

**CHAPTER 47K**  
**COMMODITIES IN PACKAGE FORM;**  
**WEIGHTS AND MEASURES**

**Authority**

N.J.S.A. 51:1-29 and 51:1-61.

**Source and Effective Date**

R.2006 d.129, effective March 9, 2006.  
 See: 37 N.J.R. 3554(a), 38 N.J.R. 1577(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 47K, Commodities in Package Form; Weights and Measures, was extended by gubernatorial directive from September 5, 2013 to June 2, 2014. See: 45 N.J.R. 2259(a).

**Chapter Historical Note**

Chapter 47K, Commodities in Package Form; Weights and Measures, was adopted as R.1990 d.468, effective September 17, 1990. See: 22 N.J.R. 1440(a), 22 N.J.R. 2982(a).

Pursuant to Executive Order No. 66 (1978), Chapter 47K, Commodities in Package Form; Weights and Measures, was readopted as R.1995 d.541, effective September 15, 1995. See: 27 N.J.R. 2875(a), 27 N.J.R. 3972(a).

Pursuant to Executive Order No. 66(1978), Chapter 47K, Commodities in Package Form; Weights and Measures, was readopted as R.2000 d.416, effective September 15, 2000. See: 32 N.J.R. 2648(a), 32 N.J.R. 3858(a).

Chapter 47K, Commodities in Package Form; Weights and Measures, was readopted as R.2006 d.129, effective March 9, 2006. See: Source and Effective Date. See, also, section annotations.

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 47K, Commodities in Package Form; Weights and Measures, was scheduled to expire on September 5, 2011. See: 43 N.J.R. 826(a).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 47K, Commodities in Package Form; Weights and Measures, was scheduled to expire on September 5, 2013. See: 43 N.J.R. 1203(a).

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**SUBCHAPTER 1. FOOD PRODUCTS**

**13:47K-1.1 Bread**

(a) Each loaf and each unit of a twin or multiple loaf made or procured for sale, kept, offered, exposed for sale, or sold, whether or not wrapped or sliced, and each portion of a loaf that is prepackaged, shall be sold by weight provided that the provisions of this section shall not apply to biscuits, buns or rolls of inch-pound sizes of four ounces or less or of metric sizes 100 grams or less or to "stale bread" sold or expressly represented at the time of sale as such, and when so sold, the wrappers of "stale bread" shall not be considered packages for labeling purposes.

(b) Packages subject to Federal regulations regarding the declaration of the net quantity of contents in inch-pound and or System International (SI) metric units shall conform to such regulations. Packages not subject to such Federal regulations shall bear a statement of the net quantity of contents in either inch-pound or SI-metric units.

Amended by R.1995 d.541, effective October 16, 1995.  
 See: 27 N.J.R. 2875(a), 27 N.J.R. 3972(a).

Amended by R.2000 d.416, effective October 16, 2000.  
See: 32 N.J.R. 2648(a), 32 N.J.R. 3858(a).  
Rewrote (b).

### 13:47K-1.2 Butter, oleomargarine, margarine, butter-like and/or margarine-like spreads

(a) For the purposes of this section “butter-like and/or margarine-like spreads” are those products that meet the Federal Standard of Identity for butter or margarine and oleomargarine (see 9 CFR Part 319, 319.700) except that they contain less than 80 percent fat and may contain other safe and suitable ingredients.

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

(c) Oleomargarine and margarine are not permitted in multiples of one pound, 500 grams, or multiples of 500 grams because Section 407(b)(2) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq., prohibits margarine and oleomargarine packaged in sizes greater than one pound.

(d) Packages subject to Federal regulations regarding the declaration of the net quantity of contents in inch-pound and or System International (SI) metric units shall conform to such regulations. Packages not subject to such Federal regulations shall bear a statement of the net quantity of contents in either inch-pound or SI-metric units.

Amended by R.1995 d.541, effective October 16, 1995.  
See: 27 N.J.R. 2875(a), 27 N.J.R. 3972(a).  
Amended by R.2000 d.416, effective October 16, 2000.  
See: 32 N.J.R. 2648(a), 32 N.J.R. 3858(a).

Rewrote (d).  
Amended by R.2006 d.129, effective April 3, 2006.  
See: 37 N.J.R. 3554(a), 38 N.J.R. 1577(a).

In (a), corrected the Federal Standard of Identity for butter or margarine and oleomargarine citation.

### 13:47K-1.3 Flour, corn meal, and hominy grits

(a) 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, or sold by weight.

Amended by R.1995 d.541, effective October 16, 1995.  
See: 27 N.J.R. 2875(a), 27 N.J.R. 3972(a).

