fill that may have been prescribed for the commodity in question by the director.

ORC 1327.571 Declaration of quantity included in advertising - posted prices to include fraction.

(A) Whenever a package or commodity is advertised in any manner and the retail price of the package or commodity is stated in the advertisement, there shall be closely and conspicuously associated with the statement of price such a declaration of quantity as is required by law or rule to appear on the package or with the commodity. 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.

(B) Whenever an advertised, posted, or labeled price per unit of weight, measure, or count includes a fraction of a cent, all elements of the fraction or decimal shall be prominently displayed and the numeral or numerals expressing the fraction or decimal shall be immediately adjacent to, of the same general design and style as, and at least fifty per cent of the height and width of the numerals representing the whole cents.

ORC 1327.58 Temporary or permanent injunction.

Irrespective of whether or not there exists an adequate remedy at law, the director of agriculture may apply to any court of competent jurisdiction for a temporary or permanent injunction or other appropriate relief restraining any person from continued violation of sections 1327.46 to 1327.61 of the Revised Code and of regulations promulgated thereunder.

ORC 1327.59 Presumptions.

Proof of the existence of a weight or measure or a weighing or measuring device in or about any building, enclosure, stand, or vehicle in which or from which it is shown that buying or selling is commonly carried on creates a rebuttable presumption of the use of such weight or measure or device for commercial purposes and of such use by the person in charge of such building, enclosure, stand, or vehicle.

ORC 1327.60 Prior sections unaffected.

Enactment of sections 1327.46 to 1327.61 of the Revised Code does not affect any regulations promulgated pursuant to the authority of any earlier enabling statute unless inconsistent with sections 1327.46 to 1327.61 of the Revised Code or modified or revoked by the director of agriculture.

ORC 1327.61 Prohibited acts.

No person shall do any of the following:

- (A) Use or have in possession for use in commerce any incorrect weight or measure;
- (B) Wrap, package, label, or advertise any product or service contrary to this chapter, or any rules adopted under it, or sell, offer, hold, or expose for sale any service or product wrapped, packaged, labeled, or offered for sale contrary to this chapter or any rules adopted under it, or misrepresent the quantity or price or service contrary to this chapter, or any rules adopted under it;
- (C) Remove any tag, seal, or mark from any weight or measure without specific written authorization from the proper authority;

(D) Recklessly install for use, repair, service, or place into service a commercially used weighing and measuring device unless the installation, repair, service, or placement is performed by one of the following:

- (1) A department of agriculture division of weights and measures inspector;
- (2) A service person registered with the department;
- (3) A county or municipal weights and measures inspector.

(E) Hinder or obstruct any weights and measures official in the performance of official duties;

(F) Sell or offer for use in commerce any incorrect weight or measure.

ORC 1327.62 Civil penalty.

Whenever the director of agriculture, or the director's designee, has cause to believe that any person has violated, or is violating any provision of sections 1327.46 to 1327.61 of the Revised Code or a rule adopted under them, the director, or the director's designee, may conduct a hearing in accordance with Chapter 119. of the Revised Code to determine whether a violation has occurred. If the director or the director's designee determines that the person has violated or is violating any provision of sections 1327.46 to 1327.61 of the Revised Code or a rule adopted under it, the director or the director's designee may assess a civil penalty against the person. The person is liable for a civil penalty of not more than five hundred dollars for a first violation; for a second violation the person is liable for a civil penalty of not more than two thousand five hundred dollars; for each subsequent violation that occurs within five years after the second violation, the person is liable for a civil penalty of not more than ten thousand dollars.

Any person assessed a civil penalty under this section shall pay the amount prescribed to the department of agriculture. The department shall remit all moneys collected under this section to the treasurer of state for deposit in the general revenue fund.

ORC 1327.65 Hearing prior to filing criminal charges.

Prior to filing criminal charges under section 1327.99 of the Revised Code, the director of agriculture shall provide the person accused of the violation an opportunity for a hearing before the director to discuss the charges and offer evidence in mitigation of the charges.

ORC 1327.70 Uniform motor fuel quality testing program.

(A) As used in this section:

- (1) "Diesel fuel" has the same meaning as in section 5735.01 of the Revised Code.
- (2) "Motor fuel" means gasoline or diesel fuel that is sold by a retailer.

(B) The director of agriculture may adopt rules in accordance with Chapter 119. of the Revised Code establishing a motor fuel quality testing program that is uniform throughout the state.

ORC 1327.99 Penalty.

Whoever violates section 1327.501 or 1327.54 or division (A), (B), (C), (D), or (E) of section 1327.61 of the Revised Code or a rule adopted under sections 1327.46 to 1327.61 of the Revised Code is guilty of a misdemeanor of the second degree on a first offense; on each subsequent offense within seven years after the first offense, the person is guilty of a misdemeanor of the first degree.

ADMINISTRATIVE CODE

NIST HANDBOOK 44

OAC 901:6-1-01 Revision of Handbook 44

The revision of the "National Institute of Standards and Technology Handbook 44" made by the "National Conference on Weights and Measures" in 2018 and published in the "National Institute of Standards and Technology Handbook 44," 2018 edition, is hereby adopted in its entirety. The "National Institute of Standards and Technology Handbook 44," is available for download from the Ohio department of agriculture website at "<http://agri.ohio.gov/>" or from:

"National Institute of Standards and Technology

100 Bureau Drive, Stop 2600

Gaithersburg, MD 20899-2600

<http://www.nist.gov/>"

MODEL STATE REGULATION FOR NATIONAL-TYPE EVALUATION

OAC 901:6-2-01 National Type Evaluation Program

(A) Application. To recognize and enable participation in the national type evaluation program to serve the manufacturing industry and assure weights and measures officials, sellers, users, and buyers that a particular model or type of device is capable of meeting applicable requirements. This rule shall apply to types of devices and/or equipment as covered in national institute of standards and technology handbook 44, for which formal national type evaluation program evaluation criteria exist and to new technologies or device applications where the development of criteria is deemed necessary. This rule shall also apply to a device, when used in commerce, designed to meet unique demands for a specific installation and a specific design. In general, type evaluations are conducted on all equipment that affects the measurement process or the validity of a commercial transaction and/or all equipment to the point of the first indicated or recorded representation of the final quantity on which the transaction will be based.

(B) Definitions.

(1) "Certificate of conformance" means a document issued by the national conference on weights and measures established that the device, based on testing in participating laboratories, constitutes evidence of conformance of a type with the requirements of national institute of standards and technology handbook 44 as demonstrated using the test procedures in national conference on weights and measures, publication 14, national type evaluation program, administrative procedures, technical policy, checklists and test procedures.

(2) "Devices" mean instruments, and any appliances and accessories associated with such instruments, used in trade, commercial applications, or highway law enforcement for weighing and measuring which are subject to weights and measures requirements.

(3) "Director" means the director of the Ohio department of agriculture.

(4) "National type evaluation program" means a program of cooperation between the national institute of standards and technology, other federal agencies, the national conference on weights and measures, the states, and the private sector for determining, on a uniform basis, the conformance of type with the relevant provisions of national institute of standards and technology handbook 44, specifications, tolerances, and other technical requirements for weighing and measuring devices as demonstrated using the test procedures in the national conference on weights and measures, publication 14, national type evaluation program, administrative procedures, technical policy, checklists and test procedures.

(5) "One-of-a-kind device" means a device designed to meet unique demands for a specific installation and a specific design which is not commercially available elsewhere. If the manufacturer constructs an additional device or devices of the same type, the device is no longer considered to be one-of-a-kind. This definition also applies to any device that has been determined to be a one-of-a-kind device by a weights and measures

jurisdiction in another state and the manufacturer decides to manufacture and install the device in this state. In this case, the device must be traceable to a certificate of conformance, unless the national type evaluation program has already decided that such evaluation will not be conducted.

(6) "Participating laboratory" means any state measurement laboratory that has been recognized by the national institute of standards and technology, in accordance with its program for the certification of capability of state measurement laboratories, or any state weights and measures agency or other laboratory that has been authorized to conduct a type evaluation under the national type evaluation program by the national conference on weights and measures.

(7) "Remanufactured device" means a device that is disassembled, checked for wear, parts replaced or fixed, reassembled and made to operate like a new device of the same type.

(8) "Repaired device" means a device to which work is performed that brings the device back into proper operating condition.

(9) "Type" means a model or models of a particular device, measurement instrument, instrument, or element 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.

(10) "Type evaluation" means the testing, examination and/or evaluation of a type by a participating laboratory under the national type evaluation program.

(C) The director shall require any weighing or measuring instrument or device to be traceable to a certificate of conformance prior to use for commercial or law enforcement purposes.

(D) "Certificate of conformance," specific requirements.

(1) No person shall sell for use in commerce a device unless the device is traceable to a certificate of conformance or the device is exempted by paragraph (E) of this rule.

(2) No person shall use in commerce a device unless the device is traceable to a certificate of conformance or the device is exempted by paragraph (E) of this rule.

(3) Commercial weighing or measuring devices installed and/or put in service shall be traceable to a certificate of conformance when the device is one of the following:

(a) Automatic bulk weighing systems,

(b) Automatic weighing systems,

(c) Axle-load weighers,

(d) Belt conveyor scales,

(e) Bench and counter scales,

- (f) Bulk weighing systems,
- (g) Card reader,
- (h) Counter computing scales and non-computing scales,
- (i) Crane scales,
- (j) Device software that provides metrological calculations,
- (k) Electronic cash registers attached to a scale,
- (l) Electronic indicating elements - scales,
- (m) Floor scales,
- (n) Grain analyzer,
- (o) Grain test scales,
- (p) Hanging scales,
- (q) Hopper scales,
- (r) Jewelers scales,
- (s) Liquid measuring devices,
- (t) Liquefied petroleum gas meters,
- (u) Livestock scales,
- (v) Load cells,
- (w) Mass flow meters,
- (x) Milk meters,
- (y) Monorail scales,
- (z) Multiple dimension measuring device,
- (aa) On-board weighing systems,
- (bb) Railway track scales used to weigh in motion or static and combination railroad/vehicle scales,
- (cc) Point of sale system,
- (dd) Retail motor fuel dispensers, including those used for alternative fuels (for example, liquefied petroleum gas and compressed, liquid natural gas, natural gas, and hydrogen),
- (ee) Service station consoles,

- (ff) Taximeters,
- (gg) Vehicle scales,
- (hh) Vehicle tank meters and registers,
- (ii) Weigh-in and weigh-out system,
- (jj) Weighbeams - scales,
- (kk) Weighing load receiving element,
- (ll) Weight classifiers, and
- (mm) Wholesale meters and controllers.

(4) Axle-load weighers and wheel-load weigher scales used for law enforcement put in service shall be traceable to a certificate of conformance.

(5) Existing devices modified to the extent that the design is metrologically changed (for example, a fully mechanical to fully electronic scale) shall be traceable to a certificate of conformance.

(6) The director may require other equipment and devices used in commerce that effect the measurement process or the validity of the transaction to be traceable to a certificate of conformance. The scope of these requirements is typically limited to devices for which formal type evaluation criteria exist, to devices for which definite criteria exist in handbook 44 and to a new technologies or device applications where the development of criteria is deemed necessary. Device categories specified in paragraph (D)(3) of this rule do not encompass all weighing and measuring devices used in commerce. Selection criteria is based, in part, upon commercial availability, evaluation procedure development and economic impact.

(7) Repaired devices. If a person makes changes to a device to the extent that the metrological characteristics are changed, that specific device is no longer traceable to the certificate of conformance.

(8) Remanufactured devices. If a person repairs or remanufactures a device, they are obligated to repair or remanufacture it consistent with the manufacturers original design; otherwise, that specific device is no longer traceable to the certificate of conformance.

(9) Copied devices. The manufacturer who copies the design of a device that is traceable to a certificate of conformance, but which is made by another company must obtain a separate certificate of conformance for the device. The certificate of conformance for the original device shall not apply to the copy.

(10) Device components. If a person buys a load cell(s) and an indicating element, which are traceable to certificates of conformance, and then manufactures a device from the parts, that person shall obtain a certificate of conformance for the device.

(11) Loaner devices. Loaner devices and main elements placed into service in a location shall be traceable to a certificate of conformance.

(E) Exceptions.

(1) A device in service in a fixed location prior to any certificate of conformance requirement shall not be required to be traceable to a certificate of conformance.

(2) A device in service prior to any certificate of conformance requirement, removed from service by the owner or by the state, county, or city weights and measures official, and then returned to service at a later date shall be required to meet applicable specifications, tolerances, and other technical requirements of national institute of standards and technology handbook 44, but shall not be required to be traceable to a certificate of conformance.

(3) A device in service prior to any certificate of conformance requirement may be installed at another location in this state. Provided there is no change of ownership and provided the device meets the applicable specifications, tolerances, and other technical requirements of national institute of standards and technology handbook 44, but shall not be required to be traceable to a certificate of conformance.

(4) A device in service that is being repaired but parts, elements or instruments traceable to a certificate of conformance are not available, shall be required to meet applicable specifications, tolerances, and other technical requirements of national institute of standards and technology handbook 44, but shall not be required to be traceable to a certificate of conformance.

(5) The director may accept the design of a one-of-a-kind device which is not traceable to a certificate of conformance pending the inspection and performance testing to satisfy that the device complies with handbook 44 and is capable of performing within applicable requirements for a reasonable period of time under normal conditions of use. Indicators and load cells in all one-of-a-kind scale installations must have a certificate of conformance as evidence that the system meets the influence factor requirements of handbook 44.

(F) The director is authorized to:

(1) Operate a participating laboratory as part of the national type evaluation program. In this regard, the director is authorized to charge and collect fees for type evaluation services.

(2) Cooperate with and enter into agreements with any person in order to carry out the purposes of this rule.

(3) Conduct inspections and performance testing on one-of-a-kind devices and other devices not required by the national type evaluation program to be traceable to a certificate of conformance to satisfy that the device complies with applicable

requirements. In this regard, the director is authorized to charge and collect fees for these evaluations.

(G) All provisions of all orders and rules heretofore issued on this same subject that are contrary to or inconsistent with the provisions of this rule are hereby revoked.

LABELING & PACKAGING

OAC 901:6-3-01 Applications

The rules in Chapter 901:6-3 of the Administrative Code shall apply to packages, but shall not apply to:

- (A) Inner wrappings not intended to be individually sold to the customer;
- (B) Shipping containers or wrapping used solely for the transportation of any commodities in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors, but in no event shall this exclusion apply to packages of consumer or nonconsumer commodities, as defined herein;
- (C) Auxiliary containers or outer wrappings used to deliver packages of such commodities to retail customers if such containers or wrappings bear no printed matter pertaining to any particular commodity;
- (D) Containers used for retail tray pack displays when the container itself is not intended to be sold (for example, the tray that is used to display individual envelopes of seasonings, gravies, etcetera, and the tray itself is not intended to be sold);
- (E) Open carriers and transparent wrappers or carriers for containers when the wrappers or carriers do not bear any written, printed, or graphic matter obscuring the label information required by Chapter 901:6-3 of the Administrative Code;
- (F) Beer or intoxicating liquor as defined in section 4301.01 of the Revised Code, or packages thereof, or to malt or brewer's wort as defined in sections 4309.01 of the Revised Code; or
- (G) Exports for foreign countries.

OAC 901:6-3-02 Definitions

(A) Package.

Except as modified by rule 901:6-3-01 of the Administrative Code, the term "package," whether standard package or random package, shall be construed to mean any commodity:

- (1) Enclosed in a container or wrapped in any manner in advance of wholesale or retail sale, or
- (2) Whose weight or measure has been determined in advance of wholesale or retail sale. An individual item or lot of any commodity on which there is marked a selling price based on an established price per unit of weight or of measure shall be considered a package or packages.

(B) Consumer package: package of consumer commodity.

A "consumer package" or "package of consumer commodity" shall be construed to mean a package that is customarily produced or distributed for sale through retail sales agencies or

instrumentalities for consumption by individuals or use by individuals for the purposes of personal care or in the performance of services ordinarily rendered in or about the household or in connection with personal possessions.

(C) Nonconsumer package: package of nonconsumer commodity.

A "nonconsumer package" or "package for nonconsumer commodity" shall be construed to mean any package other than a consumer package, and particularly a package intended solely for industrial or institutional use or for wholesale distribution.

(D) 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 no fixed pattern of net contents.

