

## **A. Uniform Labeling Regulation for E-commerce Products**

### **1. Background**

**The Uniform Labeling Regulation for E-commerce Products Regulation was adopted during the 1XXth Annual Meeting of the National Conference on Weights and Measures (NCWM) in 202X. Reporting to the Conference, the Packaging and Labeling Subcommittee stated:**

**The National Conference has adopted a model e-commerce labeling regulation for guidance to those states authorized to adopt such a regulation under provisions of their weights and measures laws. Since so much of the work of weights and measures officials in the field concerns consumer commodities and food, drug and cosmetic products, uniformity between the Federal (FDA and FTC) regulations, the Uniform Packaging and Labeling Regulation and any model regulations to be adopted by this Conference would provide significant benefit to both the U.S. consumer and manufacturer. The consumer benefit of having clear and consistent information on all product descriptions would allow for easier and more informed comparisons between similar and different products. The manufacturer benefit would be less complexity in ensuring labeling meets the Federal regulations.**

**The process of amending and revising this Regulation will be a continuing one in order to keep it current with practices in the e-commerce industry and make it compatible with appropriate federal regulations.**

**Nothing contained in this regulation should be construed to supersede any labeling requirement specified in federal law.**

### **2. Status of Promulgation**

(Table of Contents will be developed)

## **Uniform Labeling Regulation for E-commerce Products**

### **Preamble**

**The purpose of this regulation is to provide accurate and adequate information for consumer products subject to FPLA requirements sold via e-commerce as to the identity and quantity of contents so that purchasers can make price and quantity comparisons.**

### **Section 1. Application**

**This regulation shall apply to products and transactions which occur when purchasers are not present to purchase a consumer or non-consumer product in person.**

**This regulation specifically establishes requirements for websites, phone applications and other sites/programs which offer products for sale and permit consumers to make purchases without being physically present to inspect and select individual products and commodities in-person.**

This regulation also applies to the product information which must accompany the products the purchaser receives after purchase from a website, phone application or site from which the purchase occurred.

This regulation 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 or products.
- (c) shipping containers and inner wrappings for products or commodities purchased in quantity by manufacturers, packers, or processors in industrial proportions, or to wholesale or retail distributors who subsequently distribute or offer for sale products and commodities.
- (d) 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.

## Section 2. Definitions

The following definitions apply to this regulation:

2.1. E-commerce – The process of offering for sale and transacting sales of one or more consumer commodities or non-consumer products when the customer is not physically present at the point of purchase. e-commerce includes the sale of consumer commodities or non-consumer products on-line through websites and phone applications, catalog sales and sales transacted through 3<sup>rd</sup> parties to select and/or deliver consumer commodities to consumer residences.

2.2. E-commerce Product – A consumer commodity or non-consumer product offered for sale through e-commerce.

2.3. E-commerce Site – The site, program or interface through which customers make product purchases. An E-commerce Site may allow users to choose between similar products/commodities or provide a purchase option. Product comparisons may be permitted on a single e-commerce site or may require the purchaser to make product comparisons between one or more e-commerce sites. An e-commerce site may be a manufacturer website, a retail website, a delivery service site, phone applications offered by manufacturers, retailers, delivery services, 3<sup>rd</sup> party providers or other interface in which the customer is physically not present to inspect and select products.

2.4. Customer – A person or entity purchasing an e-commerce product for their own use, the use of another person, or a business.

2.5. Package. – Except as modified by Section 1, the term “package,” whether standard package or random package, means any consumer commodity or non-consumer product which is:

- (a) enclosed in a container or wrapped in any manner in advance of wholesale or retail sale; or
- (b) whose weight, measure or count has been determined in advance of wholesale or retail sale. An individual item or lot of any commodity or non-consumer product on which there is marked a selling price, or for which there is represented to be a pre-determined selling price, based on an established price per unit of weight, count or measure shall be considered a package (or packages).

2.6. E-commerce Package – Any consumer commodity or non-consumer product with a defined net quantity between which is sold through e-commerce and is:

- (a) enclosed in a container or wrapped in any manner in advance of on-line sale; or
- (b) not enclosed prior to on-line sale and wrapped or packaged for shipment or delivery after sale, or
- (c) not enclosed prior to on-line sale and does not require wrapping or packaging for delivery after sale.

2.7. E-commerce Standard Package -- A consumer commodity sold or offered for sale via e-commerce where lots or shipments of the same commodity have identical net content declarations.

