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This Month in History

March 23, 1775 - Patrick Henry gave a rousing speech before the Virginia convention in Richmond that ignited the American Revolution. His famous statement, "I know not what course others may take; but as for me, give me liberty, or give me death!"

March 1, 1781 - Formal ratification of the Articles of Confederation was announced by Congress. Under the Articles, Congress was the sole governing body of the new American national government, consisting of the 13 original states. The Articles remained in effect through the Revolutionary War until 1789, when the current U.S. Constitution was adopted.

**WEIGHTS AND
MEASURES NEWS
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Package and Labeling Differences**Consumer vs Non-consumer**

By David Sefcik

“What are the differences in labeling requirements between Consumer and Non-consumer Packages?”

Weights and measures officials have authority under their state’s weights and measures laws to inspect packages for compliance with labeling and net weight requirements.

From time to time, we receive questions from state officials asking if and how the Uniform Packaging and Labeling Regulations (UPLR) found in NIST HB 130, “Uniform Laws and Regulations,” should be applied to non-consumer packages. The UPLR requirements for identity, responsibility, and quantity apply to both consumer and non-consumer packages, though somewhat differently.

**DEFINITIONS**

It is important to understand the difference between a consumer and non-consumer package.



Consumer Package – A package that is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption 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 (e.g., items sold on the shelf of retail store such as a 12 oz can of peas or a 2 L soda bottle).

Non-consumer Package – Any package other than a consumer package and particularly a package intended solely for industrial or institutional use or for wholesale distribution (e.g., business to business, such as a case of twelve, 12 oz cans of peas; pack of twelve, 50 count bottle of vitamins; 50 gal drum of cleaning solution; or 35 lb bag of ground corn cob animal bedding).

REQUIREMENTS

There are three primary labeling requirements:

Declaration of Identity – the identity defines the common or usual name, the name specified in or required by federal or state law, or the generic name or other appropriate description including a statement of function (such as “cleaning powder”).

Declaration of Responsibility – any package kept, offered, or exposed for sale, or sold at any place other than on the premises where packed shall specify conspicuously on the label of the package the name (corporate name or if not incorporated, the name under which the business is conducted) and address (street, city, state, and zip code or country if outside the United States) of the manufacturer, packer, or distributor. The street address may be omitted if it is shown in a current city or telephone directory. Inclusion of a website and/or telephone number does not meet the requirement for declaration of responsibility.

Declaration of Quantity – states the net quantity of contents by weight, measure, or count using the International System of Units (SI) and inch pound system of weights and measures. Appropriate units of both systems shall be represented in the declaration of quantity except as specified in Sections 11.32 and 11.33 of the UPLR, which state the exceptions to consumer commodities.

How do the requirements differ for Consumer and Non-consumer Packages?

DECLARATION OF IDENTITY

Consumer – the identity shall appear on the principal display panel (the part of the label that is designed to be displayed, presented, shown, or examined under normal and customary conditions of display and purchase), shall not be misleading or deceptive, and must appear generally parallel to the base on which the package rests.

Non-Consumer - the identity may appear anywhere on the outside of the package and must not be misleading or deceptive.

DECLARATION OF RESPONSIBILITY

Consumer and Non-consumer – the requirements apply equally to both.

DECLARATION OF QUANTITY

Prominence

Consumer – the UPLR lists specific requirements on location, style of type or lettering, color contrast, free area and type size.

Non-consumer – UPLR requirements on location, style of type or lettering, color contrast, free area and type size do not apply. The only requirement stated for a non-consumer package is that “all information must be definitely and clearly stated.”

Placement

Consumer – the quantity shall appear on the lower 30 % of the principal display panel.

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Calendar 2010

March 22 - 26

Measurement Science Conference
Pasadena, CA

April 12 - 13

National Industrial Scale Association (NISA)
Pittsburg, PA

April 12 - 16

SEMAP
Gaithersburg, MD

May 3 - 7

WRAP
Gaithersburg, MD

May 10 - 13

Northeastern Weights & Measures Association - Annual Meeting
Groton, CT

May 16 - 17

Central Weights & Measures Association
Annual Meeting
Springfield, IL

May 17 - 21

Basic Mass - Industry
Gaithersburg, MD

June 14 - 18

Laboratory Administration Seminar
Gaithersburg, MD

July 11 - 15

NCWM 95th Annual Meeting
St. Paul, MN

July 25 - 29

NCSL International Workshop & Symposium
Providence, RI

August 25 - 26

NCWM - NTETC Grain Analyzer Sector Meeting
Kansas City, MO

August 31

NCWM - NTETC Weighing Sector Meeting
Columbus, OH

September 12 - 15

Central Weights & Measures Association
Interim Meeting
Rock Island, IL

Non-consumer - the quantity declaration can appear anywhere on the outside of the package.