(E) 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 that an inspector's tag or other nonpromotional matter affixed to or appearing upon a consumer commodity shall not be considered a label requiring the repetition of label information required by this chapter.

(F) Mass and weight

The "mass" of an object is a measure of its inertial property or the amount of matter it contains. The "weight" of an object is a measure of the force exerted on it by gravity or the force needed to support it. The pull of gravity on the earth gives an object a downward acceleration of about 9.8 m/s. In trade and commerce and everyday use, the term "weight" is often used as a synonym for "mass." The "net mass" or "net weight" declared on a label indicates that the package contains a specific amount of commodity exclusive of wrapping materials.

(G) 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."

(H) Multi-unit package.

The term "multi-unit package" shall be construed to mean a package containing two or more individual packages of the same commodity, in the same quantity, intended to be sold as a multi-unit package, but where the component packages are labeled individually in full compliance with all requirements of this chapter.

(I) Combination package.

The term "combination package" shall be construed to mean a package intended for retail sale, containing two or more individual packages or units of dissimilar commodities (examples: An antiquing or housecleaning kit; sponge and cleaner; lighter fluid and flints).

(J) Variety package.

The term "variety package" shall be construed to mean a package intended for retail sale, containing two or more individual packages or units of similar, but not identical, commodities. Commodities that are generically the same, but that differ in weight, measure, volume, appearance, or quality, are considered similar but not identical (examples: Two sponges of different sizes; plastic tableware consisting of four spoons, four knives, and four forks).

(K) Petroleum products.

The term "petroleum products" shall be construed to mean gasoline, diesel fuel, kerosene, or any product (whether or not such a product is actually derived from naturally occurring hydrocarbon mixtures known as "petroleum") commonly used in powering, lubricating, or idling engines or other devices, or is labeled as fuel to power camping stoves or lights. Therefore, sewing machine lubricant, camping fuels, and synthetic motor oil are "petroleum products" for the purposes of this rule. Brake fluid, copier machine dispersant, antifreeze, cleaning solvents, and alcohol are not "petroleum products."

(L) Spot label.

The term "spot label" shall be construed to mean a label, clearly defined by means of a border, indentation, or other means, that covers only a small portion of the surface of a principal display panel of a package; the entire portion of the principal display panel outside the area of the label contains no printed or graphic matter of any kind. A spot label may contain all required labeling information (identity, responsibility, and net contents), but it shall at least indicate the identity and net contents. See rule 901:6-3-11 of the Administrative Code for net contents placement exemption for a spot label.

(M) Header strip.

The term "header strip" or "header label" shall be construed to mean a label that is attached across the top of a transparent or opaque bag or other container that bears no other printed or graphic material. See rule 901:6-3-11 of the Administrative Code for net contents placement exemptions.

(N) Standard package.

The term "standard package" shall be construed to mean a package that is one of a lot, shipment, or delivery of packages of the same commodity with identical net contents declarations (examples: One-liter bottles or twelve-fluid ounce cans of carbonated soda, five hundred-gram or five-pound bags of sugar, or one hundred-meter packages of rope).

(O) SI or SI units.

The term "SI" or "SI units" means the "International System of Units" as established in 1960 by the "General Conference on Weights and Measures" and interpreted or modified for the United States by the secretary of commerce [see Metric Conversion Act of 1975, section 3(1) and section 4(4), and "National Institute of Standards and Technology Special Publication 814, 'Metric System of Measurement; Interpretation of the International System of Units for the United States,' " or the Federal Register of December 20, 1990 (FR 90-21913)].

(P) Person. The term "person" means either singular or plural and shall include any individual, partnership, company, corporation, association, or society.

OAC 901:6-3-03 Declaration of identity: consumer package

(A) Declaration of identity: consumer package.

A separate declaration of identity on a consumer package shall appear on the principal display panel, and shall not be either misleading or deceptive, or tend to mislead or deceive. The identity shall be in terms of:

- (1) The name specified in or required by any applicable federal or state law or rule, or, in the absence of this,
- (2) The common or usual name, or, in the absence of this,
- (3) The generic name or other appropriate description, including a statement of function (such as "cleaning powder").

(B) Parallel identity declaration: consumer package.

A declaration of the identity on a consumer package shall appear generally parallel to the base on which the package rests as it is designed to be displayed.

(C) The Fair Packaging and Labeling Act, 21 CFR 101.100 (2001), specifically exempts food packages from identity statements if the commodity is a food, other than meat or poultry, that was repackaged in a retail establishment and the food is displayed to the purchaser under either of the following circumstances:

- (1) Its interstate labeling is clearly in view or with a counter card, sign, or other appropriate device bearing prominently and conspicuously the common or usual name of the food, or
- (2) The common or usual name of the food is clearly revealed by its appearance.

OAC 901:6-3-04 Declaration of identity: nonconsumer package

A declaration of identity on a nonconsumer package shall appear on the outside of a package and shall not be either misleading or deceptive, or tend to mislead or deceive. The identity shall be in terms of:

(A) The name specified in or required by any applicable federal or state law or rule, or, in the absence of this,

(B) The common or usual name, or, in the absence of this,

(C) The generic name or other appropriate description, including a statement of function (such as "cleaning powder").

OAC 901:6-3-05 Declaration of responsibility: consumer & nonconsumer packages

(A) Any package kept, offered, or exposed for sale, or sold at any place other than on the premises where the package is 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 the 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. The street address may be omitted if this is shown in a current city directory or telephone directory.

(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, 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.

OAC 901:6-3-06 Declaration of quantity: consumer packages

(A) General.

The "International System of Units" (SI), known as the metric system, and the inch-pound system of weights and measures, are recognized as proper systems to be used in the declaration of quantity.

(B) 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:

(1) SI units, in decimal fractions of such largest whole unit.

(2) Inch-pound units:

(a) In common or decimal fractions of such largest whole unit, or

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

(C) Net quantity.

A declaration of net quantity of the commodity in the package, exclusive of wrappers and any other material packed with such commodity [except as noted in rule 901:6-3-10 of the Administrative Code, "aerosols and similar pressurized containers"], shall appear on the principal display panel of a consumer package and, unless otherwise specified in this chapter, shall be in terms of the largest whole unit.

(D) Use of "net mass" or "net weight."

A quantity declaration may stand alone [for example, "200 g (7 oz)" or "1 lb (453 g)"] or may include the terms "net mass" or "net 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.

(E) Lines of print or type.

A declaration of quantity may appear on one or more lines of print or type.

(F) Terms: weight, liquid measure, or count.

The declaration of the quantity of a particular commodity shall be expressed in terms of:

- (1) Liquid measure if the commodity is liquid,
- (2) Weight if the commodity is solid, semisolid, viscous, or a mixture of solid and liquid,
- (3) Dry measure if the commodity is dry, or
- (4) 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, provided such traditional declaration gives accurate and adequate information as to the quantity of the commodity. Any net content statement that does not permit price and quantity comparisons is forbidden.

(G) Combination declaration.

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

(H) SI units: mass and measure.

A declaration of quantity:

- (1) In units of mass shall be in terms of the kilogram, gram, or milligram;
- (2) In units of liquid measure shall be in terms of the liter or milliliter, and shall express the volume at twenty degrees Celsius:
 - (a) Except in the case of petroleum products or distilled spirits, for which the declaration shall express the volume at 15.6 degrees Celsius,
 - (b) Except 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, or
 - (c) Except in the case of malt beverages or a commodity that must be maintained in the refrigerated state, for which the declaration shall express the volume at four degrees Celsius;
- (3) In units of linear measure shall be in terms of the meter, centimeter, or millimeter;
- (4) In units of area measure shall be in terms of the square meter, square decimeter, square centimeter, or square millimeter; and
- (5) In units of volume other than liquid measure, shall be in terms of the liter and milliliter, except that the terms cubic meter and cubic centimeter shall be used only when specifically designated as a method of sale.
- (6) Rule of one thousand.

The selected multiple or submultiple prefixes for SI units shall result in numerical values between one and one thousand. This requirement allows centimeters or millimeters to be used where a length declaration is less than one hundred centimeters (example: "500 g" not "0.5 kg;" "1.96 kg" not "1960 g;" "750 mL" not "0.75 L;" and "750 mm" or "75 cm" not "0.75 m").

- (7) SI declarations should be shown in three digits except where the quantity is below one hundred grams, milliliters, centimeters, square centimeters, or cubic centimeters, where it may be shown in two digits. In either case, any final zero appearing to the right of the decimal point need not be shown.
- (8) The declaration of net quantity of contents shall not be expressed in mixed units (example: "1.5 kg," not "1 kg 500 g").

(I) Symbols.

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

Unit	Symbol	Unit	Symbol
Centimeter	cm	Cubic meter	m ³
Cubic centimeter	cm ³	Kilogram	kg
Meter	m	Gram	g
Milligram	mg	Millimeter	mm
Liter	L or l	Square meter	m ²
Milliliter	mL or ml	Cubic decimeter	dm ³
Square centimeter	cm ²	Square decimeter	dm ²
Micrometer	μm		

(1) Symbols, except for liter, are not capitalized unless the unit is derived from a proper name. Periods shall not be used after the symbol. Symbols shall always be written in the singular form. Adding "s" to an SI symbol to express the plural of the symbol is prohibited.

(2) The "L" symbol and the "mL" symbol are preferred. However, the "l" symbol for liter and "ml" symbol for milliliter are permitted.

[Note: The "E" mark shall not be considered to be a qualifying word or phrase and may be used as part of the statement of net quantity of contents where warranted. When used, the "E" mark shall be at least three millimeters (approximately one-eighth inch) in height. The term "E" mark refers to the symbol "E" used in connection with the quantity declarations on labels of some consumer commodities marketed primarily in the European union. The "E" mark constitutes a representation by the packer or importer that the package to which it is applied has been filled in accordance with the average system of quantity specified by the European union. The average system is a method of declaring package fill in the European union and other countries of the world, including the United States.]

(J) Fractions and prefixes.

(1) Fractions: An SI statement in a declaration of net quantity of contents of any consumer commodity may contain only decimal fractions.

(2) Prefixes: the following chart indicates SI prefixes that may be used on a broad range of consumer commodity labels to form multiples and submultiples of SI units:

Prefix	Symbol	Multiplying factor*
Kilo-	k	X 10 ³
Deca- ^{**}	da	X 10
Deci- ^{**}	d	X 10 ⁻¹
Centi- ^{***}	c	X 10 ⁻²
Milli-	m	X 10 ⁻³
Micro- ****		X 10 ⁻⁶
*	10 ² = 100; 10 ³ = 1000; 10 ⁻¹ = 0.01 thus,	
	2 kg = 2 X 1000 g = 2000 g, and	
	3 cm = c X 0.01 m = 0.03 m	
**	Not permitted on food labels.	
***	Should only be used with "meter."	
****	Shall only be used for measurements less than 1 mm.	

(K) Prescribed units, SI.

(1) Less than one meter, one square meter, one kilogram, one cubic meter, or one liter.

The declaration of quantity shall be expressed as follows:

- (a) Length measure of less than one meter: in centimeters or millimeters;
- (b) Area measure of less than one square meter: in square decimeters and decimal fractions of a square decimeter or in square centimeters and decimal fractions of a square centimeter;
- (c) Mass of less than one kilogram: in grams and decimal fractions of a gram, but if less than one gram, then in milligrams;
- (d) Liquid or dry measure of less than one liter: in milliliters;

(e) Cubic measure less than one cubic meter: in cubic centimeters, or cubic decimeters (liters) [see rule 901:6-3-10 of the Administrative Code];

(f) Provided, the quantity declaration appearing on a random mass package may be expressed in terms of decimal fraction of the largest appropriate unit, the fraction being carried out to not more than three decimal places.

(2) One meter, one square meter, one kilogram, one liter, one cubic meter, or more.

In the case of:

(a) Length measure of one meter or more: in meters and decimal fractions to not more than three places;

(b) Area measure of one square meter or more: in square meters and decimal fractions to not more than three places;

(c) Mass of one kilogram or more: in kilograms and decimal fractions to not more than three places;

(d) Liquid or dry measure of one liter or more: in liters and decimal fractions to not more than three places;

(e) Cubic measures of one cubic meter or more: in cubic meters and decimal fractions to not more than three places [see rule 901:6-3-10 of the Administrative Code].

(L) Inch-pound units: weight and measure.

A declaration of quantity:

(1) In units of weight shall be in terms of the avoirdupois pound or ounce;

(2) In units of liquid measure shall be in terms of the United States gallon of two hundred thirty-one cubic inches or liquid-quart, liquid-pint, or fluid-ounce subdivisions of the gallon, and shall express the volume at sixty-eight degrees Fahrenheit:

(a) Except in the case of petroleum products and distilled spirits, for which the declaration shall express the volume at sixty degrees Fahrenheit,

(b) Except 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,

(c) Except in the case of a commodity that must be maintained in the refrigerated state, for which the declaration shall express the volume at forty degrees Fahrenheit, or

(d) Except in the case of malt beverages, for which the declaration shall express the volume at 39.1 degrees Fahrenheit;

- (3) In units of linear measure shall be in terms of the yard, foot, or inch;
- (4) In units of area measure, shall be in terms of the square yard, square foot, or square inch;
- (5) In units of volume measure, shall be in terms of the cubic yard, cubic foot, or cubic inch [see rule 901:6-3-10 of the Administrative Code]; and
- (6) In units of dry measure shall be in terms of the United States bushel of 2,150.42 cubic inches, or peck, dry-quart and dry-pint subdivisions of the bushel [see rule 901:6-3-10 of the Administrative Code].
- (7) Symbols and abbreviations.

Any of the following symbols and abbreviations, and none other, shall be employed in the quantity statement on a package of commodity:

Unit	Symbol	Unit	Symbol
Avoirdupois	avdp	Ounce	oz
Piece	pc	Count	ct
Pint	pt	Cubic	cu
Pound	lb	Each	ea
Feet or foot	ft	Quart	qt
Fluid	fl	Square	sq
Gallon	gal	Weight	wt
Inch	in	Yard	yd
Liquid	liq	Drained	dr
Diameter	dia		

A period should not be used after the abbreviation. Abbreviations should be written in singular form, and "s" should not be added to express the plural. For example, "oz" is the symbol for both "ounce" and "ounces." Both upper and lower case letters are acceptable.

(8) Units with two or more meanings.

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

(M) Prescribed units, inch-pound system.

(1) Less than one foot, one square foot, one pound, or one pint.

The declaration of quantity shall be expressed in terms of:

- (a) In the case of length measure of less than one foot, in inches and fractions of inches;
- (b) In the case of area measure of less than one square foot, in square inches and fractions of square inches;
- (c) In the case of weight of less than one pound, in ounces and fractions of ounces;
- (d) In the case of liquid measure of less than one pint, in fluid ounces and fractions of fluid ounces; and
- (e) 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 three decimal places.

(2) One foot, one square foot, one pound, one pint, one gallon or more.

The declaration of quantity shall be expressed:

(a) Linear measure.

If one foot or more, expressed in terms of the largest whole unit (a yard or a foot) with any remainder expressed in inches, and fractions if the inch, or in fractions of the foot or yard, except that it shall be optional to include a statement of length in inches.

(b) Area measure.

- (i) If 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;
- (ii) If four square feet or more, expressed in terms of the largest whole unit (square yards or square feet), with any remainder expressed in square

inches and fractions of a square inch, or in fractions of the square foot or square yard.

(c) Weight.

If one 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.

(d) Liquid volume.

(i) If one pint or more, but less than one gallon, expressed in the largest whole unit (quarts, quarts and pints, or pints, as appropriate) with any remainder expressed in fluid ounces, or fractions of the pint or quart, except that two quarts may be declared as one-half gallon and it shall be optional to include an additional expression of net quantity in fluid ounces; or

(ii) If one gallon or more, expressed in terms of the largest whole unit (gallons followed by fractions of a gallon, or by the next smaller whole unit or units, for example, quarts and pints), with any remainder expressed in fluid ounces, or fractions of the pint or quart, except that it shall be optional to include an additional expression of net quantity in fluid ounces.

(e) Dry measure.

If 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.

(f) Provided, the declaration of quantity on a random package be expressed in decimal fractions of the largest appropriate unit, carried out to no more than three decimal places.

(N) Bidimensional commodities.