2.8. E-commerce Random Quantity Package – A consumer commodity or non-consumer product sold or offered for sale via e-commerce wherein lots or shipments have varying net contents. The net quantity of contents for a random quantity package is fully defined once the consumer’s order is fulfilled by the seller or distributor.

2.9. Sale from Bulk. – The term “sale from bulk” means the sale of commodities when the quantity is determined at the time of sale.

2.10. E-commerce Bulk Product – A consumer commodity or non-consumer product sold or offered for sale via e-commerce and the product is not packaged at time of purchase. An e-commerce bulk product may or may not be wrapped upon its sale to facilitate shipment or delivery.

2.11. Consumer Commodity – An article, product or commodity offered for sale in packaged or bulk form in terms of weight, measure or count that is customarily produced or distributed for consumption or use by individuals for the purpose of consumption, personal care or personal use in services ordinarily in or around the household or for personal possessions.

2.12. E-commerce Consumer Commodity – A consumer commodity or product sold or offered for sale in bulk or packaged form via e-commerce which is an article, product or commodity intended for use by, produced for or customarily used by an individual or individuals for purposes of consumption or performance of services ordinarily rendered within a household.

2.13. E-commerce Non-Consumer Product – A product sold or offered for sale via e-commerce which is not a consumer commodity and is intended for use by a business or institution for industrial use or wholesale distribution. An E-commerce Non-Consumer product is typically sold by one business to another business.

2.14. E-commerce Non-Consumer Package – An e-commerce non-consumer product that is sold or offered for sale which has been packaged prior to sale on an e-commerce site.

2.15. E-Commerce Package Label. – Any written, printed, or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on, or contained within 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.

2.16. E-commerce Receipt. -- A complete record of a transaction involving the purchase of one or more e-commerce products purchased at the same time from the same e-commerce site. e-commerce receipts may be either electronic or paper as described in this regulation.

2.17. SI or SI Units – SI or SI Units means the International System of Units as established in 1960 by the General Conference on Weights and Measures (CGPM) and interpreted or modified for the United States by the Secretary of Commerce

2.18. U.S. Customary Units – Units based upon the inch, foot, gallon, and the pound commonly used in the United States of America. US Customary units include units for weight, liquid measure, linear measure, area measure, volume measure and dry measure. The NIST Handbook 130 Uniform Packaging and Labeling Regulation details use of U.S. Customary units for consumer packages.

**2.19 Person** – The term “person” means either singular or plural and shall include any individual, partnership, company, corporation, association, or society engaged in e-commerce activity.

### **Section 3. Required Declarations for E-commerce Sites Offering E-commerce Consumer Commodities and E-commerce Non-Consumer Products for Sale**

**Consumer commodities are being purchased through e-commerce sites whereby the customer makes purchase decisions based upon the product information provided on the website, phone application or other remote means. Because customers make e-commerce purchase decisions based on available information provided on these sites or venues, customers should expect the information provided to be sufficiently complete in order to make informed purchase decisions and accurate value comparisons. To that end, certain price and FPLA-required label information must be provided to purchasers on the E-commerce site where a product is offered for sale. The elements of the FPLA information required by this regulation are also present in regulations promulgated by other Federal agencies such as EPA, FTC and the Department of Agriculture.**

**Non-Consumer Products are also purchased through use of e-commerce sites. In order for a site user to make value comparisons and a purchase decision, certain product information must be present for a purchaser to make informed product selections and purchases.**

**3.1. E-commerce Site Requirements for Standard Packages.** – The following shall apply to e-commerce sites on which standard packages are offered for sale:

- (a) Declaration of Identity.** – The product declaration of identity shall appear on the e-commerce site in a conspicuous and prominent location. Wherever applicable, the product brand name shall be combined with the declaration of identity. This information shall be provided separately from and in addition to any picture or image of the product.
- (b) Declaration of Net Quantity.** – The declaration of net quantity shall appear on the e-commerce site in a prominent location and in a conspicuous manner which clearly communicates the package net quantity. This information shall be provided separately from and in addition to any picture or image of the product. This information shall be provided in both U.S. customary and SI units unless the product is exempt from the Fair Packaging and Labeling Act requirements and meets existing labeling requirements for that product.
- (c) Product Price.** –The price of the product shall appear on the e-commerce site in a conspicuous and prominent location. Added cost information (if any) for shipping, delivery, taxes, and other services shall be provided to the customer prior to the completion of check-out and payment.
- (d) Product Photo or Product Representation.** – The e-commerce site shall provide a photo or visual representation of the product to help consumers confirm the identity of the item they intend to purchase. While a product photo or representation may depict certain required information, required information shall appear separately from the picture/representation. Any information provided in the picture/product representation shall not conflict with information required by this regulation.
- (e) Brand Name or Product Manufacturer.** – The e-commerce site shall provide the name of the manufacturer, distributor or the brand of any product offered for sale, where applicable.