### 13:47K-1.4 Fluid milk products

(a) All fluid milk products, including, but not limited to, milk, lowfat milk, skim milk, cultured milks, and cream, shall be packaged for retail sale only in volumes per subsection (a)1 and 2 below; provided, that inch-pound sizes less than one gill and metric sizes less than 100 milliliters shall be permitted:

1. Inch-pound volumes of one gill, ½ liquid pint, 10 fluid ounces, one liquid pint, one liquid quart, ½ gallon, one gallon, 1-½ gallons, two gallons, 2-½ gallons, or multiples of one gallon.

2. Metric volumes of 125 milliliters, 250 milliliters, 500 milliliters, one liter, or multiples of one liter.

### 13:47K-1.5 Other milk products

(a) Cottage cheese, cottage cheese products, and other milk products that are solid, semisolid, viscous, or a mixture of solid and liquid, as defined in the Pasteurized Milk Ordinance of the U.S. Public Health Service, as amended (see Public Health Service, Food and Drug Administration, Publication 229, Title PMO grade A, 2003 Revision), shall be sold in terms of weight; provided, that cottage cheese, cottage cheese products, sour cream, and yogurt shall be packaged for retail sale only in weights per (a)1 or 2 below and, provided further, that the total net weight of multi-unit packages need not comply with (a)1 or 2 below if their individual units comply:

1. Inch-pound weights of one, two, three, four, five, six, eight, 12, 16, 24, 32, 64, 80 and 128 ounces avoirdupois.
2. Metric weights of 25, 50, 75, 100, 125, 150, 175, 200, 250, 375, 500, 750 grams; one, two, and four kilograms.

Amended by R.2006 d.129, effective April 3, 2006.  
See: 37 N.J.R. 3554(a), 38 N.J.R. 1577(a).

In introductory paragraph (a), updated the reference to the Pasteurized Milk Ordinance of the U.S. Public Health Services.

### 13:47K-1.6 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.

## SUBCHAPTER 2. NONFOOD PRODUCTS

### 13:47K-2.1 Inch-pound units requirement

Packages subject to Federal regulations regarding the declaration of the net quantity of contents in inch-pound and or System International (SI) metric units shall conform to such Federal regulations. Packages not subject to such Federal regulations shall bear a statement of the net quantity of contents in either inch-pound or SI-metric units.

Amended by R.2000 d.416, effective October 16, 2000.  
See: 32 N.J.R. 2648(a), 32 N.J.R. 3858(a).  
Rewrote the section.

### 13:47K-2.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

“ASTM” means American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959, telephone (610) 832-9500, [www.ASTM.org](http://www.ASTM.org).

“Page” means one side of a sheet of paper used for writing purposes.

“Sheet” means the separate, individual piece of tissue or paper. In case of writing materials, “sheet” shall not be construed to mean “page.”

“Usable unit” means an individual sheet or unit or any combination of sheets or units which can be removed or dispensed from any type of roll, container or other package form in a single operation.

Amended by R.2000 d.416, effective October 16, 2000.  
See: 32 N.J.R. 2648(a), 32 N.J.R. 3858(a).  
Inserted “ASTM”.

#### Case Notes

Consumer package definition does not include package of toy soldiers as the statutory scheme authorizing the regulation pertains only to consumable or readily depletable items such as food, coal, ice and liquid fuels. State, Div. of Weights and Measures v. Miner Industries, Inc., 177 N.J.Super. 153, 425 A.2d 1074 (App.Div.1981).

### 13:47K-2.3 Paper napkins, paper towels, facial tissues and toilet tissues

The declaration of quantity on a package of paper napkins, paper towels, facial tissues or toilet tissues shall indicate the numerical count of usable units (a sheet of two or three ply shall be considered a single usable unit) and the dimensions of the individual unit contained in the package.

Amended by R.1995 d.541, effective October 16, 1995.  
See: 27 N.J.R. 2875(a), 27 N.J.R. 3972(a).

### 13:47K-2.4 Writing paper; notebook paper; envelopes; and office paper

(a) The declaration of quantity on a package of writing paper, notebook paper or envelopes shall indicate the number of sheets or envelopes, as the case may be, in the package.

(b) When the envelopes are included in a package of writing paper, the declaration shall indicate both the number of sheets of paper and the number of envelopes.

(c) A package of bond, mimeo, spirit duplicator, xerographic, and other paper, including cut-sized office paper and computer paper, 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 a declaration of identity including the “Basis Weight.” “Basis Weight” as used in this subsection for labeling means the grade, category or identity of the paper determined according to the latest version of American Society for Testing and Materials Standard Test Method D646 for “Grammage of Paper and Paperwood (Mass Per Unit Area)” “Basis Weight” is used as a standard of identity and is not to be considered a net weight declaration.