For bidimensional commodities (including roll-type commodities) the quantity declaration shall be expressed in both SI and inch-pound units of measurement as follows:

(1) If the area is less than nine hundred twenty-nine square centimeters (one square foot), in terms of length and width (expressed in the largest whole unit for SI and in linear inches and fractions of linear inches for inch-pound) [example: "20.3 cm X 25.4 cm (8 in X 10 in)"];

(2) If the area is at least nine hundred twenty-nine square centimeters (one square foot) but less than 37.1 square decimeters (four square feet), in terms of area (expressed in the largest whole unit for SI and in square inches for inch-pound), followed by a declaration of the length and width, in terms of the largest whole unit [example: "31 dm²(49 cm X 64 cm) 3.36 sq ft (1.6 ft X 2.1 ft)"], provided:

(a) For bidimensional commodities having a width of ten centimeters (four inches) or less, the declaration of net quantity shall be expressed in terms of width and length in linear measure, no declaration of area is required;

(b) An inch-pound dimension of less than two feet may be stated in inches;

(c) Commodities consisting of usable individual units (for example: paper napkins) require a declaration of unit area but not a declaration of total area of all such units (except roll-type commodities with individual usable units created by perforations); and

(d) For inch-pound declarations, it shall be optional to include, after the statement of the linear dimensions in the largest whole unit, a parenthetical declaration of the same dimensions in inches [example: "25 sq ft (12 in x 8.33 yd) (12 in x 300 in)"].

(3) If the area is 37.1 square decimeters (four square feet) or more, in terms of area (expressed in the largest whole unit for SI and in square feet for inch-pound), followed by a declaration of the length and width in terms of the largest whole unit, provided:

(a) No declaration of area is required for a bidimensional commodity with a width of ten centimeters (four inches) or less;

(b) For bidimensional commodities with a width of ten centimeters (four inches) or less, the inch-pound statement of width shall be expressed in terms of linear inches and fractions thereof, and length shall be expressed in the largest whole unit (yard or foot) with any remainder in terms of fractions of the yard or foot, except that it shall be optional to express the length in the largest whole unit followed by a statement of length in inches or to express the length in inches followed by a statement of length in the largest whole unit [examples: "5 cm x 9.14 m (2 in x 10 yd)," or "5 cm x 9.14 m (2 in x 10 yd) (360 in)," or "5 cm x 9.14 m (2 in x 360 in) (10 yd)"]; and

(c) An inch-pound dimension of less than two feet may be stated in inches.

(4) No declaration of area is required for commodities for which the length and width measurements are critical in terms of end use (such as wallpaper border) if such commodities clearly present the length and width measurements on the label.

(O) Count: ply.

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

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

- (a) Total area measurement,
- (b) Number of plies,
- (c) Count of usable units, and
- (d) Dimensions of a single usable unit.

(P) Fractions.

(1) Inch-pound: an inch-pound 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, quarters, eighths, sixteenths, or thirty-seconds, except that:

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

(2) Common fractions: a common fraction shall be reduced to its lowest term (example: $\frac{2}{4}$ becomes $\frac{1}{2}$).

(3) Decimal fractions: a decimal fraction shall not be carried out to more than three places.

(Q) Supplementary quantity declarations.

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

(R) Rounding.

(1) In all conversions for the purpose of showing an equivalent SI or inch-pound quantity to a rounded inch-pound or SI quantity, or in calculated values to be declared in the net quantity statement, the number of significant digits retained must be such that accuracy is neither sacrificed nor exaggerated. Conversions, the proper use of significant digits, and rounding must be based on the packer's knowledge of the accuracy of the original measurement that is being converted.

(2) In no case shall rounded net contents declarations overstate a quantity; the packer may round converted values down to avoid overstating the net contents.

[Note: When as a result of rounding SI or customary inch-pound declarations based on conversion factors, the resulting declarations are not exact, the largest number will be used for enforcement purposes to determine whether a package contains at least the declared amount of the product.]

(S) 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.

(T) Character of declaration: average.

The average quantity of contents in the packages 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.

OAC 901:6-3-07 Declaration of quantity

(A) General.

The SI and inch-pound systems of weights and measures are recognized as proper systems to be used in the declaration of quantity.

(B) Location.

A nonconsumer package shall bear on the outside a declaration of the net quantity of contents. Such declaration shall be in terms of the largest whole unit.

(C) Terms: weight, liquid measure, dry 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 dry measure if the commodity is dry, 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.

(D) SI units: mass, measure.

A declaration of quantity:

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

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

(a) Except in the case of petroleum products or distilled spirits, for which the declaration shall express the volume at 15.6 degrees Celsius,

(b) Except 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

(c) Except in the case of malt beverages or a commodity that is normally sold in the refrigerated state, for which the declaration shall express the volume at four degrees Celsius;

(3) In units of linear measure, shall be in terms of the meter, centimeter, or millimeter;

(4) In units of area measure, shall be in terms of the square meter, square decimeter, square centimeter or square millimeter; and

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

(6) Rule of one thousand.

The selected multiple or submultiple prefixes for SI units shall result in numerical values between one and one thousand. This requirement allows centimeters or millimeters to be used where a length declaration is less than one hundred centimeters (example: "500 g" not "0.5 kg;" "1.96 kg" not "1960 g;" "750 mL" not "0.75 L;" "750 mm" or "75 cm" not "0.75 m").

(7) SI declarations should be shown in three digits except where the quantity is below one hundred grams, milliliters, centimeters, square centimeters, or cubic centimeters, where it can be shown in two digits. In either case, any final zero appearing to the right of the decimal point need not be shown.

(8) The declaration of net quantity of contents shall not be expressed in mixed units (example: "1.5 kg" not "1 kg 500 g").

(9) Symbols: Only those symbols as detailed in rule 901:6-3-06 of the Administrative Code may be employed in the quantity statement on a package of commodity.

(E) Inch-pound units: weight and measure.

A declaration of quantity:

(1) In units of weight shall be in terms of the avoirdupois pound or ounce;

(2) In units of liquid measure shall be in terms of the United States gallon of two hundred thirty-one cubic inches or liquid-quart, liquid-pint, or fluid-ounce subdivisions of the gallon, and shall express the volume at sixty-eight degrees Fahrenheit;

(a) Except in the case of petroleum products, for which the declaration shall express the volume at sixty degrees Fahrenheit,

(b) Except 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,

(c) Except in the case of a commodity that is normally sold in refrigerated state, for which the declaration shall express the volume at forty degrees Fahrenheit, and

(d) Except in the case of malt beverages, for which the declaration shall express the volume at 39.1 degrees Fahrenheit;

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

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

(5) In units of dry measure shall be in terms of the United States bushel of 2150.42 cubic inches, or peck, dry-quart and dry-pint subdivisions of the bushel; and

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

(F) Symbols and abbreviations.

Any generally accepted symbol and abbreviation of a unit name may be employed in the quantity statement on a package of commodity. For commonly accepted abbreviations, see rule 901:6-3-02 of the Administrative Code.

(G) Character of declaration: average.

The average quantity of contents in the 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.

OAC 901:6-3-08 Prominence and placement: consumer packages

(A) General.

All information required to appear on a consumer package shall appear thereon in the English language and shall be prominent, definite, and plain, and shall be conspicuous as to size and style of letters and numbers and as to color of letters and numbers in contrast to color of background.

Any required information that is either in hand lettering or hand script shall be entirely clear and equal to printing in legibility.

(B) Location.

The declaration or declarations of quantity of the contents of a package shall appear in the bottom thirty per cent of the principal display panel or panels.

(C) Style of type or lettering.

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

(D) Color contrast.

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

(E) Free area.

The area surrounding the quantity declaration shall be free of printed information:

- (1) Above and below, by a space equal to at least the height of the lettering in the declaration; and
- (2) To the left and right, by a space equal to twice the width of the letter "N" of the style and size of type used in the declaration.

(F) Parallel quantity declaration.

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

(G) Calculation of area of principal display panel for purpose of type size.

The area of the principal display panel shall be:

- (1) In the case of a rectangular container, one entire side which properly can be considered to be the principal display panel, the product of the height times the width of that side;
- (2) In the case of a cylindrical or nearly cylindrical container, forty per cent of the product of the height of the container times the circumference; and

(3) In the case of any other shaped container, forty per cent of the total surface of the container, unless such container presents an obvious principal display panel (for example: the top of a triangular or circular package of cheese, or the top of a can of shoe polish), in which the area shall consist of the entire such surface.

Determination of the principal display panel shall exclude tops, bottoms, flanges at tops and bottoms of cans, and shoulders and necks of bottles or jars.

(H) Minimum height of numbers and letters.

(1) The height of any letter or number in the required quantity declaration shall be not less than that shown in table 1 with respect to the area of the panel, and the height of each number of a common fraction shall meet one-half the minimum height standards.

(2) When upper and lowercase, or all lower case, letters are used in SI symbols, it is the uppercase "L," lowercase "D," or their equivalent in the print or type that shall meet the minimum height requirement. However, no letter shall be less than 1.6 millimeters (one-sixteenth inch) in height. Other letters and exponents must be presented in the same type style and in proportion to the type size used.

(I) Numbers and letters: proportion.

No number or letter shall be more than three times as high as it is wide.

OAC 901:6-3-09 Prominence and placement: nonconsumer packages

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 clear and legible.

OAC 901:6-3-10 Requirements: specific consumer commodities, packages, containers

(A) Display card package.

For an individual package affixed to a display card, or for a commodity and display card together comprising a package, the type size of the quantity declaration is governed by the dimensions of the display card.

(B) Eggs.

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

(C) Aerosols and similar pressurized containers.

The declaration of quantity on an aerosol package, and on a similar pressurized package, shall disclose the net quantity of the commodity (including propellant) in terms of weight, that will be expelled when the instructions for use as shown on the container are followed. Beginning January 1, 2018, this rule is enforceable on packages using bag-on-valve (BOV) technology.

(D) Multi-unit packages.

Any package containing more than one individual "commodity in package form" [See rule 901:6-3-02 of the Administrative Code] of the same commodity shall bear on the outside of the package a declaration of:

- (1) The number of individual units;
- (2) The quantity of each individual unit; and
- (3) The total quantity of the contents of the multi-unit package [example: soap bars, "6 Bars, Net Wt 100 g (3.53 oz) each; Total Net Wt 600 g (1.32 lb)"]. The term "total" or the phrase "total contents" may precede the quantity declaration.
- (4) A multi-unit package containing unlabeled individual packages which are not intended for retail sale separate from the multi-unit package may contain, in lieu of the requirements of paragraph (D)(1) of this rule, a declaration of quantity of contents expressing the total quantity of the multi-unit package without regard for inner packaging. For such multi-unit packages it shall be optional to include a statement of the number of individual packages when such a statement is not otherwise required by this chapter.

For example:

- (a) Deodorant cakes: "5 Cakes, Net Wt 113 g (4 oz) each, Total Net Wt 566 g (1.25 lb)" or "5 Cakes, Total Net Wt 566 g (1 lb 4 oz);" and
- (b) Soap packets: "10 Packets, Net Wt 56.6 g (2 oz) each, Total Net Wt 566 g (1.25 lb)" or "Net Wt 566 g (1 lb 4 oz)" or "10 Packets, Total Net Wt 566 g (1 lb 4 oz)."

[Note: For foods, a "multi-unit" package shall be construed to mean a package containing two or more individually packaged units of the identical commodity in the same quantity, intended to be sold as part of the multi-unit package but labeled to be individually sold in full compliance with this chapter. Open multi-unit retail food packages under the authority of the United States food and drug administration or the United States department of agriculture that do not obscure the number of units or prevent examination of the labeling on each of the individual units are not required to declare the number of individual units or the total quantity of contents of the multi-unit package, if the labeling of each individual unit complies with requirements so that it is capable of being sold individually. See rule 901:6-3-11 of the Administrative Code, "Soft-drink bottles" and "Multi-unit soft-drink packages."]

(E) Combination packages.

A "combination package" is a package intended for retail sale, containing two or more individual packages or units of dissimilar commodities. The declaration of net quantity for a combination package shall contain an expression of weight, volume, measure, or count or a combination thereof, as appropriate, for each individual package or unit, provided the quantity statements for

identical packages or units shall be combined. This section does not apply to food or other commodities subject to the federal Food, Drug, and Cosmetic Act. See table 1 for examples.

(F) Variety packages.

A "variety package" shall be construed to mean a package intended for retail sale, containing two or more individual packages or units of similar but not identical commodities. Commodities that are generally the same but that differ in weight, measure, volume, appearance, or quality are considered similar but not identical. This rule does not apply to foods or other commodities subject to the federal Food, Drug, and Cosmetic Act.

The declaration of net quantity for a variety package will be expressed as follows (see table 2 for examples):

- (1) The number of units for each identical commodity followed by the weight, volume, or other measure of that commodity;
- (2) The total quantity by weight, volume, measure, and count, as appropriate, of the variety package. The statement of total quantity shall appear as the last item in the declaration of net quantity and shall not be of greater prominence than the other terms used.

(G) Cylindrical containers.

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

Table 1. Examples of declaration of net quantity for combination packages

Commodities in the package	Declaration of net quantity
Lighter fluid and flints	2 cans - lighter fluid - each 236 ml (8 fl oz)
	1 package - 8 flints
Sponges and cleaner	2 sponges - each 10 cm x 15 cm x 2.5 cm (4 in x 6 in x 1 in)
	1 box cleaner - net mass 170 g (6 oz)
Picnic pack	20 spoons, 10 knives, and 10 forks
	10 2-ply napkins 25 cm x 25 cm (10 in x 10 in)

10 cups - 177 ml (6 fl oz)

Table 2. Declaration of net quantity for variety packages

Commodities in package	Declaration of net quantity
Sponges	11 sponges - 11 cm x 20.3 cm x 1.9 cm (4 in x 8 in x 3/4 in)
	14 sponges - 5.7 cm x 10 cm x 1.2 cm (2 1/4 in x 4 in x 1/2 in)
	Total: 25 sponges
Soap bars	2 soap bars - 85 g (3 oz) ea
	1 soap bar - 142 g (5 oz) ea
	Total: 3 soap bars - 312 g (11 oz)
Shoe polish	Liquid shoe polish - 1 brown 89 ml (3 fl oz)
	1 black 89 ml (3 fl oz)
	1 white 148 ml (5 fl oz)
	Total: 326 ml (11 fl oz)
Picnic ware	Picnic ware - 34 spoons
	33 forks
	33 knives
	Total: 100 pieces

(H) Measurement of container-type commodities, how expressed.

(1) General.

Commodities designed and sold at retail to be used as containers for other materials or objects, such as bags, cups, boxes, and pans, shall be labeled with the declaration of net quantity as follows:

(a) For bag-type commodities, in terms of count followed by linear dimensions of the bag (whether packaged in a perforated roll or otherwise). The linear dimensions shall be expressed:

(i) In SI units: in millimeters or centimeters, except that a dimension of one meter or more will be expressed in meters with the remainder in terms of decimal fractions of the meter; and

(ii) In inch-pound units: in inches, except that a dimension of two feet or more will be expressed in feet with any remainder in terms of inches or common or decimal fractions of the foot.

(b) When the unit bag is characterized by two dimensions because of the absence of a gusset, the width and length will be stated [examples: "25 bags, 12.7 cm x 10 cm (5 in x 4 in)" or "50 bags, 75 cm x 1.2 m (2.5 ft x 3.9 ft)"].

(c) When the unit bag is gusseted, the dimensions will be expressed as width, depth, and length [examples: "25 bags, 43 cm x 10 cm x 50 cm (17 in x 4 in x 20 in)" or "100 bags, 50.8 cm x 30.4 cm x 76.2 cm (20 in x 12 in x 2 1/2 ft)"].

(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 five centimeters or two inches. The linear dimensions shall be expressed as specified in paragraph (H)(1)(a) of this rule [example: "2 cake pans, 20 cm x 20 cm (8 in x 8 in)"].

(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 five centimeters or two inches [example: "4 pans, 20 cm (8 in) diameter x 10 cm (4 in)"].

(f) Cups. 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, 177 mL (6 fl oz) capacity"].

(2) Capacity.