**3.2. E-commerce Site Requirements for Random Quantity Packages.** – The following shall apply to e-commerce sites on which random content packages are offered for sale:

- (a) Declaration of Identity.** – The product declaration of identity shall appear on the e-commerce site in a conspicuous and prominent location. Wherever applicable, the product brand name shall be combined with the declaration of identity. This information shall be provided separately from and in addition to any picture or image of the product.

- (b) Unit Price.** – **The unit price of the product shall appear on the e-commerce site in a conspicuous and prominent location. This information shall be provided separately from and in addition to any picture or image of the product.**
- (c) Net Quantity Information.** – **For each product offered for sale in random quantity packages, a range of potential product net quantities and an estimated maximum possible item net weight shall be displayed to customers on the e-commerce site in a conspicuous and prominent location.**
- (d) Product Price** – **For each product offered for sale in random quantity packages, a range of potential product prices and an estimated maximum possible item price shall be displayed to customers on the e-commerce site in a conspicuous and prominent location. Added cost information (if any) for shipping, delivery, taxes, and other services shall be provided to the customer prior to the completion of check-out and payment.**
- (e) Product Photo or Product Representation.** – **The e-commerce site shall provide a photo or representative visual representation of the product to help customers confirm the identity of the item they intend to purchase. While a product photo or representation may depict certain required information, required information shall appear separately from the picture/representation. Any information provided in the picture/product representation shall not conflict with information required by this regulation.**
- (f) Brand Name or Product Manufacturer.** – **The e-commerce site shall provide the name of the manufacturer, distributor or the brand when it is different from the person or entity responsible for the website.**

**3.3. Bulk Product E-commerce Site Requirements.** – **The following shall apply to e-commerce sites on which products from bulk are offered for sale:**

- (a) Declaration of Identity.** – **The bulk product declaration of identity shall appear on the e-commerce site in a conspicuous and prominent location. Brand name (if applicable) may be combined with the declaration of identity. This information shall be provided separately from and in addition to any picture or image of the bulk product.**
- (b) Unit Price.** – **The unit price of the product shall appear on the e-commerce site in a conspicuous and prominent location. This information should be provided separately from and in addition to any picture or image of the bulk product.**
- (c) Net Quantity Information.** – **An estimated minimum and/or maximum possible product net quantity, if applicable to any product offered for sale from bulk, shall be provided on the e-commerce site in a conspicuous and prominent location.**
- (d) Product Price** – **For products offered for sale limited to minimum and/or maximum per-order quantities, an estimated minimum or maximum possible product price, where applicable, shall be provided to the customer on the e-commerce site in a conspicuous and prominent location. Added cost information (if any) for shipping, delivery, taxes, and other services shall be provided to the customer prior to the completion of check-out and payment.**
- (e) Product Photo or Product Representation.** – **The e-commerce site shall provide a photo or visual representation of the bulk product to help customers confirm the identity of the item they intend to purchase. While a product photo or representation may depict certain required information, required information shall appear separately from the picture/representation. Any information provided in the picture/product representation shall not conflict with information required by this regulation.**

**3.4. Non-Consumer Product E-commerce Site Requirements.** – **The following shall apply to e-commerce sites on which non-consumer products are offered for sale:**

- (a) Packaged Non-Consumer E-commerce Products. – If the non-consumer product is packaged as a standard package, the requirements of Section 3.1. E-commerce Site Requirements for Standard Packages shall apply. If the non-consumer product is packaged as a random content package, the requirements of Section 3.2. E-commerce Site Requirements for Random Quantity Packages shall apply.
- (b) E-commerce Products Purchased from Bulk. – If the non-consumer product is not packaged at the time of purchase, the requirements for Section 3.3. Bulk Product E-commerce Site Requirements shall apply.

