

Packaging and Labeling Differences

Consumer vs Non-consumer

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“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.

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.

UPLR Requirements for Consumer vs. Non-Consumer Packages

REQUIREMENT	CONSUMER	NON-CONSUMER
Language	English (see UPLR Sections 8.1 and 9.1)	
<i>Identity</i>	Shall appear on the principal display panel and parallel to base on which package rests.	Can appear anywhere on the outside of the package.
<i>Responsibility</i>	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.
<i>Free Area</i>	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	