When the functional use of the container is related by label references in standard terms of measure to the capability of holding a specific quantity of substance or class of substances such references shall be a part of the net quantity statement and shall specify capacity as follows:

(a) In SI units:

In terms of volume for all containers and liners. The expressed capacity will be stated in terms of milliliters, except that a quantity of one liter or more shall be expressed in liters with the remainder in terms of decimal fractions of the liter; and

(b) In inch-pound units:

(i) In terms of liquid measure for containers that 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, fluid ounce), with any remainder in terms of common or decimal fractions of that unit [example: freezer boxes - "4 boxes, 946 mL capacity, 15 cm x 15 cm x 10 cm (1 qt capacity, 6 in x 6 in x 4 in)"].

(ii) In terms of dry measure for containers that 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 common or decimal fractions of that unit [example: leaf bags-"8 bags, 211 L capacity, 1.21 m x 1.52 m x 1.52 m (6 bu capacity, 4 ft x 5 ft)"].

(iii) Where containers are used as liners for other more permanent containers, in the same terms as are normally used to express the capacity of the more permanent containers [example: garbage can liners - "10 liners, 76.2 cm x 93.9 cm, fits up to 113 L cans (2 ft 6 in x 3 ft 1 in, fits up to 30-gallon cans)"].

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

(I) Textile products, threads, and yarns.

(1) Wearing apparel.

Wearing apparel (including non-textile apparel and accessories such as leather goods and footwear) sold as single-unit items, or if normally sold in pairs (such as hosiery, gloves, and shoes) sold as single-unit pairs, shall be exempt from the requirements for a net quantity statement by count, as required by rule 901:6-3-06 of the Administrative Code.

(2) Textiles.

Bedsheets, blankets, pillowcases, comforters, quilts, bedspreads, mattress covers and pads, afghans, throws, dresser and other furniture scarfs, tablecloths and napkins, flags, curtains, drapes, dish towels, dish cloths, towels, face cloths, utility cloths, bath mats, carpets and rugs, pot holders, fixture and appliance covers, non-rectangular diapers, slip covers, etcetera, shall be exempt from requirements of rule 901:6-3-06 of the Administrative Code, "Bidimensional commodities," provided:

(a) The quantity statement for fitted sheets and mattress covers shall state, in centimeters and inches, the length and width of the mattress for which the item is

designed, and the size designation of the mattress, if the item is intended to fit a mattress identified as "twin," "double," "king," "California king," etcetera [example: "Double sheet for 137 cm x 190 cm (54 in x 75 in) mattress"].

(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," "california king," etcetera, if the item is intended to fit such a mattress. The quantity statement also shall state, in centimeters and inches, the length and width of the mattress for which the sheet is designed, followed in parentheses by a statement, in centimeters and inches, of the length and width of the finished sheet [example: "twin flat sheet for 99 cm x 190 cm (39 in x 75 in) mattress, 167 cm x 244 cm (66 in x 96 in) finished size"].

(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," etcetera, if the item is intended to fit such pillows. The quantity statement shall also state, in centimeters and inches, the length and width of the pillow for which the pillowcase is designed, followed in parentheses by a statement, in centimeters and inches, of the length and width of the finished pillowcase [example: "standard pillowcase for 51 cm x 66 cm (20 in x 26 in) pillow, 51 cm x 76 cm (20 in x 30 in) finished size"].

(d) The quantity statement for blankets, comforters, quilts, bedspreads, mattress pads, afghans, and throws shall state, in centimeters and 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," "California king," etcetera, if it is intended to fit such a mattress.

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

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

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

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

(i) The quantity statement for textile products such as pot holders, fixture and appliance covers, nonrectangular diapers, slip covers, etcetera, shall be stated in terms of count and may include size designation and dimensions.

(j) The quantity statement for other than rectangular textile products identified in paragraphs (I)(2)(a) to (I)(2)(h) of this rule shall state the geometric shape of the product and the dimensions which are customarily used in describing such geometric shape [examples: "round scarf - 190 cm (74 in) in diameter;" "oval tablecloth 177 cm x 254 cm (70 in x 100 in)," representing the maximum length and width in this case].

(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.

(3) Sewing threads, handicraft threads, and yarns.

Sewing and handicraft threads shall be labeled as follows:

(a) The net quantity statement for sewing and handicraft threads shall be expressed in terms of meters and yards.

(b) The net quantity statement for yarns shall be expressed in terms of mass or weight.

(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 are filed with the director.

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

(J) Packaged seed.

Packages of seeds intended for planting with net contents of less than two hundred twenty-five grams or eight ounces shall be labeled in full accord with this chapter except as follows:

(1) The quantity statement shall appear in the upper thirty per cent of the principal display panel.

(2) The quantity statements shall be in terms of:

- (a) The largest whole SI unit of packages with weights up to seven grams, and
- (b) In grams and ounces for all other packages with weights less than two hundred twenty-five grams or eight ounces.

(3) The quantity statement for coated seed, encapsulated seed, pelletized seed, seed tapes, pre-planters, etcetera, shall be in terms of count.

(K) Statements of cubic measure in compressed form.

When the content declaration on a commodity sold in compressed form is stated in terms of cubic measure, an additional statement may indicate the amount of material from which the final product was compressed. The amount in such statement shall not exceed the actual amount of material that can be recovered.

(L) Indirect sale of random packages. Indirect sales are sales where the customer makes a selection and places an order, but cannot be present when the determination of the net quantity is made. Examples of such indirect methods include but not limited to, Internet or online sales, sales conducted by telephone or facsimile, and catalog sales.

A random package manufactured or produced and offered for indirect sale, such as e-commerce, online, phone, fax, and similar methods, shall be exempt from the labeling requirements of:

(1) Unit price; and

(2) Total price when the following requirements are met:

- (a) The unit price is set forth and established in the initial product offering;
- (b) 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
- (c) When the product is delivered, the customer receives a receipt bearing the following information:
 - (i) Identity;
 - (ii) Declared net weight;
 - (iii) Unit price; and
 - (iv) Total price.

OAC 901:6-3-11 Exemptions

(A) Random packages.

A random package bearing a label conspicuously declaring:

- (1) The net weight,
- (2) The unit price, and
- (3) The total price

shall be exempt from the SI units, type size, location, and free area requirements of this chapter. 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 fresh fruit or vegetables labeled by count, in the same manner and by the same type of equipment as random packages exempted by this rule, and cheese and cheese products labeled in the same manner and by the same type of equipment as random packages exempted by this rule.

- (4) Exemptions include several requirements that refer only to the historic use of United States customary units or are direct restatements of exemptions contained in federal laws or regulations which do not include SI units. SI equivalents are omitted in most of these requirements because the SI units would not be meaningful or useful.

(B) Small confections.

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

(C) Small packages of meat or meat products.

Individually wrapped and labeled packages of meat or meat products of less than fifteen grams or one-half ounce net weight, which are in a shipping container, need not bear a statement of the net quantity of contents when the statement of the net quantity of contents on the shipping container is in conformance with the labeling requirements of this chapter.

(D) Individual servings.

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

(E) Cuts, plugs, and twists of tobacco and cigars.

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

(F) Reusable (returnable) glass containers.

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

(G) Cigarettes and small cigars.

Cartons of cigarettes and small cigars, containing ten individual packages of twenty, labeled in accordance with the requirements of this chapter shall be exempt from the requirements set forth in rules 901:6-3-08 and 901:6-3-10 of the Administrative Code, "Location" and "Minimum height of numbers and letters," and paragraph (D) of rule 901:6-3-10 of the Administrative Code, provided such cartons bear a declaration of the net quantity of commodity in the package.

(H) Packaged commodities with labeling requirements specified in federal law.

Packages of meat and meat products, poultry products, tobacco and tobacco products, pesticides, and alcoholic beverages shall be exempt from those requirements of this chapter specifying location and minimum type size of the net quantity declaration, provided quantity labeling requirements for such products are specified in federal law, so as to follow reasonably sound principles of providing consumer information. See also paragraph (FF) of this rule, "SI units, exemptions: consumer commodities."

(I) Fluid dairy products, ice cream, and similar frozen desserts.

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

(2) When measured by and packaged in measure containers as defined in "Measure Container Code of National Institute of Standards and Technology Handbook 44," are exempt from the requirements of rule 901:6-3-08 of the Administrative Code, that the declaration of net contents be located within the bottom thirty per cent of the principal display panel.

(3) Milk and milk products when measured by and packaged in glass or plastic containers of one-half pint, one pint, one quart, one-half gallon, and one gallon capacities are exempt from the placement requirement rule 901:6-3-08 of the Administrative Code, that the declaration of net contents be located within the bottom thirty per cent of the principal display panel, provided other required label information is conspicuously displayed on the cap or outside closure, and the required net quantity of contents declaration is conspicuously blown, formed, or molded on, or permanently applied to that part of the glass or plastic container that is at or above the shoulder of the container.

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

(1) When packaged in glass, plastic, or fluid milk type paper containers of eight fluid ounce and sixty-four fluid ounce capacity, are exempt from the requirements of rule 901:6-3-06 of the Administrative Code, "Largest whole unit," to the extent that net contents of eight fluid ounces and sixty-four fluid ounces (or two quarts) may be expressed as one-half pint (or half pint) and one-half gallon (or half gallon), respectively.

(2) When packaged in glass or plastic containers of one-half pint, one pint, one quart, one-half gallon, and one gallon capacities, are exempt from the placement requirement of rule 901:6-3-08 of the Administrative Code, that the declaration of net contents be located within the bottom thirty per cent of the principal display panel, provided other label information is conspicuously displayed on the cap or outside closure and the required net quantity of contents declaration is conspicuously blown, formed, or molded into or permanently applied to that part of the glass or plastic container that is at or above the shoulder of the container.

(K) Soft-drink bottles.

Bottles of soft drinks shall be exempt from the placement requirements for the declaration of:

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

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

(L) Multi-unit soft-drink packages.

Multi-unit packages of soft drinks are exempt from the requirement for a declaration of:

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

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

(M) Butter.

When packaged in four ounce, eight ounce, and one pound packages with continuous label copy wrapping, butter is exempt from the requirements that the statement of identity and the net quantity declaration be generally parallel to the base of the package (see rules 901:6-3-03 and 901:6-3-08 of the Administrative Code). When packaged in eight ounce and one pound units, butter is exempt from the requirement for location of net quantity declaration (see rule 901:6-3-08 of the Administrative Code).

(N) Eggs.

Cartons containing twelve eggs shall be exempt from the requirement for location of net quantity declaration (see rule 901:6-3-08 of the Administrative Code). When such cartons are designed to permit division in half, each half shall be exempt from the labeling requirements of this chapter if the undivided carton conforms to all such requirements.

(O) Flour.

Packages of wheat flour in conventional two pound, five pound, ten pound, twenty-five pound, fifty pound, and one hundred pound packages shall be exempt from the requirement in this chapter for location of the net quantity declaration (see 901:6-3-08 of the Administrative Code).

(P) Small packages.

On a principal display panel of thirty-two square centimeters (five square inches) or less, the declaration of quantity need not appear in the bottom thirty per cent of the principal display panel if that declaration satisfies the other requirements of this chapter.

(Q) Decorative containers.

The principal display panel of a cosmetic marketed in a "boudoir-type" container including decorative cosmetic containers of the "cartridge," "pill box," "compact," or "pencil" variety, and those with a capacity of 7.4 milliliters (one-fourth ounce) or less, may be a tear-away tag or tape affixed to the decorative container and bearing the mandatory label information as required by this chapter.

(R) Combination and variety packages.

Combination and variety packages are exempt from the requirements in this chapter for:

- (1) Location (see rule 901:6-3-08 of the Administrative Code),
- (2) Free area (see rule 901:6-3-08 of the Administrative Code), and
- (3) Minimum height of numbers and letters (see rule 901:6-3-08 of the Administrative Code).

(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 chapter for location of the net quantity declaration (see rule 901:6-3-08 of the Administrative Code).

(T) Corn flour and corn meal.

Corn flour and corn meal packaged in conventional five pound, ten pound, twenty-five pound, fifty pound, and one hundred pound bags shall be exempt from the requirements in this chapter for location of the net quantity declaration (see rule 901:6-3-08 of the Administrative Code).

(U) Prescription and insulin-containing drugs.

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

(V) Camera film, video recording tape, audio recording tape and other image and audio recording media intended for retail sale and consumer use.

Image and audio media packaged and labeled for retail sale are exempt from the net quantity statement requirements of this chapter that specify how measurement of commodities should be expressed, provided:

(1) Unexposed or unrecorded media.

The net quantity of contents of unexposed or unrecorded image and audio media is expressed:

(a) For still film tape or other still image media, in terms of the useable or guaranteed number of available still image exposures. The length and width measurements of the individual exposures, expressed in millimeters or inches, are authorized as an optional statement (Example: "36 exposures, 36 mm x 24 mm" or "12 exposures, 2-1/4 in x 2-1/4 in").

(b) For bulk or movie film, in terms of length (in meters or feet) of film available for exposure.

(c) For all other image and/or audio media, in terms of length of time of electronic media available for recording, together with recording and/or playing speed or other machine settings as necessary. Supplemental information concerning the length of the media may be provided.

(d) Supplemental information may be provided on other than the principal display panel.

[Note: Size, length of media, and format details to ensure interchangeability and other characteristics of audio and imaging media are available in the applicable "American National Standards."]

(2) Exposed, recorded, or processed media.

(a) The net quantity of contents of exposed or processed film or prerecorded electronic media shall be expressed in terms of the length of time that it is of entertainment value.

(b) "Entertainment value" is defined as that portion of a film, tape, or other media that commences with the first frame of sound or picture, whichever comes first after the countdown sequence (if any), and ends with either:

(i) The last frame of credits,

- (ii) The last frame of the phrase, "The End," or
- (iii) The end of the sound, whichever is last.

(W) Tint base paint.

(1) Tint base paint may be labeled on the principal display panel in terms of a liter, 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 liter, 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.

(2) Wherever the above conditions 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 chapter.

(X) Motor oil in cans.

Motor oils, when packed in cans bearing the principal display panel on the body of the container, are exempt from the requirements of identity in rule 901:6-3-03 of the Administrative Code, "Declaration of identity," to the extent that the "Society of Automotive Engineers" (SAE) viscosity number is required to appear on the principal display panel, provided the SAE viscosity number appears on the can lid and is expressed in letters and numerals in type size of at least six millimeters or one-fourth inch.

(Y) Pillows, cushions, comforters, mattress pads, sleeping bags, and similar products.

Those products, including pillows, cushions, comforters, mattress pads, and sleeping bags that bear a permanent label as designated by the Association of "Bedding and Furniture Law Officials," or by the "California bureau of home furnishings," shall be exempt from the requirements for location, size of letters or numbers, free area (see rule 901:6-3-08 of the Administrative Code), declaration of identity (see rule 901:6-3-03 of the Administrative Code), and declaration of responsibility (see rule 901:6-3-05 of the Administrative Code), provided declarations of identity, quantity, and responsibility are presented on a permanently attached label and satisfy the other requirements of this chapter, and further, provided the information on such permanently attached label be fully observable to the purchaser.

(Z) Commodities' variable weights and sizes.

Individual packaged commodities put up in variable weights and sizes for sale intact, and intended to be weighed and marked with the correct quantity statement prior to or at the point of retail sale, are exempt from the requirements of rule 901:6-3-06 of the Administrative Code, "Declaration of quantity: consumer packages," while moving in commerce and while held for sale prior to weighing and marking, provided the outside container bears a label declaration of the total net weight.

(AA) Packaged commodities sold by count.

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

[Note: When the net contents declaration of a package that may enter interstate commerce includes count, federal regulations under the federal Fair Packaging and Labeling Act provide no exemption from declaring the count unless the count is one.]

(BB) Textile packages.

Packages of textiles that are required by rule 901:6-3-06 of the Administrative Code to provide a combination declaration stating the quantity of each individual unit and the count shall be exempt from the requirements in this chapter for:

- (1) Location,
- (2) Free area,
- (3) Minimum height of numbers and letters (see rule 901:6-3-08 of the Administrative Code).

(CC) Spot label.

The declaration of quantity of the contents of a package is exempt from rule 901:6-3-08 of the Administrative Code, requiring the quantity declaration to appear in the bottom thirty per cent of the principal display panel, as long as the declaration of quantity appears in the lower thirty per cent of the spot label. In no case may the size of the spot label be used to determine the minimum type size. (See rule 901:6-3-08 of the Administrative Code for this determination).

(DD) Header strip.