#### **Section 4. Required Information Upon Product Delivery: Requirements for Standard or Random Quantity Packages Purchased from an E-commerce Site**

**4.1. Standard Package E-commerce Delivery Requirements. – The information below shall be provided within, upon or together with each standard package delivered to / received by a customer in an e-commerce transaction. Products which are labeled to be compliant with the ULPR meet the requirements for Declaration of Identity, Net Quantity and Responsibility. Products which are not labeled for retail sale as prescribed by the UPLR must provide the following:**

- (a) Declaration of Identity. – The product declaration of identity shall be prominently placed on the product or package or on written materials attached to or within the package. Where multiple products are delivered concurrently, it shall be clear which information applies to each product. Although the declaration of identity may also appear on a receipt or invoice, a receipt or invoice alone is not an adequate means to provide this information.
- (b) Declaration of Net Quantity – The declaration of net quantity must be prominently placed on the product or package or on written materials attached to or within the package. Where multiple products are delivered concurrently, it must be clear which information applies to each product. Although the declaration of net quantity may also appear on a receipt or invoice, a receipt by itself is not an adequate means to provide this information.
- (c) Declaration of Responsibility. – The declaration of responsibility, including name and address, must be prominently placed on the product or package or on written materials provided attached to or within the package. Where multiple products are delivered concurrently, it must be clear which information applies to each product.
- (d) Product Price. – The total price of the product shall be provided to the customer, either on a receipt or invoice or by appearing upon, within, or with the delivered standard package.

**4.2. Random Quantity Package E-commerce Delivery Requirements. – The following shall apply to the information provided within, upon, or together with each random quantity package delivered to/received by a customer in an e-commerce transaction:**

- (a) Declaration of Identity. – The product declaration of identity shall be prominently placed on the product or package or on written materials attached to or within the package. Where multiple products are delivered concurrently, it shall be clear which information applies to each product. Although the declaration of identity may also appear on a receipt or invoice, a receipt or invoice alone is not an adequate means to provide this information.
- (b) Unit Price. – The unit price of the product shall be provided to the customer, either on a receipt or invoice, by marking or labeling upon the package(s) or by other written documentation included with the delivered product, and must be in the same units of measure as displayed on the website.
- (c) Net Quantity Information. – The actual net quantity of the product shall be prominently marked or displayed on the product or on written materials attached to or within the package and must be in the

same units of measure as displayed on the website. Where multiple products are delivered concurrently, it shall be clear which information applies to each product. Although the declaration of net quantity may also appear on a receipt or invoice, a receipt or invoice alone is not an adequate means to provide this information.

- (d) Product Price. – The actual charged price for the product must be prominently marked upon the product or be recorded and displayed on documentation within the package. Where multiple products are delivered concurrently, it shall be clear which information applies to each product. The product receipt shall provide the purchaser with cost information including the cost of the product and any applicable additional charges. Although the price information may also appear on a receipt or invoice, it must also be provided as specified above with the product package.
- (e) Declaration of Responsibility. – The declaration of responsibility, including name and address, shall be prominently marked upon the product or package or recorded and displayed on documentation within the package. Where multiple products are delivered concurrently, it shall be clear which information applies to each product. Although the declaration of responsibility may also appear on a receipt or invoice, a receipt or invoice alone is not an adequate means to provide this information.

4.3. Bulk Product E-commerce Delivery Requirements – The following shall apply to the information provided on or with bulk products delivered to / received by a customer in an e-commerce sale:

- (a) Declaration of Identity. – The bulk product declaration of identity shall be provided to the customer on a transaction receipt. A Declaration of Identity may also be marked upon or on written documentation attached to the bulk product, but this does not preclude it from being displayed on the receipt.
- (b) Unit Price. – The unit price of the product shall be provided to the customer on the transaction receipt. The Unit Price may also be displayed upon the product or its packaging, but this does not preclude it from being recorded on the receipt.
- (c) Declaration of Net Quantity. – The actual net quantity of the product delivered shall be provided to the customer on the transaction receipt. Actual net quantity shall be documented for the transaction as the customer was not present when the product(s) was selected. The Declaration of Net Quantity may be displayed upon the product or its packaging, but this does not preclude it from being recorded on the receipt.
- (d) Product Price. – The total price charged for the product shall be provided to the customer on the transaction receipt.