Units

Consumer – must bear both SI and inch-pound units (see UPLR Sections 11.32 and 11.33 for exemptions that apply).

Non-consumer – may bear only SI units or inch-pound (customary) units, or both; and shall be in the largest whole units.

OTHER REQUIREMENTS

Language

Consumer and Non-consumer – all information required to appear on a consumer and non-consumer package must appear in the English language (see UPLR Sections 8.1 and 9.1).

Method of Sale

Consumer and Non-consumer – the method of sale could be different between a consumer and non-consumer package if there is a firmly established general consumer usage or trade custom (e.g., animal bedding sold to consumer verses animal bedding sold to laboratories).

FAQ's

Below are answers to a couple of the most frequently asked questions:

QUESTION 1: “What if a non-consumer package is sold to a retail consumer? Is it exempt from the UPLR requirements for consumer packages?”

ANSWER: It is exempt only in certain circumstances and only if the primary intent of the manufacturer is for the package to be a non-retail selling unit. The Federal Trade Commission (FTC) states that “the fact that there may be occasional, isolated, minimal, sporadic sales of such commodities at retail to household consumers would not remove such commodities from the exception, provided , the sales at retail were unintended by the manufacture and were in fact beyond the manufacturer’s control.” (Bulletin No. 6 FTC)

QUESTION 2: “Are products packaged for sale at membership clubs and warehouses (e.g., Costco and Sam’s) considered consumer or non-consumers packages?”

ANSWER: For this, going back to the definition of a consumer and non-consumer package is helpful. It is clear that these products are produced or distributed for sale through retail sales agencies or instrumentalities for consumption or use by individuals. Even though they are also purchased by businesses, the sole intent is not to sell them only for industrial or institutional use. So, all products sold in these outlets would need to comply with the UPLR for consumer packages.

If you have any questions or need further clarification, please do not hesitate to contact me at dsefcik@nist.gov or at (301) 975 4868.

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September 13 - 17
NEMAP
Gaithersburg, MD

September 19 - 24
CIML 2010 Meeting
Orlando, FL

September 26 - 30
Western Weights & Measures Association
Olympia, WA

October 1 - 2
NCWM - NTETC Measuring Sector Meeting
Columbia, SC

October 3 - 6
Southern Weights & Measures Association
Columbia, SC

October 11 - 12
National Industrial Scale Association (NISA)
Seattle, WA

October 13 - 14
Northeastern Weights & Measures Association - Interim Meeting
Norwich, CT

Calendar 2011

January 23 - 26
NCWM 96th Interim Meeting
Dallas, TX

Additional details on the above calendar items can be found at:

<http://ts.nist.gov/WeightsAndMeasures/calendar3.cfm>

W&M NEWS WEB LINKS

Georgia Expanding Tifton Labs

http://www.moultrieobserver.com/local/local_story_064224554.html

Michigan Price Check Protection

<http://www.wwmt.com/video/?videoid=66672663001>

Inching Our Way into the Metric System

<http://www.mcall.com/news/all-carp1-qt.7040681oct02,0,2121034.column>

UPLR Requirements for Consumer vs. Non-Consumer Packages

REQUIREMENT	CONSUMER	NON-CONSUMER
Language	English (see UPLR Sections 8.1 and 9.1)	
Identity	Shall appear on the principal display panel and parallel to base on which package rests.	Can appear anywhere on the outside of the package.
Responsibility	Name and full address of manufacturer, packer or distributor. Specified conspicuously on the label.	
QUANTITY		
Location	Lower 30 % of principal display panel.	No specific requirements. Can appear anywhere on outside of the package.
Largest Whole Unit	SI and inch pound must be in the largest whole units. SI in decimal fractions of such largest whole unit. Inch pound in common or decimal fractions, or in the next smaller whole unit or units with any further remainder in terms of common or decimal fractions.	
SI and Inch Pound	Shall bear both SI and inch pound units. See exemptions in UPLR Sections 11.32 and 11.33.	May bear only SI units or inch pound (customary) units, or both.
Symbols and Abbreviations	Any generally accepted symbol and abbreviations of a unit name may be employed. See UPLR Sections 6.5.1 and 6.7.1.	
Color Contrast	Color contrasts conspicuously with its background.	No specific requirements. Only that it is definitely and clearly stated.
Free Area	Area surrounding quantity declaration shall be free of printed information above and below, by a space equal to at least the height of the lettering and 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.	
Style of Type or Lettering	Clearly, boldly and conspicuously presented with respect to other type lettering or graphic material on the package.	
Minimum Height of Numbers and Letters	See UPLR, Section 8.2.1, Table 1 for type size which is based on the size of the principal display panel.	
Proportion of Numbers and Letters	No number or letter shall be more than three times as high as it is wide.	
Quantity Declaration Parallel to Base	Parallel to the declaration of identity and to the base on which the package rests.	
Other Requirements and Exceptions	See UPLR Section 11	None