The declaration of quantity of the contents of a package is exempt from rule 901:6-3-08 of the Administrative Code, requiring the quantity declaration to appear in the bottom thirty per cent of the principal display panel, as long as the declaration of quantity appears in the lower thirty per cent of the header strip or header label. In no case may the size of the header strip be used to determine the minimum size. (See rule 901:6-3-08 of the Administrative Code).

(EE) Decorative wallcovering borders.

Decorative wallcovering borders, when packaged and labeled for retail sale, shall be exempt from the requirements of rule 901:6-3-06 of the Administrative Code, "Largest whole unit;" "Prescribed units, inch-pound system - one foot, one square foot, one pound, one pound, one gallon or more;" and "Bidimensional commodities," provided the length and width of the border are presented in terms of the largest whole unit in full accord with the other requirements of this chapter.

(FF) SI units, exemptions: consumer commodities.

The requirements in this chapter for statements of quantity in SI units (except for those in rule 901:6-3-10 of the Administrative Code, "Packaged seed," and also for those in this rule, "Camera film, video recording tape, audio recording tape and other image and audio recording media intended for retail sale and consumer use") shall not apply to:

- (1) Foods packaged at the retail store level;
- (2) Random weight packages (see rule 901:6-3-2 of the Administrative Code);
- (3) Package labels printed before February 14, 1994;
- (4) Meat and poultry products subject to the federal Meat or Poultry Products Inspection Acts;
- (5) Tobacco or tobacco products;
- (6) Any beverage subject to the federal Alcohol Administration Act;
- (7) Any product subject to the federal Insecticide, Fungicide, and Rodenticide Act;
- (8) Drugs and cosmetics subject to the federal Food, Drug and Cosmetic Act; and
- (9) Nutrition labeling information.

OAC 901:6-3-12 Variations to be allowed

(A) Packaging 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 current good manufacturing practice. However, 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.

(B) Packaging 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 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:

- (1) Directly to the purchaser or to his/her agent, or

(2) 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.

(C) Magnitude of permitted variations.

The magnitude of variations permitted under paragraphs (A) and (B) of this rule shall be those expressly set forth in this rule and variations such as those contained in the procedures and tables of National Institute of Standards and Technology Handbook 133 (2016), Checking the Net Contents of Packaged Goods.

DEVICE REGISTRATION & PERMITTING

OAC 901:6-4-01 Device registration and permitting

(A) Application.

This rule applies only to commercially used weighing and measuring devices that are permitted pursuant to section 1327.501 of the Revised Code.

(B) The director may deny a device registration if the weighing or measuring device is:

- (1) Not found to be in compliance with requirements of "Handbook 44" as adopted in rule 901:6-1-01 of the Administrative Code;
- (2) Not found to be traceable to a certificate of conformance prior to use for commercial or law enforcement purposes as identified in rule 901:6-2-01 of the Administrative Code;
- (3) Does not have an identified marking such as a serial or identification number;
- (4) Is not making the final validation of the transaction;
- (5) Device registration fee has not been paid; or,
- (6) The owner has violated any section of 1327.501 of the Revised Code.

(C) The director may conduct inspections and performance testing on any commercial devices that require a device registration permit under section 1327.501 of the Revised Code.

(D) The director must afford an opportunity for a hearing in accordance with Chapter 119. of the Revised Code to any owner that is denied a permit under this rule and who requests such hearing.

(E) The department may assess a permit replacement fee of ten dollars for the replacement of permits that are lost, stolen, or destroyed.

(F) The department may assess a late penalty of twenty dollars, if a renewal fee is more than sixty days past due; and a late penalty of ten dollars if a permit replacement fee is more than sixty days past the invoice date.

RETAIL SALES OF MOTOR FUEL

OAC 901:6-5-01 Definitions

- (A) "Biodiesel" means a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated as defined by the latest revision of ASTM D6751.
- (B) "Biodiesel blend" means a fuel comprised of a blend of biodiesel fuel with petroleum-based diesel fuel, designated BXX depending on the percentage of biodiesel fuel in the blend. In the abbreviation BXX, (e.g., B20) represents the volume percentage of biodiesel fuel in the blend.
- (C) "Compressed natural gas" means natural gas which has been compressed and dispensed into fuel storage containers and is suitable for use as a motor fuel.
- (D) "Diesel exhaust fluid" means a preparation of aqueous urea [(NH₂)₂CO], containing 32.5 per cent by mass of technically-pure urea in high-purity water.
- (E) "Diesel fuel" means a refined middle distillate suitable for use as fuel in a compression-ignition (diesel) internal combustion engine.
- (F) "Diesel gallon equivalent (DGE)" means 6.384 pounds of compressed natural gas or 6.059 pounds of liquefied natural gas.
- (G) "Electric vehicle" means an automobile that is propelled by one or more electric motors using electrical energy stored in rechargeable batteries or another energy storage device.
- (H) "Ethanol" also known as "ethyl alcohol" means an ethanol blend component for use in gasoline-ethanol blends and ethanol flex fuel.
- (I) "Ethanol flex fuel" means a blend of ethanol and hydrocarbons restricted for use as fuel in ground vehicles equipped with flexible fuel spark ignition engines. In the abbreviation EXX, (e.g., E20) represents the volume percentage of ethanol fuel in the blend.
- (J) "Gasoline" means a volatile mixture of liquid hydrocarbons generally containing small amounts of additives suitable for use as a fuel in a spark-ignition internal combustion engine.
- (K) "Gasoline-Alcohol Blend" means a fuel consisting primarily of gasoline and a substantial amount (more than 0.35 mass percent of oxygen, or more than 0.15 mass percent of oxygen if methanol is the only oxygenate) of one or more alcohols.
- (L) "Gasoline gallon equivalent (GGE)" means 5.660 pounds of compressed natural gas.
- (M) "Gasoline liter equivalent (GLE)" means 0.678 kilograms or 1.495 pounds of compressed natural gas.
- (N) "Hydrogen fuel" means a fuel composed of molecular hydrogen intended for consumption in a surface vehicle or electricity production device with an internal combustion engine or fuel cell.

(O) "Internal combustion engine" means a device used to generate power by converting chemical energy bound in the fuel via spark-ignition or compression ignition combustion into mechanical work to power a vehicle or other device.

(P) "Liquefied natural gas (LNG)" means natural gas that has been liquefied at minus one hundred sixty-two degrees Celsius or two hundred sixty degrees Fahrenheit and stored in insulated cryogenic fuel storage tanks for use as a motor fuel.

(Q) "Liquefied petroleum gas" means a mixture of normally gaseous hydrocarbons, predominantly propane, butane, or both, that has been liquefied by compression, cooling, or both to facilitate storage, transport, and handling.

(R) "Motor fuel" means liquid used as fuel for internal combustion engines or electrical energy used to power electrical vehicles.

(S) "Natural gas" means a gaseous fuel, composed primarily of methane, that is suitable for compression and dispensing into fuel storage containers for use as a motor fuel.

(T) "Street sign" means a displayed structure bearing letters and symbols used to advertise the retail sale of motor fuel.

OAC 901:6-5-02 Retail Sales of Fuels

(A) Street signage is not required. However, when street signage is used, the sign shall match the product and the price at which the product is displayed.

(1) In the event of a pre or post delivery discount, the highest price available to all consumers shall be posted.

(2) In the event the price is determined by a qualifier, the qualifier must be on the street sign, such as cash or credit, using the highest price available to all consumers.

(3) In the event of a price increase, the price must be changed on the sign prior to the pump, if not simultaneously.

(4) In the event of a price decrease, the price must be changed on the pump prior to the sign, if not simultaneously.

(B) Each retail motor fuel metering device shall:

(1) Display the unit price;

(2) Display the product identity by name, symbol, abbreviation, or code number;

(3) Indicate the amount of fuel delivered during a single retail transaction; and

(4) Indicate the total selling price for a single retail transaction.

(C) Ethanol flex fuel shall be identified as "Ethanol Flex Fuel or EXX Flex Fuel" and shall be labeled in accordance with 16 C.F.R. Part 306 (2016).

(D) Biodiesel shall be identified as "Biodiesel" with the designation B100. Biodiesel blends shall be identified by the term "Biodiesel Blend." However, biodiesel blends that contain less than or equal to five per cent biodiesel by volume are exempt from these requirements. Biodiesel and biodiesel blends shall be labeled with its automotive fuel rating in accordance with 16 C.F.R. Part 306 (2016).

(E) Liquefied petroleum gas.

(1) Liquefied petroleum gas shall be kept, offered, exposed for sale, or sold by one of the following measurements:

(a) Pound;

(b) Metered cubic foot of vapor which is defined as one cubic foot at sixty degrees Fahrenheit or 15.6 degrees Celsius; or

(c) Gallon which is defined as two hundred thirty one cubic inch at sixty degrees Fahrenheit or 15.6 degrees Celsius.

(2) All metered sales by the gallon, except those using meters with a maximum rated capacity of twenty gallons per minute or less, shall be accomplished by use of a meter and device that automatically compensates for temperature.

(F) All compressed natural gas kept, offered, or exposed for sale and sold at retail as a motor fuel shall be measured in terms of mass and indicated in the gasoline gallon equivalents GGE, Diesel gallon equivalents DGE units or mass.

(1) All retail compressed natural gas dispensers shall be labeled with the equivalent conversion factor in terms of pounds. The label shall be permanently and conspicuously displayed on the face of the dispenser and shall have the statement one gasoline gallon equivalent GGE means 5.660 pounds of compressed natural gas or one diesel gallon equivalent DGE means 6.384 pounds of compressed natural gas consistent with the method of sale used.

(2) The unit price must be in terms of price per GGE and DGE in whole cents, for example 1.00 dollar per GGE and DGE or in mass consistent with the method of sale.

(3) All liquefied natural gas kept, offered, or exposed for sale and sold at retail as a motor fuel shall be measured in mass and indicated in diesel gallon equivalent DGE or units of mass.

(4) All retail liquefied natural gas dispensers shall be labeled with the equivalent conversion factor in terms of pounds. The label shall be permanently and conspicuously displayed on the fact of the dispenser and shall have the statement one diesel gallon equivalent DGE means 6.059 of liquefied natural gas.

(G) Hydrogen fuel kept, offered, or exposed for sale and sold at retail shall be in mass units in terms of kilogram. The symbol for hydrogen motor fuel shall be in the capital letter "H." The word "hydrogen" may also be used.

(1) The computing dispenser must display the unit price in whole cents on the basis of price per kilogram.

(2) The service pressures of the dispenser and street signage or advertisement must be conspicuously shown on the user interface in bar or the SI unit of pascal in terms of whole units.

(3) The product identity must be shown in a conspicuous location on the dispenser.

(4) The labeling of hydrogen must comply with the national fire protection association labeling requirements located at www.nfpa.org and the labeling requirements under 16 C.F.R. 309 (2013).

(H) Electrical energy kept, offered, or exposed for sale and sold at retail as a motor fuel shall be in units in terms of the megajoule or kilowatt per hour.

(1) All computing electric vehicle supply equipment shall display the unit price in whole cents or tenths of one cent on the basis of price per megajoule or kilowatt per hour.

(a) In addition to the fee assessed for the quantity of electrical energy sold, fees may be assessed for other services; such fees may be based on time measurement and/or a fixed fee. Where fees will be assessed for other services in direct connection with the fueling of the vehicle, such as fees based on time measurement or a fixed fee, the additional fee shall be displayed.

(b) If electrical energy is unlimited or free of charge, this fact must be clearly indicated in place of the unit price.

(2) Where more than one electrical energy unit price may apply over the duration of a single transaction, the terms and conditions that will determine each unit price and when each unit price will apply must be clearly displayed.

(3) For fixed service applications, the following information shall be conspicuously displayed or posted on the face of the device:

(a) The level of electrical vehicle service expressed as the nominal power transfer, such as the nominal rate of electrical energy transfer, and

(b) The type of electrical energy transfer.

(4) For variable service applications, the following information shall be conspicuously displayed or posted on the face of the device:

(a) The type of delivery;

(b) The minimum and maximum power transfer that can occur during a transaction, including whether service can be reduced to zero;

(c) The condition under which variations in electrical energy transfer will occur; and

(d) The type of electrical energy transfer.

(5) The electrical vehicle supply equipment shall be labeled in accordance with the National Electric Code NFPA 70, Article 625 available at www.nfpa.org and in accordance with 16 C.F.R. 309 (2013).

(I) Diesel exhaust fluid shall be sold in terms of volumetric measure or by mass.

PACKAGING & PRICING OF FOOD & NONFOOD PRODCUTS

(METHOD OF SALE)

OAC 901:6-7-01 Definitions

(A) Definitions. As used in this rule, the following words and phrases shall have the following meanings:

- (1) "Buyer" means both the actual and prospective purchaser, but does not include persons purchasing for resale.
- (2) "Contract" means all of the collective written agreements subscribed by a buyer at the time of sale relating to the purchase of a home food service plan, except promissory notes or other financing agreements.
- (3) "Food item" means each edible product sold as part of a home food service plan, including but not limited to, each constituent part or kind of meat cut from a primal source, each kind of whole poultry or poultry part, seafood products, and other like products.
- (4) "Home food service plan" means the offering for sale to a consumer, in the consumer's home, any food item, or food item in combination with any non-food item and/or services, whether or not a membership fee or similar charge is involved.
- (5) "Non-food item" means each inedible product sold as part of a home food service plan, including but not limited to, paper products, health and beauty products, detergents, cleaners and disinfectants, rolls of wrapping, and like products. The term does not include food items and durable consumer goods such as appliances.
- (6) "Primal source" refers to the following cuts:
 - (a) Beef - the round, flank, loin, rib, plate, brisket, chuck, and shank;
 - (b) Veal, lamb, or mutton - the leg, flank, loin, rack (rib), and shoulder; and
 - (c) Pork - the belly, loin, ham, spareribs, shoulder, and jowl.
- (7) "Seller" means any person, partnership, corporation, or association, however organized, engaged in the sale of a home food service plan.
- (8) "Service charge" means the total price for any additional features, services, and processing associated with the purchase of a home food service plan, whether stated in terms of membership fees or otherwise.
- (9) "Unit price" means the price of a food or non-food item sold as part of a home food service plan, computed to the nearest tenth of one cent when less than one dollar, and to the nearest cent when one dollar or more. The unit price, exclusive of any service charge(s), shall be expressed in terms of the price per unit of weight, measure, or count set forth in the "Uniform Pricing Regulation" in the current edition of NIST Handbook 130.

OAC 901:6-7-02 Food Products

(A) Berries and small fruits and fresh vegetables shall be offered and exposed for sale and sold by weight or by volume; if sold by volume, they must be:

(1) In measure containers that are either open or else covered by uncolored transparent lids or other wrappings that do not obscure the contents; and,

(2) Have capacities in terms of:

(a) Inch-pound capacities: one-half dry pint, one dry pint, or one dry quart; or

(b) SI-metric capacities: two hundred fifty milliliters, five hundred milliliters, or one liter.

(c) When used in this rule, the term "weight" means "mass."

(3) When selling berries, and small fruits and fresh vegetables by volume in measure containers, whether or not covered, the measure containers themselves shall not be packages for labeling purposes.

(4) Method of sale of berries, small fruits, and fresh vegetables. This applies to the sale of berries, fresh fruits, and vegetables. There are two tables, one for specific commodities and one for general commodity groups. Search the specific list first to see if the commodity is specified. If the commodity is not listed find the general group in the second table. The commodity may be sold by any method of sale marked with an X.