4.4. Non-consumer Product E-commerce Delivery Requirements. – The following shall apply to the information provided on or with a non-consumer product delivered to / received by a customer in an e-commerce sale:

- (a) Packaged Non-Consumer E-commerce Products. – If the non-consumer product is packaged as a standard package, the requirements in Section 4.1. Standard Package E-commerce Delivery Requirements shall apply. If the non-consumer product is packaged as a random quantity package, the requirements of Section 4.2. Random Quantity Package E-commerce Delivery Requirements apply.
- (b) E-commerce Products Purchased from Bulk – If the non-consumer product is not packaged at the time of purchase, the requirements for Section 4.3. Bulk Product E-commerce Delivery Requirements shall apply.

## **Section 5. Unit Pricing Requirements on E-Commerce Sites for Products Offered for Sale**

**5.1. Unit Pricing for E-commerce Products – A unit price is required for bulk and random weight products offered for sale on e-commerce sites.**

**5.2 Unit Price information for standard packages offered for e-commerce is optional.**

**5.3 When providing required or optional unit pricing information, the following requirements apply:**

**(a) The unit price must be consistent with the required method of sale for the product.**

**(b) Units of Measure. - The declaration of the unit price of a particular commodity in all package sizes offered for sale in a retail establishment shall be uniformly and consistently expressed in terms of:**

**(1) Price per kilogram or 100 g, or price per pound or ounce, if the net quantity of contents of the commodity is in terms of weight.**

**(2) Price per liter or 100 mL, or price per dry quart or dry pint, if the net quantity of contents of the commodity is in terms of dry measure or volume.**

**(3) Price per liter or 100 mL, or price per gallon, quart, pint, or fluid ounce, if the net quantity of contents of the commodity is in terms of liquid volume.**

**(4) Price per individual unit or multiple units if the net quantity of contents of the commodity is in terms of count.**

**(5) Price per square meter, square decimeter, or square centimeter, or price per square yard, square foot, or square inch, if the net quantity of contents of the commodity is in terms of area.**

**(c) Exemptions – The following exemptions from unit pricing requirements above are permitted:**

**(1) Small Packages. – Commodities shall be exempt from these provisions when packaged in quantities of less than 28 g (1 oz) or 29 mL (1 fl oz) or when the total retail price is 50 cents or less.**

**(2) Single Items. – Commodities shall be exempt from these provisions when only one brand in only one size is offered for sale in a particular retail establishment.**

**(3) Infant Formula. – For “infant formula,” unit price information may be based on the reconstituted volume. “Infant formula” means a food that is represented for special dietary use solely as a food for infants by reason of its simulation of human milk or suitability as a complete or partial substitute for human milk.**

**(4) Variety and Combination Packages. – Variety and Combination Packages as defined in Section 2.9 and Section 2.10 in the Uniform Packaging and Labeling Regulation <sup>[Section XX NOTE]</sup> shall be exempt from these provisions.**

**Section XX NOTE: See “Uniform Packaging and Labeling Regulation**



**5.4. The unit price must be in consistent units for similar products. For unit pricing to facilitate effective consumer cost comparison, similar products must be unit priced in the same manner (unit of measure). If different brands or package sizes of the same consumer commodity are expressed in more than one unit of measures, the e-commerce site must unit price the items consistently. For example, some juices may be labeled by the fluid ounce, pint, quart and gallon. Unit pricing similar liquid products by the fluid ounce, others by the pint and still others by the gallon does not facilitate value comparison. E-commerce sites must determine the most effective units for ensuring value comparison of similar products with varying product sizes.**

**5.5. When unit pricing, the e-commerce site must be to the nearest cent when a dollar or more. If the unit price is under a dollar, it must be listed to the tenth of a cent or the whole cent, but both methods cannot be used simultaneously. The e-commerce site must accurately and consistently use the same method of rounding up or down to compute the unit price to the whole cent.**

**5.6. The unit price information must be presented adjacent to the product price information. When present, unit price information is to be provided in a manner so that it is adjacent to all other product pricing information.**

## **Section 6. Declaration of Quantity– E-commerce Products**

**6.1. E-commerce Site Requirements – Any e-commerce package offered for sale on an e-commerce site shall be displayed or represented on the e-commerce site with a separate Declaration of Quantity statement which details the quantity of product that the package contains in metric (SI) and US Customary units of measure and/or in count consistent with the requirements for packages intended for retail sale prescribed in the Uniform Packaging and Labeling Regulation (Reference appropriate UPLR section(s)). The Declaration of Quantity must be accurately displayed in relevant units to facilitate value comparison. The declaration shall not be misleading or deceptive.**