Specific Commodity	Weight	Count	Head or Bunch	Dry measure (any size)	Dry measure (1 dry qt or larger)
Artichokes	X	X			
Asparagus	X		X		
Avocados	X	X			
Bananas	X	X			
Beans (green, yellow, etc)	X				X

Brussels sprouts (loose)	X			X	X
Brussels sprouts (on stalk)			X		
Cherries	X			X	X
Coconuts	X	X			
Sweet corn / corn on the cob		X			X
Cranberries	X			X	X
Dates	X				X
Eggplant	X	X			
Figs	X				X
Grapes	X				X
Kohlrabi	X	X	X	X	X
Melons (cut pieces)	X				
Mushrooms (small)	X			X	X
Mushrooms (Portobello, large)	X	X			
Okra	X			X	X
Peas	X			X	X

Peppers (bell and other varieties)	X	X		X	X
Pineapples (cored or whole)	X	X			
Rhubarb	X		X		
Tomatoes	X	X		X	X
General Commodity Groups	Weight	Count	Head or Bunch	Dry measure (up to any size)	Dry measure (1 dry qt or larger)
Berries (all)	X			X	
Citrus fruits (oranges, grapefruit, lemons, limes, etc)	X	X			X
Edible bulbs (onions, garlic, leeks, etc)	X	X	X	X	X
Edible tubers (Irish or sweet potatoes, ginger, horseradish , etc)	X	X		X	X

Flower vegetables (broccoli, cauliflower, brussels sprouts, etc)	X		X		
Gourd vegetables (cucumbers, squash, melons, pumpkins, etc)	X	X			X
Leaf vegetables (head lettuce, cabbage, celery, etc)	X		X		
Leaf vegetables (parsley, herbs, loose picked greens)	X		X	X	
Stone fruits (peaches, plums, prunes, etc)	X	X			X
Pome fruits (apples, pears, mangoes, etc)	X	X		X	X

Root vegetables (turnips, carrots, radishes, beets, rutabaga, etc)	X		X		X
--	---	--	---	--	---

Except for sweet corn / corn on the cob, when the commodity is sold in pre-package form, the sale by count is limited to a maximum of six.

(B) Marking requirements for shipping containers. If two or more measure containers are placed in a shipping package, the crate or package shall show the number of measure containers and the quantity of contents of each.

(C) Bread kept, offered, or exposed for sale, whether or not packaged or sliced, shall be sold by weight. The wrappers of bread that are sold and expressly represented at the time of sale as "stale bread" shall not be considered packages for labeling purposes.

(D) Flour, corn meal, and hominy grits. Wheat flour, whole wheat flour, graham flour, self-rising wheat flour, phosphated wheat flour, bromated flour, corn flour, corn meal, and hominy grits, whether enriched or not, shall be packaged, kept, offered, or exposed for sale and sold by weight.

(E) Butter, oleomargarine, margarine, butter-like and/or margarine-like spreads shall be offered and exposed for sale and sold by weight.

"Butter-like and/or margarine-like spreads" are those products that meet the Federal Standard of Identity for butter or margarine, 21 CFR 130.6 (1977) and oleomargarine, 21 CFR 166.110 (1998), except that they contain less than eighty per cent fat and may contain other safe and suitable ingredients.

(F) Meat, poultry, fish and seafood shall be sold by weight.

(G) In combination with other foods. When meat, poultry, fish, or seafood is combined with some other food element to form a distinctive food product, the quantity representation may be in terms of the total weight of the product or combination. A quantity representation need not be made for each element.

(H) Clams, mussels, and oysters.

(1) Processed clams, mussels, oysters, and other mollusks on the half-shell (fresh or frozen) shall be sold by net weight excluding the weight of the shell.

(2) Canned (heat-processed) mussels, clams, oysters, and other mollusks shall be sold by net weight. A maximum of forty-one per cent free liquid by weight is permitted for canned oysters.

(3) Fresh oysters, clams, mussels, and other mollusks removed from the shell shall be sold by weight, drained weight or by fluid volume. For oysters sold by weight or by volume a maximum of fifteen per cent free liquid by weight is permitted.

(4) Whole clams, oysters, mussels, and other mollusks in the shell (fresh or frozen) shall be sold by weight (including the weight of the shell, but not including the liquid or ice packed with them), dry measure (e.g., bushel), and/or count. In addition, size designations may be provided.

(5) Whole clams, oysters, mussels, and other mollusks on the half shell (fresh, cooked, smoked, or frozen, with or without sauces or spices added) shall be sold by weight (excluding the weight of the shell) or by count. Size designations may also be provided.

(6) Shellfish not included under this rule may be sold by weight, measure, and/or count.

(I) Fluid milk products. All fluid milk products including but not limited to milk, lowfat milk, skim milk, cultured milks, and cream shall be sold in terms of volume.

(J) Other milk products. Cottage cheese, cottage cheese products, and other milk products that are solid, semi-solid, viscous, or a mixture of solid and liquid, as defined in the pasteurized milk ordinance of the U.S. department of health and human services, 21 CFR 131 (2003 revision) incorporated herein by reference, shall be sold in terms of weight.

(K) Factory-packaged and hand-packed ice cream and similar frozen products. Ice cream, ice milk, frozen yogurt, and similar products shall be kept, offered, or exposed for sale, or sold in terms of fluid volume.

(L) Pelletized ice cream and similar pelletized frozen desserts. A semi-solid food product manufactured at very low temperatures using a nitrogen process and consisting of small beads of varying sizes. Bits of inclusions, such as cookies and candy that also vary in size and weight may be mixed with the pellets. Packaged pelletized ice cream or similar pelletized frozen desserts shall be kept, offered, or exposed for sale on the basis of net weight.

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

(N) Advertising and price computing of bulk food commodities.

(1) Total price computing: The price of bulk food commodities or food commodities not in package form and sold by weight shall be computed in terms of whole units of weight (i.e., pounds, ounces, grams, kilograms, etc.) and not in common or decimal fractions.

(2) Unit price advertising: The price of bulk food commodities or food commodities not in package form and sold by weight shall be advertised or displayed in terms of whole weight units of pounds or kilograms only, not in common or decimal fractions or in ounces. A supplemental declaration in common or decimal fractions or in ounces, in print no larger than the whole unit price, is permitted.

(O) Generic terms for meat cuts. A declaration of identity for meat cuts shall be limited to generic terms, such as those listed in the "Uniform Retail Meat Identity Standards" (2012).

The following abbreviations may be used:

BAR B Q	(barbecue).	POT-RST	(pot roast).
BI	(bone in).	RND	(round).
BNLS	(boneless).	RST	(roast).
DBLE	(double).	SHLDR	(shoulder).
LGE	(large).	SQ	(square).
N.Y. (NY)	(new york).	STK	(steak).
PK	(pork).	TRMD	(trimmed).

(P) Sale of meat by carcass, side, primal cut, or any single sale of meat or poultry in excess of fifty pounds. The seller of a carcass side, quarter, primal cut, or a single sale of meat or poultry in excess of fifty pounds on a gross or hanging weight basis shall provide to the buyer a written statement giving the following information at the times indicated.

(1) Prior to delivery:

- (a) The name and address of the seller (firm);
- (b) The date of the contract;
- (c) The name and address of the buyer;
- (d) The total net weight (hanging weight) of the carcass, side, primal cut, meat, or poultry prior to cutting or processing;
- (e) The USDA -AMS (United States department of agriculture-agriculture marketing service) quality grade and yield grade for the meat to be supplied if so represented;

(f) The price per pound for each species (not including any inducements) and the total price of the sale order; and

(g) Additional costs, listed separately, for cutting, wrapping, freezing, and finance charges, if any.

(2) At the time of delivery:

(a) The name and address of the buyer and seller;

(b) The date of delivery;

(c) The total net weight of the meat or poultry delivered; or a list, by name and count, of each cut derived from each primal cut with the net weight of each cut, packages, groups of packages, or individual boxes; and

(d) A separate indication of the quantity of any meat or other commodity received by the purchaser as an inducement in connection with the purchase of the carcass, side, primal cut, meat, or poultry.

(3) Definitions:

(a) "Beef carcass." A beef carcass consists of four quarters from a single carcass derived from splitting the carcass down the backbone into two sides. The forequarters are separated from the hindquarters by a cut following the natural curvature between the twelfth and thirteenth ribs, the thirteenth ribs remaining with the hindquarters. The diaphragm may be removed, but if not removed, the membranous portion shall be removed close to the lean. The thymus gland and the heart fat shall be closely removed.

(b) "Beef side." The side shall consist of one matched forequarter and hindquarter from the beef carcass.

(c) "Beef forequarter." The forequarter is the anterior portion of the side after severance from the hindquarter as described in the definition for beef carcass.

(d) "Beef hindquarter." The hindquarter is the posterior portion of the side after severance from the forequarter, as described in the definition for beef carcass.

(4) Exemptions: This rule shall not apply to the sale of any carcass, side, quarter, or primal cut of meat or poultry that individually or collectively has a gross or hanging weight of fifty pounds or less, the custom sale when the seller is charging only for processing and not the meat or poultry, or the sale of any carcass, side, quarter or primal cut of meat or poultry by a farmer when the farmer is not the processor.

(Q) Ready-to-eat food.

(1) Ready-to-eat food sold from bulk, or in single servings packed on the premises, may be sold by weight, measure, or count (count includes servings). If sold by weight, ready-

to-eat frozen dairy products such as ice cream, ice milk and frozen yogurt must be offered, exposed, or advertised for sale in ounces or pounds.

(2) Definition: "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 consumption, though not necessarily on the premises where sold.

(3) Exemptions: Ready-to-eat food does not include sliced luncheon products, such as meat, poultry, or cheese when sold separately.

(R) At time of sale:

(1) The seller shall provide the buyer with a single document, referred to in this section as the written agreement, which shall clearly and conspicuously disclose the following:

(a) The name, address, and telephone number of the seller, and the name and address of the buyer;

(b) The date of the written agreement;

(c) The price of the food and non-food items of the home food service plan;

(d) The service charge or the price of any service charges associated with the home food service plan;

(e) The total price of the home food service plan, including the price of the food and non-food items, and the price of any service charge; and

(f) A statement that the buyer shall have the right to cancel the home food service plan contract until midnight of the third business day after the date in which the buyer executed the contract, or after the day in which the seller provided the buyer with a fully executed copy of the contract, whichever is later, by giving written notice of the cancellation to the seller. Compliance with requirements of federal statutes, rules, or regulations governing form of notice of right of cancellation shall be deemed satisfactory notice of the requirements of this rule.

(2) In addition to paragraph (R)(1) of this rule, the following disclosures are required to be given to the buyer at the time of sale:

(a) A written list of all food and non-food items to be sold, which shall include:

(i) The identity of each unit and, where applicable, the United States department of agriculture quality grade of the items, if so graded;

(ii) The primal source;

(iii) The brand or trade name;

(iv) The quantity of each item sold;

(v) The estimated serving size by net weight of each piece of meat, poultry, and seafood item offered for sale under the home food service plan, provided, however, that such estimates shall not differ from the actual weight at the time of delivery by more than five per cent and the dollar value of the meat, poultry, and seafood items delivered is equal to or greater than that represented to the buyer; and

(vi) The net weight, measure, or count of all other food and non-food items offered for sale.

(b) A current unit price list stating in dollars and cents the price per kilogram or pound or other appropriate unit of measure, and the total sale price of each item to be delivered. This price list shall clearly and conspicuously make reference to the fact of whether there are additional costs disclosed in the written agreement relating to any service charges associated with the purchase of the home food service plan.

(c) If a membership is sold, a written statement of all terms, conditions, benefits, and privileges applicable to the membership.

(d) If a service charge is included, a written statement specifically identifying the service(s) provided and the price(s) charged for them.

(S) At the time of delivery, the seller shall provide a receipt, for signature by buyer, disclosing the following information:

(1) The identity of the item and the net quantity of the contents in terms of either weight, measure, or count, as required by applicable law. The net weight of each food item delivered shall be within the limit specified in this rule; and

(2) The unit price and total sale price of each food and non-food item. The unit price shall be the same as that specified on the unit price list given to the buyer at the time of sale.

OAC 901:6-7-03 Nonfood Products

(A) Fence wire products. Rolls of fence wire products shall be sold by:

(1) Gauge of wire.

(2) Height in terms of inches or centimeters, if applicable.

(3) Length in terms of rods, meters, or feet.

(4) Packages subject to the Federal Fair Packaging and Labeling Act must be labeled in inch-pound units of measure. Metric units may also be declared on the principal display panel and may even appear first.

(B) Coatings. Asphalt paints, coatings, and plastics shall be sold in terms of liquid measure.

(C) Fireplace and stove wood. For the purpose of this rule, this paragraph applies to the sale of all wood, natural and processed, for use as fuel or flavoring.

(1) Definitions:

(a) "Fireplace and stove wood." Any kindling logs, boards, timbers, or other wood, split or not split, advertised, offered for sale, or sold as fuel.

(b) "Cord." The amount of wood that is contained in a space of one hundred twenty-eight cubic feet, when the wood is ranked and well stowed. For the purpose of this rule, "ranked and well stowed" shall be construed to mean that pieces of wood are placed in a line or row, with individual pieces touching and parallel to each other, and stacked in a compact manner.

(c) "Representation." A representation shall be construed to mean any advertisement, offering, invoice, or the like that pertains to the sale of fireplace or stove wood.

(d) Stove wood pellets or chips. Pellets or chips not greater than fifteen cm (six inches) in any dimension shall be sold by weight. This requirement does not apply to flavoring chips.

(e) Flavoring chips. Any kindling, logs, boards, timbers, or other natural or processed, split or unsplit wood that is advertised, offered for sale, or sold for flavoring smoked or barbequed foods.

(2) Identity: A representation may include a declaration of identity that indicates the species group. (Example: fifty per cent hickory, forty per cent oak, ten per cent ash.) Such a representation shall indicate, within ten per cent accuracy, the percentages of each group.

(3) Quantity: Wood of any type used as fuel may be advertised, offered for sale, and sold by measure, weight, and count, insofar as the wood advertised, offered for sale, and sold by measure shall use the term "cord" and fractional parts of a cord or the cubic meter; except that:

(a) Natural or processed wood offered for sale in package form shall display the quantity in terms of cubic feet and include fractions of cubic feet, or cubic meters and include decimal fractions of cubic meters.

(b) A single log shall be sold by weight. Packages of individual logs containing less than four cubic feet (one thirty-second of a cord), if sold by inch-pound volume, may be sold by net weight plus count.

(c) Wood advertised, offered for sale, and sold by weight shall be sold in terms of price per ton, the sale based on a net weight determined using an appropriate scale sealed by a weights and measures inspector. In no case shall a scale be used for net loads that weigh less than fifty minimum divisions.

(4) Prohibition of terms: The terms "face cord," "rack," "pile," "rick," "truckload," or terms of similar import shall not be used when advertising, offering for sale, or selling wood for use as fuel.

(5) Delivery ticket or sales invoice: A delivery ticket or sales invoice shall be presented by the seller to the purchaser whenever any nonpackaged fireplace or stove wood is sold. The delivery ticket or sales invoice shall contain at least the following information:

- (a) The name and address of the vendor;
- (b) The name address of the purchaser;
- (c) The date delivered;
- (d) The quantity delivered and the quantity upon which the price is based, if this differs from the delivered quantity;
- (e) The price of the amount delivered; and
- (f) The identity in the most descriptive terms commercially practicable, including any quality representation made in connection with the sale.

(D) Peat and peat moss applies only with respect to organic matter of geological origin, excluding coal and lignite, originating principally from dead vegetative remains through the agency of water in the absence of air and occurring in a bog, swampland, or marsh, and containing an ash content not exceeding twenty-five per cent on a dry-weight basis (dried in an oven at one hundred five degrees centigrade or two hundred twenty-one degrees Fahrenheit until no further weight loss can be determined).

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

(2) Units.

(a) Weight: Peat and peat moss sold in terms of weight shall be offered and exposed for sale only in pounds and/or kilograms.

(b) Cubic measure: Peat and peat moss sold in terms of cubic measures shall be offered and exposed for sale only in cubic feet and/or liters. If the commodity is labeled in terms of compressed cubic measurement, the quantity declaration shall represent the quantity in the compressed state and the quantity from which the final product was compressed (the latter declaration not exceeding the actual amount of material that can be recovered).

(E) Prefabricated utility buildings. These buildings shall be offered for retail sale on the basis of usable inside space as follows:

(1) Length, measured from inside surface of wall panels at the base;

(2) Width, measured from the inside surface of wall panels at the base;

(3) Height, measured from the base to the top of the shortest wall panel. Inside dimensions in inch-pound units shall be declared to the nearest inch; inside dimensions in metric units shall be declared to the nearest one-hundredth of a meter.

If total usable inside space is declared in a supplemental declaration, it shall be to the nearest cubic decimeter or cubic foot.

(F) Roofing and roofing material shall be sold either by the square, or by the square foot only if sold in inch-pound units, or by the square meter only if sold in metric units.

(1) Definitions.

(a) Square meter: The term "square meter" shall mean the quantity of roofing or roofing material that, when applied according to the directions or instructions of the manufacturer, will cover one square meter exclusive of side laps or side joints.

(b) Square: The term "square" shall mean the quantity of roofing or roofing material that, when applied according to the directions or instructions of the manufacturer, will cover an area of one hundred square feet exclusive of side laps or side joints; provided, that, in the case of roofing or roofing material of corrugated design, the side lap or side joint shall be one full corrugation.

(c) Square foot: The term "square foot" shall mean the quantity of roofing or roofing material that, when applied according to the directions or instructions of the manufacturer, will cover one square foot (one hundred forty-four inches) exclusive of side laps or side joints.

(2) Declaration of quantity: When the declaration of quantity on a package of roofing or roofing material contains the term "square," it shall include, plainly and conspicuously, a numerical definition of the term "square." For example, "one square covers one hundred square feet of roof area."

(a) Common fractions. The use of the common fraction "one-third" is specifically authorized in the quantity statement of a package of roofing or roofing material when, and only when, used as the common fraction of the "square."

(b) Quantity statement. The primary declaration, if in inch-pound units, shall only be in terms of squares or square feet, and if in metric units shall only be in terms of square meters. There is no prohibition against the use of supplementary quantity declarations, such as shingle dimensions, but in no case shall the weight of the material be stated or implied. However, the use of numerical descriptions for rolls of felt roofing material may continue to be used.

(G) Sealants. Calking compounds, glazing compounds, and putty shall be sold in terms of liquid measure, except that rope calk shall be sold by weight.

(H) Sod and turf.

(1) Application: For the purpose of this rule, this paragraph shall apply to all sod, including turf sod, turf plugs, and turf sprigs.

(2) Definitions.

(a) Sod: "Sod" shall mean "turf sod," "turf plugs," or "turf sprigs" of a single kind or variety or a mixture of kinds and varieties.

(b) Turf: "Turf" shall mean a live population of one or more kinds of grasses, legumes, or other plant species used for lawns, recreational use, soil erosion control, or other such purposes.

(c) Turf plug: "Turf plug" shall mean a small section cut from live turf of those kinds of turf normally vegetatively propagated (such as zoysia grass) that when severed contain sufficient plant material to remain intact.

(d) Turf sod: "Turf sod" shall mean a strip or section of live turf that when severed contains sufficient plant material to remain intact.

(e) Turf sprig: "Turf sprig" shall mean a live plant, stolon, crown, or section cut from stolonifera plants used as turf.

(3) Quantity: Sod shall be advertised, offered for sale, and sold by measure or by a combination of count and measure as follows.

(a) Turf sod: Turf sod shall be advertised for sale and sold in terms of the square meter, square foot, or square yard, as appropriate.

(b) Turf plugs: Turf plugs shall be advertised for sale and sold in terms of count, combined with a statement of the plug diameter.

(c) Turf sprigs: Turf sprigs shall be advertised for sale and sold in terms of the liter or bushel.

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

(1) Definitions.

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

(b) "Boards" mean lumber one and one-quarter inches or less in actual thickness and one and one-half inches or more in actual width. Lumber less than one and one-half inches in actual width may be classified as strips.

(c) "Timbers" mean lumber one and one-half inches or more in least actual dimension. Timber may be classified as beams, stringers, posts, caps, sills, girders, purlins, etc.

(d) "Dimension lumber" means lumber from one and one-half inches to, but not exceeding, four and one-half inches in actual thickness, and one and one-half inches or more in actual width. Dimension lumber may be classified as framing, joists, planks, rafters, studs, small timbers, etc.

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

(f) "Matched lumber" means lumber that has been worked with a tongue on one edge of each piece and a groove on the opposite edge to provide a close tongue-and-groove joint by fitting two pieces together; when end-matched, the tongue-and-groove are worked in the ends also.

(g) "Patterned lumber" means lumber that is shaped to a pattern or a molded form, in addition to being dressed, matched, or shiplapped, or any combination of these workings.

(h) "Shiplapped lumber" means lumber that has been worked or rabbeted on both edges of each piece to provide a close-lapped joint by fitting two pieces together.

(i) "Grade" means the commercial designation assigned to lumber meeting specifications established by a nationally recognized grade rule writing organization.

(j) "Species" means the commercial name assigned to a species of trees.

(k) "Species group" means the commercial name assigned to two or more individual species having similar characteristics.

(l) "Representation" means any advertisement or invoice that pertains to the sale of lumber.

(m) "Minimum dressed sizes (width and thickness)" means the standardized width and thickness at which lumber is dressed when manufactured in accordance with the "U.S. Department of Commerce Voluntary Product Standard 20 -90 (1999) -, American Softwood Lumber Standard," and regional grading rules conforming to VPS 20- 90 (1999) (see table 1), both of which are incorporated herein by reference.

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

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

(a) The use of recognized nominal dimensions, such as but not limited to those specified in table 1, shall be allowed in lieu of the minimum dressed sizes.

Table 1. Soft Lumber Sizes

Minimum standard dressed sizes at the time of manufacture for both unseasoned (green) and dry lumber as published by the U.S. Department of Commerce in Product Standard 20-70.		
	Minimum Dressed Sizes	
	(see note 2)	
Product Classification (Nominal size)	Unseasoned	Dry
Inches	Inches	Inches
Dimension Lumber		
2 x 4	1-9/16 x 3-9/16	1-1/2 x 3-1/2
2 x 6	1-9/16 x 5-5/8	1-1/2 x 5-1/2
2 x 8	1-9/16 x 7-1/2	1-1/2 x 7-1/4
2 x 10	1-9/16 x 9-1/2	1-1/2 x 9-1/4
2 x 12	1-9/16 x 11-1/2	1-1/2 x 11-1/4
(see note 1)		

Board Lumber		
1 x 4	25/32 x 3-9/16	3/4 x 3-1/2
1 x 6	25/32 x 5-5/8	3/4 x 5-1/2
1 x 8	25/32 x 7-1/2	3/4 x 7-1/4
1 x 10	25/32 x 9-1/2	3/4 x 9-1/4
1 x 12	25/32 x 11-1/2	3/4 x 11-1/4

Note 1: The dry thickness of nominal three-inch and four-inch lumber are two and one-half inches and three and one-half inches; unseasoned thicknesses are two and nine-sixteenths inches and three and nine-sixteenths inches. Widths for these thicknesses are the same as shown in table 1.

Note 2: "Product standard 20-19 (1999) defines dry lumber as being nineteen per cent or less in moisture content and unseasoned lumber as being over nineteen per cent in moisture content. The size of lumber changes approximately one per cent for each four per cent change in moisture content. Lumber stabilizes at approximately fifteen per cent in moisture content under normal use conditions.

(J) Carpeting. Anyone who sells carpeting shall provide the purchaser with written statements at the time of sale giving the following information:

- (1) The name and address of the manufacturer;
- (2) The style name and roll number of the carpet;
- (3) The generic name of the fiber and the type of backing material;
- (4) The amount delivered (exact size shipped); and
- (5) The price per square foot if sold in inch-pound units, or the price per square meter if sold in metric units, and the total price.

(K) Hardwood lumber. Sales of hardwood lumber measured after kiln drying shall be quoted, invoiced, and delivered on the basis of net board footage, with no addition of footage for kiln-drying shrinkage. Sales of hardwood lumber measured prior to kiln drying shall be quoted,

invoiced, and delivered on the basis of net board footage before kiln drying. If the lumber is to be kiln-dried at the request of the purchaser, the kiln-drying charge shall be clearly shown and identified on the quotation and invoice. Retail sales of surfaced, kiln dried hardwood lumber is permissible by board footage, lineal footage or in terms of the number of pieces.

(L) Polyethylene products. Consumer and nonconsumer products offered and exposed for sale shall be sold in terms of:

(1) Sheeting and film.

- (a) Length and width;
- (b) Area in square feet or square meters;
- (c) Thickness in mils;
- (d) Weight in pounds or kilograms.

Consumer products offered or exposed for sale at retail shall be sold in terms of:

(2) Food wrap.

- (a) Length and width;
- (b) Area in square feet or square meters.

(3) Lawn and trash bags.

- (a) Count;
- (b) Dimensions;
- (c) Thickness in mils;
- (d) Capacity.

(4) Food and sandwich bags.

- (a) Count;
- (b) Dimensions;
- (c) Capacity.

Products not intended to be offered or exposed for sale at retail shall be offered and exposed for sale in terms of:

(5) Bags.

- (a) Count;
- (b) Dimensions;
- (c) Thickness in mils;

(d) Weight;

(e) Capacity.

(6) Declaration of weight: A labeled statement of weight for polyethylene sheeting and film and polyethylene bags not intended for the retail consumer shall not be less than the weight calculated by using the following formula

$W = T \times A \times 0.03613 \times D$, where:

W = net weight in pounds;

T = nominal thickness in inches;

A = nominal length in inches times nominal width in inches;

D = density in grams per cubic centimeter as determined by the "American society for testing materials, D1505-03, vol. 15.05 (2004) standard method of test for density of plastics by the density gradient technique". In the foregoing equation, 0.03613 is a factor for converting g/cm³ to lb/in³.

(M) Insulation.

(1) Packaged loose-fill insulation except cellulose: Packaged loose-fill insulation, except cellulose, shall declare the net weight with no qualifying statement; each package must contain at least the stated weight. In addition, the following information shall be supplied on the package: minimum thickness, maximum net coverage area, number of bags per thousand square feet, and minimum weight per square foot at R-values of eleven, nineteen, and twenty-two. This information shall also be supplied for any additional R-values listed.

(2) Packaged loose-fill cellulose insulation: The principal display panel of packaged loose-fill cellulose insulation shall declare the net weight with no qualifying statement; each package must contain at least the stated weight. In addition, the following information shall be supplied on the package: minimum thickness, maximum net coverage area, number of bags per one hundred square feet, and minimum weight per square foot at R-values of thirteen, nineteen, twenty-four, thirty-two and forty. This information shall also be supplied for any additional R-values listed.

(3) Batt and blanket insulation: The principal display panel of packaged batt or blanket insulation shall declare the square feet of insulation in the package, and the length and width of the batt or blanket. In addition, R-value and thickness shall be declared on the package.

(4) Installed insulation: Installed insulation must be accompanied by a contract or receipt. For all insulation except loose fill and aluminum foil, the receipt must show the coverage area, thickness, and R-value of the insulation installed. For loose fill, the receipt must show those three items plus the number of bags used. For aluminum foil, the receipt must show the number and thickness of air spaces, the direction of heat flow and R-value. The

receipt must be dated and signed by the installer. Example: "This is to certify that the insulation has been installed in conformance with the requirements indicated by the manufacturer to provide a value of R-19 using thirty-one and a half bags of insulation to cover fifteen hundred square feet area."

(N) Solid fuel products. Anthracite, semi-anthracite, bituminous, semi-bituminous, or lignite coal, and any other natural, manufactured, or patented fuel, not in liquid or gaseous form, except fireplace and stove wood, shall be offered, exposed for sale, or sold by net weight when in package form.

(O) Liquefied petroleum gas cylinder tare weights. For stamped tare weights on cylinders employed in the sale of liquefied petroleum gas, the following shall apply:

(1) Allowable difference: The allowable difference between the actual tare weight and the stamped tare weight for a new or used cylinder shall be one per cent of the actual tare weight. The tare weight shall include the weight of the cylinder (including paint), valve, and other permanent attachments. The weight of a protective cap shall not be included in tare or gross weights.

(2) Average requirement: The tare weights of cylinders at a single place of business found to be in error predominantly in a direction favorable to the seller and near the allowable difference limit shall be considered to be not in conformance with these requirements.

(P) Precious metals.

Definition.

(1) "Precious metals": Gold, silver, platinum, or any item composed partly or completely of these metals or their alloys and in which the market value of the metal in the item is principally the gold, silver, or platinum component.

(2) Quantity: The unit of measure and the method of sale of precious metals, if the price is based in part or wholly on a weight determination, shall be either troy weight or metric weight. When the measurement or method of sale is expressed in metric weight units, a conversion chart to troy units shall be prominently displayed so as to facilitate price comparison. The conversion chart shall also display a table of troy weights indicating grains, pennyweights, and troy ounces.

(Q) Mulch.

(1) Definition: "Mulch" means any product or material except peat or peat moss that is advertised, offered for sale, or sold for primary use as a horticultural above-ground dressing; for decoration, moisture control, weed control, erosion control, temperature control, or other similar purposes.

(2) Quantity: All mulch shall be sold, offered, or exposed for sale in terms of volume measure; in inch-pound units in terms of the cubic yard or cubic foot; in metric units in terms of the cubic meter or liter.

(R) Kerosene. All kerosene kept, offered, exposed for sale, or sold shall be identified as such and will include, with the word "kerosene," an indication of its compliance with the standard specification adopted by the "American Society for Testing and Materials, Specification Number D-3699", volume 15.02 (2003) in effect on the effective date of this rule and incorporated herein by reference.

(S) Gasoline-alcohol blends.

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, the presence and maximum amount of ethanol, methanol, or any combination of ethanol/methanol (in terms of per cent by volume) contained in 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 motor fuel before blending.

(T) Liquefied petroleum gas.

(1) Quantity: All liquefied petroleum gases, including but not limited to propane, butane, and mixtures thereof, shall be kept, offered, exposed for sale, or sold by the pound, metered cubic foot of vapor (defined as one cubic foot at sixty degrees Fahrenheit), or cubic meter, or the gallon (defined as two hundred thirty-one cubic inches at sixty degrees Fahrenheit). All metered sales by the gallon, except those using meters with a maximum rated capacity of twenty gallons per minute or less, shall be accomplished by use of a meter and device that automatically compensates for temperature.

(2) Sale by weight; marking required: When liquefied petroleum gas is sold or offered for sale at retail by weight, in portable containers, the tare weight of the container shall be plainly and conspicuously marked on the outside of the container or on a label firmly attached thereto. Tare weight shall not be construed to include the valve protecting cap, which shall be removed when weighing. It is unlawful to sell or offer or expose for sale liquefied petroleum gas in packages or containers which do not bear a statement as to tare weight as required by this paragraph, or which packages or containers bear a false statement as to tare weight, provided packages intended to be used only once and clearly marked with the statement "not refillable" are exempt from this tare weight requirement.

(3) Refilling; credit: Liquefied petroleum gas, when sold by refilling of a container or an exchange of containers (the vendor shall give the purchaser full credit for the unused liquid remaining in a container being exchanged or refilled). Exempt from this requirement are all lift truck motor fuel cylinders, one-hundred-pound cylinders used for construction purposes, and any cylinders less than forty pounds that are exchanged rather than refilled when the purchaser is notified that no refilling credit will be given. This notification shall be accomplished by way of an appropriate sign or written agreement.

(4) Service charge and unit price: If the vendor charges the purchaser for the labor involved in refilling a container of one hundred pounds or less, the vendor must display the amount of the service charge and the unit price at which the product is offered for sale. The service charge and unit price shall be conspicuously displayed so it may be observed from some reasonable customer position.

(5) Delivery ticket or sales invoice: An invoice shall be submitted to the purchaser showing the quantity of liquefied petroleum gas sold, expressed in pounds, gallons, cubic feet, or other unit approved by the department of agriculture and the unit price of the product. When vapor meters reading in approved units other than cubic feet are used, the invoice shall clearly indicate to the purchaser a factor to convert to gallons. When a nonautomatic temperature-compensated meter is used, all retail or wholesale sale tickets shall show metered gallons, the temperature of the product at the time of delivery and the corrected gallonage to sixty degrees Fahrenheit. When an automatic temperature-compensated meter is used, all retail or wholesale sale tickets shall show the metered gallonage corrected to sixty degrees Fahrenheit.

(U) Liquid oxygen used for respiration.

(1) If sold by weight, liquid oxygen shall be weighed on an appropriate sealed commercial scale. A pressure or other type of gauge may not be used to determine weight.

(2) A delivery ticket or sales invoice shall be provided and shall contain at least the following information:

(a) Date delivered;

(b) Name and address of vendor;

(c) Name and address of the purchaser;

(d) If sold by weight, the weight of cylinder before filling, the weight of cylinder after filling, and the net weight of liquid oxygen delivered;

(e) If sold by measure, the measurement and any computation used to arrive at the net quantity of liquid oxygen delivered;

(f) Unit price;

(g) Total computed price; and

(h) Weigher's or measurer's signature.

(V) Animal bedding.