**6.2. E-commerce Package Requirements – E-commerce standard, random quantity packages, and pre-packaged non-consumer packages delivered to customers shall have an accurate Declaration of Net Quantity on the package label. In the event one of these e-commerce packages does not have a label, the Declaration of Net Quantity shall appear upon or in documentation within the package.**

**6.3. E-commerce Bulk or Unpackaged Product Requirements – E-commerce bulk and non-consumer products which are not packaged prior to purchase, at the time of delivery to the customer, must be accompanied by an accurate Declaration of Net Quantity on a printed transaction receipt. This printed receipt shall include the product identity, unit price, net quantity, and actual charged price in a clear and non-misleading manner for all bulk or non-packaged products. Electronic receipts may be used in place of paper receipts if the information required for a paper receipt is printed upon or contained in each individual bulk and/or non-packaged product. Electronic receipts may be provided in place of printed receipts if the customer specifies an electronic receipt is preferred.**

**6.4. Measurement Systems:--The International System of Units (SI), known as the metric system and the U.S. customary system of weights and measures are recognized as proper systems to be used in the declaration of quantity for e-commerce products. Units of both systems may be combined in a dual declaration of quantity. Numerical count is permitted for products when the product statement of identity and numerical count are fully informative of the product's contents.**

**6.5. Largest Whole Common Unit. – This regulation requires that the quantity declaration for similar types and sizes of products be in terms of the largest whole common unit. With respect to a particular product offered for sale, the declaration shall be in terms of the largest common whole unit of weight or measure with any remainder expressed:**

- (a) SI Units. – in decimal fractions of such largest whole unit.
- (b) U.S. Customary Units. –
  - (1) in common or decimal fractions of such largest whole unit; or
  - (2) where appropriate, 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.

**6.6. Terms: Weight, Liquid Measure, Dry Measure, or Count. –** The declaration of the quantity of a particular E-commerce product shall be expressed in terms of liquid measure if the commodity is liquid, in terms of dry measure if the commodity is dry, 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.

**6.7. SI Units: Mass, Measure. –** A declaration of quantity for an e-commerce product or package shall be expressed in units according to the provisions of the UPLR (add appropriate reference), the applicable Method of Sale Regulation (add appropriate reference) or the applicable regulation(s) of another regulatory agency. Generally, declarations are to follow the requirements detailed below:

- (a) in units of mass shall be in terms of the kilogram, gram, or milligram;
- (b) in units of liquid measure shall be in terms of the liter or milliliter, and shall express the volume at 20 °C, except in the case of petroleum products or distilled spirits, for which the declaration shall express the volume at 15.6 °C, and except also in the case of a commodity that is normally sold and consumed while frozen, for which the declaration shall express the volume at the frozen temperature, and except also in the case of malt beverages or a commodity that is normally sold in the refrigerated state, for which the declaration shall express the volume at 4 °C;
- (c) in units of linear measure shall be in terms of the meter, centimeter, or millimeter;
- (d) in units of area measure shall be in terms of the square meter, square decimeter, square centimeter or square millimeter;
- (e) 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;
- (f) Shall be expressed in units so that the numerical declaration is greater than the number one “1” and less than number one thousand “1000”. While a common unit is required for similar products of similar size, when the product size range results in numerical declarations which are less than one or exceed 1000, then added units are permitted.

Examples:

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

- (g) SI declarations should be shown in three digits except where the quantity is below 100 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; and the declaration of net quantity of contents shall not be expressed in mixed units.

Example:

1.5 kg, not 1 kg 500 g

- (h) Only those symbols as detailed in Section 6.5. Largest Whole Common Unit may be employed in the quantity statement on a package of commodity.

6.8. U.S. Customary Units: Weight, Measure. – A declaration of quantity for an e-commerce product or package shall be expressed in units according to the provisions of the UPLR (add appropriate reference), the applicable Method of Sale Regulation (add appropriate reference) or the applicable regulation(s) of another regulatory agency. Generally, declarations are to follow the requirements detailed below

- (a) in units of weight shall be in terms of the avoirdupois pound or ounce;
- (b) in units of liquid measure shall be in terms of the United States gallon of 231 cubic inches or liquid quart, liquid pint, or fluid ounce subdivisions of the gallon and shall express the volume at 68 °F, except in the case of petroleum products or distilled spirits, for which the declaration shall express the volume at 60 °F, and except also in the case of a commodity that is normally sold and consumed while frozen, for which the declaration shall express the volume at the frozen temperature, and except also in the case of a commodity that is normally sold in the refrigerated state, for which the declaration shall express the volume at 40 °F, and except also in the case of malt beverages, for which the declaration shall express the volume at 39.1 °F;
- (c) in units of linear measure shall be in terms of the yard, foot, or inch;
- (d) in units of area measure shall be in terms of the square yard, square foot, or square inch;
- (e) in units of volume measure shall be in terms of the cubic yard, cubic foot, or cubic inch; and
- (f) in units of dry measure, shall be in terms of the United States bushel of 2150.42 in<sup>3</sup>, or peck, dry quart, and dry pint subdivisions of the bushel.
- (g) Any generally accepted symbol and abbreviation of a unit name may be employed in the quantity statement on a package of commodity

## Section 7. Declaration of Identity: E-commerce Products

7.1. E-commerce Site Requirements – Any e-commerce package offered for sale on an e-commerce site shall be represented or displayed on the e-commerce site with a separate Declaration of Identity statement which details the specific product that the package contains in ordinary terms expressed in the English language. The declaration of identity needs to be specific enough to distinguish between similar types and varieties of products. A manufacturer brand name is not a statement of identity. The declaration shall not be misleading or deceptive.

7.2. The identity declaration shall be in terms of:

- (a) the name specified in or required by any applicable federal or state law or regulation 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”).

7.3. E-Commerce Package Requirements – The same Declaration of Identity shall appear on the product label, on the product, attached to the product or within the product package in a clear and non-misleading fashion when delivered to the purchaser.

## **Section 8. Declaration of Responsible Party: E-commerce Products**

**8.1. E-commerce Packages.** – Any e-commerce package offered for sale on an e-commerce site which is not owned or operated by the person responsible for the manufacture, packaging, labeling or distributing of the e-commerce package shall specify conspicuously either 1) on the label of the e-commerce package or 2) on documentation within the e-commerce package if there is no label, marking of the name and address of the product manufacturer, packer, or distributor. The name shall be the actual corporate name, or, when not incorporated, the name under which the business is conducted. The address shall include street address, city, state (or country if outside the United States), and ZIP Code (or the mailing code, if any, used in countries other than the United States); however, the street address may be omitted if it is listed in any readily accessible, well-known, widely published, and publicly available resource, including but not limited to a printed directory, electronic database, or website.

If a person manufactures, packs, or distributes a commodity at a place other than his principal place of business, the label may state the principal place of business in lieu of the actual place where the commodity was manufactured or packed or is to be distributed, unless such statement would be misleading. Where the commodity is not manufactured by the person whose name appears on the label, the name shall be qualified by a phrase that reveals the connection such person has with such commodity, such as “Manufactured for and packed by \_\_\_\_\_,” “Distributed by \_\_\_\_\_,” or any other wording of similar import that expresses the facts.

**8.2. E-commerce Bulk Products and Select Random Quantity Packages.** – All responsibility for bulk e-commerce products and e-commerce random quantity packages bearing no Declaration of Responsible Party information shall be that of the person or entity responsible for the e-commerce site.

**8.3. E-commerce Site Requirements.** – The operator of an e-commerce site offering products for sale shall comply with at least one of the following requirements regarding each product offered for sale:

- (a) The e-commerce site shall provide the name and address of the product manufacturer, packer or distributor.
- (b) The e-commerce site shall provide the name and website address of the product manufacturer, packer, or distributor.
- (c) The e-commerce site shall provide the product brand name or the name of the product manufacturer, distributor, or packer, when product manufacturer, distributor or packer address information is displayed on the package label at the time the product is delivered to the purchaser.
- (d) When the e-commerce site owner or operator is the also the product manufacturer, packer or distributor, the e-commerce site shall clearly and conspicuously display its name, address and contact information on both the e-commerce site and on the transaction receipt.

## **Section 9. Product Photograph or Accurate Product Depiction/Representation: E-commerce Site Requirements**

**9.1. E-commerce Packages.** Any e-commerce package offered for sale on an e-commerce site shall be represented on the site with a current photograph of the package offered for sale. As an alternative, a detailed and accurate photographic depiction or representation of the package may be displayed. This picture or graphical representation shall be sufficiently sized, detailed and clear to enable the customer to distinguish this package or product from similar packages including varying sizes, varieties and product functions.

**9.2. E-commerce Random Weight Packages.** – E-commerce random weight products offered for sale on an e-commerce site shall be accompanied on the site by a representative picture or photographic depiction of product (packaged or unpackaged) which is being offered for sale. This picture or photographic depiction shall

be sufficiently sized, detailed, and clear to enable the customer to see the product and the pictured item shall be representative of the product being offered for sale.