(1) Packaged animal bedding of all kinds, except for baled straw, shall be sold by volume, that is, by cubic meter, liter, or milliliter and by the cubic yard, cubic foot, or cubic inch. If the commodity is packaged in a compressed state, the quantity declaration shall include both the quantity in compressed state and the usable quantity that can be

recovered. Compressed animal bedding shall not include pre-compression volume statements.

(2) Exemption for non-consumer packages sold to laboratory animal research industry. Packaged animal bedding consisting of granular corncobs and other dry (eight per cent or less moisture), pelleted, and/or non-compressible bedding materials that are sold to commercial (non-retail) end users in the laboratory animal research industry (government, medical, university, pre-clinical, pharmaceutical, research, biotech, and research institutions) may be sold on the basis of weight.

(W) Wiping cloths. Wiping cloths shall be sold by net weight or by count plus size of wiping cloths. When sold by count plus size, and the wiping cloths are of assorted sizes, the term "irregular dimensions" and the minimum size of such cloths must be declared. The gross weight may not be printed on any package, either consumer or non-consumer.

(X) Blaer twine. Blaer twine shall be sold on the basis of length in meters or feet, and net mass or weight by kilograms or pounds.

(Y) Potpourri. Potpourri shall be sold as follows:

(1) Potpourri packaged in advance of sale shall be sold by weight, except when sold in a decorative container or sachet, which may be sold by count.

(2) Potpourri sold from bulk shall be sold by weight or by dry volume.

(Z) Motor Oil. Motor oil shall be sold in terms of volumetric units.

(AA) Communication paper.

(1) Definitions

(a) Communication paper: "Communication paper" shall mean packaged bond, mimeo, spirit duplicator, xerographic, and other papers, including cut-sized office paper and computer paper.

(b) Basis weight: "Basis weight" as used in this regulation for labeling shall mean the grade, category, or identity of the paper determined according to the latest version of American society for testing and materials standard method D646 (2001) for "grammage of paper and paperboard." Basis weight is used as a standard of identity and is not considered a net weight declaration.

(2) Method of sale. All packaged communication paper kept, offered, or exposed for sale and sold at retail shall be sold in terms of sheet length, weight and count.

(3) Labeling. Communication paper in package form shall bear a label that includes a declaration of quantity, in terms of sheet length and width and count, in the lower 30 percent of the principal display panel and declaration of identity including the basis weight, and may include such other information as grain direction, color, brightness, printed lines, and hole punch information. Due to the variation in basis weight in

manufacturing and analysis declared on the label shall correspond to the basis weight declared by the original manufacturer.

(BB) Sand, rock, gravel, stone, paving stone, and similar materials kept, offered, or exposed for sale in bulk must be sold as:

- (1) Top-soil, fill dirt, aggregate or chipped rock, sand (including concrete and mortar sand), decomposed granite, landscape type rock, and cinders must be sold by the cubic meter or cubic yard or by weight.
- (2) Flagstone must be sold by weight.
- (3) Dimensional cut stone must be sold by square meter, square good, or weight.
- (4) This requirement does not apply to single stones with engraving such as grave-stones, natural or manmade artwork, landscape boulders, and pre-cast uniform size blocks.

OAC 901:6-7-04 General

(A) Presentation of price. Whenever an advertised, posted, or price per unit of weight, measure, or count for any commodity includes a fraction of a cent, all elements of the fraction shall be prominently displayed, and the numerals expressing the fraction shall be immediately adjacent to, of the same general design and style as, and at least one-half the height and width of the numerals representing the whole cent.

(B) Allowable differences: combination quantity declarations. Whenever the method of sale for a bulk or packaged commodity requires the use of a statement that includes count in addition to weight, measure, or size, the following shall apply to the particular commodity. For pressed and blown tumblers and stemware, the allowable difference between actual and declared capacity shall be:

(1) For inch-pound:

- (a) Plus or minus one-quarter fluid ounce for items of five-fluid-ounce capacity or less; and
- (b) Plus or minus five per cent of the stated capacity for items over five-fluid-ounce capacity.

(2) For metric:

- (a) Plus or minus ten milliliters for items of two-hundred-milliliter capacity or less; and
- (b) Plus or minus five per cent of the stated capacity for items over two-hundred-milliliter capacity.

(C) Machine vended commodities. All vending machines dispensing packaged commodities shall indicate to the customer:

- (1) Product identity;
- (2) Net quantity; and
- (3) Name, address, and telephone number of responsible party.

The requirement for product identity and net quantity can be met either by display of the package or by information posted on the outside of the machine. Packaged products dispensed from a machine must meet the requirements of rules 901:6-3-01 to 901:6-3-12 of the Administrative Code.

(D) Railroad car tare weights. Whenever stenciled tare weights on freight cars are employed in the sale of commodities or the assessment of freight charges, the following conditions and requirements shall apply:

- (1) All newly stenciled or restenciled tare weights shall be accurately represented to the nearest one hundred pounds for inch-pound units and to the nearest fifty kilograms for metric units, and the representation shall include the date of weighing.
- (2) The allowable difference between actual tare weight and stenciled tare weight on freight cars in use shall be as follows.

(a) Inch-pound allowable difference:

- (i) Plus or minus three hundred pounds for cars fifty thousand pounds or less;
- (ii) Plus or minus four hundred pounds for cars over fifty thousand pounds up to and including sixty thousand pounds; and
- (iii) Plus or minus five hundred pounds for cars over sixty thousand pounds.

(b) Metric allowable difference:

- (i) Plus or minus one hundred fifty kilograms for cars twenty-five thousand kilograms or less;
- (ii) Plus or minus two hundred kilograms for cars over twenty-five thousand kilograms up to and including thirty thousand kilograms; and
- (iii) Plus or minus two hundred fifty kilograms for cars over thirty thousand kilograms.

(3) Tare weight determinations for verification or change of stenciled weights shall only be made on properly prepared and adequately cleaned freight cars.

(4) Tank cars, covered hopper cars, flat cars equipped with multideck racks or special superstructure, mechanical refrigerator cars, and house-type cars equipped with special

loading protective devices must be reweighed and restenciled only by owners or their authorized representatives:

- (a) When car bears no lightweight (empty weight) stenciling; and
- (b) When repairs or alterations result in a change of weight in excess of the permissible lightweight tolerance.

REGISTRATION OF SERVICEPERSONS & SERVICE AGENCIES

OAC 901:6-8-01 Voluntary registration of Ohio's servicepersons and service agencies

(A) Definitions:

- (1) "Registrant" means a serviceperson or service agency which has been registered by the department.
- (2) "Commercial weighing and measuring device" means any weight, measure, or weighing or measuring device commercially used or employed in establishing size, quantity, extent, area, or measurement of quantities, things, produce, or articles for distribution or consumption which are purchased, offered, or submitted for sale, hire, or award, or in computing any basic charge or payment for services rendered, 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.
- (3) "Serviceperson" means any individual who installs, services, repairs, or reconditions, for hire, award, commission, or any other payment of kind, a commercial weighing or measuring device; also shall have the authority to place devices in service.
- (4) "Service agency" means any individual, agency, firm, company, or corporation which for hire, award, commission, or any other payment of kind, installs, services, repairs, or reconditions a commercial weighing or measuring device.
- (5) "Certificate of registration" shall mean a document issued biennially by the department based on payment of the appropriate fee, satisfactory completion of the qualifying examination(s), and provided that applicant meets all other applicable requirements of paragraph (D) of this rule.
- (6) "Broken seal form" means the notification form which includes descriptive information about a device and indicates that a security seal has been broken which can be found on the department's website www.agri.ohio.gov.
- (7) "Newly installed" means a device being moved to a new location or being put into commercial service for the first time.
- (8) "Rejected" means a device that is not correct.
- (9) "Condemned" means a device that is in need of repair and cannot be used until repaired.
- (10) "Security seal" means a uniquely identifiable physical seal, such as a lead-and-wire seal or other type of locking seal, a pressure sensitive seal sufficiently permanent to reveal its removal, or similar apparatus attached to a weighing or measuring device for protection against or indicating of access to adjustment, or an audit trail that indicates access to the adjustment.

(11) "Department" means the Ohio department of agriculture.

(B) Applications:

(1) Applications by individuals seeking a certificate of registration shall be submitted to the department and shall be in writing on forms prescribed by the department which can be found at www.agri.ohio.gov.

(2) Each application shall provide such information that will enable the department to approve, on the qualifications of the applicant, the certificate of registration. All valid and complete applications shall include the following information:

(a) Present residence;

(b) Location of business to be licensed under this rule;

(c) Whether the applicant has had any previous registration under this rule or any federal, state, county or local law, ordinance or rule relating to servicepersons and service agencies;

(d) Whether such applicant has ever had a registration suspended or revoked;

(e) Whether the applicant has been convicted of a felony; and

(f) Other information as the department deems necessary to determine if the applicant is qualified to receive a certificate of registration.

(C) Before any certificate of registration is issued, the department shall require the applicant for registration to meet the following qualifications:

(1) Have possession of or available for use weights and measures, standards and testing equipment appropriate in design and adequate in amount to provide the services for which such person is requesting registration. Such weights and measures shall meet applicable specifications of "National Institute of Standards and Technology Handbook 105 Series" and have current calibration reports by an approved Ohio laboratory as described in paragraphs (F) and (G) of this rule. These standards can be found at www.nist.gov.

(2) Passes a qualifying examination for each type of weighing and measuring device to be installed, serviced, reconditioned, or repaired. Applicants for registration must pay a non-refundable examination fee of twenty five dollars at the time of signing up for their qualifying examination. A new application and examination fee shall be required for every qualifying examination.

(3) Demonstrates a working knowledge of weighing and measuring devices for which the applicant intends to be registered.

(4) Has a working knowledge of all appropriate weights and measures laws, rules, and examination procedure outlines.

(5) Pays the prescribed registration fee for the type of registration:

(a) The biennial fee for a serviceperson certificate of registration shall be seventy-five dollars.

(b) The biennial fee for a service agency certificate of registration shall be two hundred dollars.

(D) Each registered service agency and serviceperson shall have approved report forms. A serviceperson shall have approved report forms known as "Placed In Service Reports." Such forms shall include the assigned registration number and shall be signed by the registered serviceperson for each device installed, restored, rejected, or repaired. In the case where a registered serviceperson is representing a service agency, both assigned registration numbers shall be included.

(E) Within seven days after a device is serviced, restored to service, or placed in service, the original of a properly executed report form or "Placed In Service Report," together with any official rejection tag or seal as described in "National Institute of Standards and Technology Handbook 44," removed from the device, shall be either mailed or emailed to the department.

(F) A registered service agency and a registered serviceperson shall submit at least once every two years to the department, for 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 serviceperson or agency shall not use, in servicing commercial weighing or measuring devices, any standards or testing equipment that have not been certified by the department.

(G) When a serviceperson's or service agency's weights and measures are carried to a "National Institute of Standards and Technology" approved out-of-state weights and measures laboratory for inspection and testing, the serviceperson or service agency shall be responsible for providing the department a copy of the current certification of all weights and measures used in the repair, service or testing of weighing or measuring devices within the state of Ohio.

(H) No serviceperson or service agency shall calibrate their own or any other serviceperson's or service agency's commercial standards

(I) All registered servicepersons placing into service scales in excess of thirty thousand pounds capacity shall have a minimum of ten thousand pounds of state-approved certified test weights to accurately test a scale.

(J) Persons working as apprentices are not subject to registration if they work with and under the supervision of a registered serviceperson.

(K) The director shall:

(1) Have the right to review all report forms for acceptance or rejection purposes.

- (2) For good cause and after a hearing upon reasonable notice, deny any application for a renewal of registration, or may revoke or suspend the registration of any registrant.
- (3) Publish from time to time as he deems appropriate, and may supply upon request, lists of registered servicepersons and registered service agencies.
- (4) Assign registration numbers to agencies and servicepersons if it is determined that the applicant is qualified.

TRAINING FOR WEIGHTS & MEASURES INSPECTOR PERSONNEL

OAC 901:6-9-01 Minimum training requirements for weights & measures inspector personnel.

(A) As used in this rule:

- (1) "Inspector personnel" and "inspector" means an individual either employed by the Ohio department of agriculture's division of weights and measures, or appointed by a county or city sealer, to inspect weights and measures, and commodities in package form;
- (2) "Weights and measures" means all weights and measures of every kind, instruments and devices for weighing and measuring, and any appliances and accessories associated with any such instruments and devices;
- (3) "Commodity in package form" means any commodity put up or package in any manner in advance of sale in units suitable for either wholesale or retail sale;
- (4) "Ohio training program" means the two part self-study program, two comprehensive examinations and annual continuing education prescribed and administered by the Ohio department of agriculture.

(B) All inspector personnel shall participate in the Ohio training program within thirty days after the inspector is appointed. Inspector personnel shall provide the Ohio department of agriculture with their contact information including email within thirty days of appointment.

(C) Ohio training program curriculum

- (1) Part one of the Ohio training program shall consist of twelve individual lessons covering the following subjects:
 - (a) Lesson one - "history of weights and measures";
 - (b) Lesson two - "Ohio weights and measures laws and structure";
 - (c) Lesson three - "weights and measures enforcement";
 - (d) Lesson four - "handbook 44, introduction, fundamental considerations and units and systems of weights and measures";
 - (e) Lesson five - "handbook 44, weights and measures terms and definitions";
 - (f) Lesson six - "handbook 44, general code";
 - (g) Lesson seven - "inspecting and testing small capacity scales";
 - (h) Lesson eight - "inspecting and testing vehicle scales";
 - (i) Lesson nine - "inspecting and testing liquid measuring devices";
 - (j) Lesson ten - "inspecting and testing vehicle tank meters";

(k) Lesson eleven - "inspecting and testing hopper scales";

(l) Lesson twelve - "inspecting and testing animal and livestock scales".

(2) Part two of the Ohio training program shall consist of eight individual lessons covering the following subjects:

(a) Lesson thirteen - "commodity requirements enforcement";

(b) Lesson fourteen - "handbook 133, checking the net contents of packages labeled by weight";

(c) Lesson fifteen - "handbook 133, checking the net contents of packages labeled by volume";

(d) Lesson sixteen - "handbook 133, checking the net contents of packages labeled by count";

(e) Lesson seventeen - "handbook 133, checking the net contents of packages labeled by area, length, thickness";

(f) Lesson eighteen - "inspecting and testing timing devices";

(g) Lesson nineteen - "inspecting and testing length and distance measuring devices";

(h) Lesson twenty - "inspecting and testing farm milk tanks"

(D) Ohio training program administration

(1) Upon enrollment, each inspector will be sent a set of lessons. Each set of lessons is to be completed and returned within thirty days of receipt. A grade of eighty per cent is required to pass each lesson and if a lesson is failed, the lesson must be retaken and passed before another set of lessons may be sent. All twenty lessons must be completed within eighteen months of enrollment.

(2) Each inspector shall take a comprehensive examination covering part one of the Ohio training program. A comprehensive examination shall also be taken after completion of part two of the Ohio training program. Examinations shall be completed within eighteen months of enrollment of the Ohio training program. Examinations shall reflect the material covered in the respective lessons. The examinations shall be administered and graded by an examiner who is knowledgeable in the field of weights and measures and designated by the director of agriculture; the passing grade for the examinations shall be eighty per cent.

(3) Upon successful completion of part one of the Ohio training program and the comprehensive examination covering part one required in paragraph (D)(2) of this rule, inspector personnel will receive a certificate and a registration number. Upon successful completion of part two and the comprehensive examination covering part two required in

paragraph (D)(2) of this rule, inspector personnel will receive a certificate attesting to their successful completion of part one and part two of the Ohio training program.

(E) Continuing education

(1) All inspector personnel who have successfully completed part one and part two of the Ohio training program shall, exclusive of the year in which they completed the Ohio training program, attend a minimum of eight hours per calendar year of training in weights and measures which have been approved by the Ohio department of agriculture.

(2) The chief of the division of weights and measures shall publish a list of the dates and times the approved training programs on the Ohio department of agriculture's website www.agri.ohio.gov.

(F) Upon written request, and for good cause shown, the director of agriculture may adjust the number of hours of continuing education required for a calendar year.

(G) For failure to meet or maintain minimum training requirements, the director may take any appropriate legal action authorized by law, including seeking an injunction to enjoin the inspector personnel or other public official from marking devices found to be correct.