9.3. E-commerce Bulk Products and Select Random Quantity Packages. – Bulk products offered for sale on an E-commerce site shall be accompanied on the site by a representative picture or photographic depiction of the unpackaged product which is being offered for sale. Products packaged in random quantity packages shall be displayed on the site with a representative depiction of a representative package, a clear and conspicuous statement explaining that packaged products are of random quantity, and instructions to customers regarding the means to specify a maximum or minimum package quantity in ordering and purchasing the product. The picture(s) or photographic depiction(s) shall be sufficiently sized, detailed, and clear to enable the customer to see the product and the pictured item shall be representative of the product being offered for sale.

9.4. E-commerce Non-Consumer Packages. – Non-consumer products offered for sale on an e-commerce site shall be accompanied on the site by a representative picture or photographic depiction of the product which is being offered for sale. This picture or photographic depictions shall be sufficiently sized, detailed, and clear to enable the customer to see the product and the pictured item shall be representative of the product being offered for sale

9.5. Pictures on Receipts: Transaction receipts are not required to provide pictures or photographic depictions

## Section 10. Prominence and Placement of Required Information on E-commerce Sites: Offering E-commerce Products for Sale

10.1. General. – All information required to appear on the e-commerce site which offers products for sale shall appear thereon in the English language and shall be prominent, definite, plain, and 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.

10.1.1. Location. – The required e-commerce site declarations below must be present in the top 50% the screen in which the product is offered for sale:

- (a) identity,
- (b) net quantity,
- (c) product price,
- (d) brand or manufacturer name and
- (e) package picture or photographic representation/depiction.

10.1.2. Style of Type or Lettering – The required e-commerce site declarations 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 screen.

10.1.3. Color Contrast. – The required e-commerce site declarations shall be in a color that contrasts conspicuously with its background.

10.1.4. Package Picture or Photographic Representation. – The product picture or photographic depiction shall be in the actual colors of the package or product. Slight variations in color shading are acceptable.

10.2. Combined Declarations of Required Information. – One or more of the required e-commerce site declarations can be combined if the resulting statement is clear and not misleading. This shall not apply to

product photograph or photographic representation. Combined declarations shall be of a consistent size same size and font, excepting the product price which may be in a larger size and a different font.

10.2.1. Combined Declarations of Required Information – The declarations of identity, net quantity, product price and/or brand or manufacturer name can be combined into a single statement on an e-commerce site provided the information is clear and not misleading. A combined statement may appear on a single line or multiple lines as illustrated below:

Examples:

1 kg (2.2 LB) Brand X Laundry Detergent \$4.99

Brand X

Laundry Detergent

1 kg (2.2 LB)

\$4.99

10.2.2. Free Area – The area surrounding a required individual or combined declaration on an e-commerce site shall be free of printed information:

(a) above and below, by a space equal to at least the height of the lettering in the declaration; and

(b) to the left and right, by a space at least equal to twice the width of the letter “N” of the style and size of type

10.3. Alternate Languages. – An e-commerce site may provide product information in one or more languages in addition to English. When an e-commerce site does provide any required product information in an additional language, all the required information specified in this regulation must be provided in that additional language or languages.

## Section 11. Prominence and Placement: Delivered E-commerce Packages, Products and Receipts

11.1. General. – All information required to appear on an e-commerce package, product, or receipt shall appear thereon in the English language and shall be prominent, definite, plain, and 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.

11.2. Packages Intended for Sale in Retail Locations–A package properly labeled to comply with the retail shelf requirements of the UPLR will also comply with the e-commerce package label requirement.

11.3. Orientation of Required Declarations. – The required declarations on packages, products, or receipts shall be presented in such a manner as to be generally consistent to the orientation of the label or package.

## Section 12. Effective Date

This regulation shall become effective on \_\_\_\_\_.

Given under my hand and the seal of my office in the City of \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_.

Signed \_\_\_\_\_

**Consistent with the above proposal, the following addition is to accompany the adoption of the above language.  
Addition for the Weights and Measures Law:**

**Section 11. Powers and Duties of the Director**

The Director shall:

**(s) have the authority to employ recognized procedures and regulations designated within NIST Handbook 130, Uniform Laws and Regulations in the Areas of Legal Metrology and Fuel Quality, “E-Commerce Regulation”.**