Amended by R.1995 d.541, effective October 16, 1995.  
See: 27 N.J.R. 2875(a), 27 N.J.R. 3972(a).  
Amended by R.2006 d.129, effective April 3, 2006.  
See: 37 N.J.R. 3554(a), 38 N.J.R. 1577(a).

In (c), corrected the reference to the American Society for Testing and Materials Standard Test Method D646 for “Grammage of Paper and Paperwood (Mass Per Unit Area)”.

### 13:47K-2.5 Tablets and books of writing paper

The declaration of quantity on a package of tablets or books of writing paper shall indicate the number of tablets or books in a package.

### 13:47K-2.6 Wrapping paper

(a) The declaration of quantity on a package of wrapping paper in sheet form shall be in terms of either numerical count or of net weight.

(b) If the declaration is in terms of numerical count, it shall indicate both the dimensions of an individual sheet and the number of sheets in the package.

### 13:47K-2.7 Gift-wrapping paper

The declaration of quantity on a package of gift-wrapping paper, whether packaged as individual sheets or in roll form, shall indicate the numerical count and the dimensions of the individual sheets. Any linear dimensions in excess of 48 inches shall be expressed in terms of feet.

### 13:47K-2.8 (Reserved)

Repealed by R.1995 d.541, effective October 16, 1995.  
See: 27 N.J.R. 2875(a), 27 N.J.R. 3972(a).  
Section was “Facial tissue”.

### 13:47K-2.9 (Reserved)

Repealed by R.1995 d.541, effective October 16, 1995.  
See: 27 N.J.R. 2875(a), 27 N.J.R. 3972(a).  
Section was “Toilet tissue”.

### 13:47K-2.10 Supplementary quantity declaration

Any declaration or statement relating to the quantity of contents of a package of paper product that is in addition to or supplementary to the declaration required by law, regulation or rule shall be in juxtaposition with and be subordinated to the required declaration.

### 13:47K-2.11 Multiple packs

Multiple packs of paper products shall bear on the outside wrapper, clearly and conspicuously, a quantity declaration indicating the number of individual rolls or packages and the usable unit count and sheet size for each individual roll or package, unless such individual rolls or packages are so labeled that the content of each is clearly visible through the outer wrapper.

### 13:47K-2.12 Paper products for industrial use only

Rolls or packages of paper products for industrial use only and not for resale need not be marked individually so long as the container in which such rolls or packages are packed is properly marked to show the quantity of the contents of such container.

**13:47K-2.13 Folded facial tissues to be compactly packaged**

Folded facial tissues shall be compactly folded and gaps between the edges of sheets shall be held to a minimum.

**13:47K-2.14 Size of cartons**

Cartons or any other package form in which paper products are packed shall not be larger than needed to hold their intended or represented contents.

**13:47K-2.15 Size of tubes for rolled paper products**

Tubes or any other device similarly used for rolled paper products shall not be larger than required to contain the minimum diameter of rolled paper product without damage.

**13:47K-2.16 Fence wire products**

(a) Rolls of fence wire products, when prepackaged in any manner prior to sale, or exposure for sale, at retail, shall be sold by:

1. Gauge of wire;
2. Height in terms of inches or centimeters, if applicable; and
3. Length in terms of rods, meters or feet.

**13:47K-2.17 Coatings**

Asphalt paints, coatings, and plastics shall be sold in terms of liquid measure.

**13:47K-2.18 Peat and peat moss**

(a) This section 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 25 percent on a dry-weight basis (dried in an oven at 105 degrees Centigrade (221 degrees Fahrenheit) until no further weight loss can be determined).

(b) The declaration of quantity of peat and peat moss shall be expressed in weight units or in cubic-measure units.

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

(d) Peat and peat moss sold in terms of cubic measure 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).

**13:47K-2.19 Roofing and roofing materials**

(a) Roofing and roofing materials 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.

(b) As used in this section, the following words and terms shall have the following meanings:

1. 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.

2. 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 100 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.

3. 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 (144 square inches) exclusive of side laps or side joints.

(c) 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 100 square feet of roof area."

1. The use of the common fraction one-third ( 1/3 ) is specifically authorized in the quantity statement of a package of roofing material when, and only when, used as the common fraction of the "square."

2. 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.

**13:47K-2.20 Sealants**

Caulking compounds, glazing compounds, and putty shall be sold in terms of liquid measure, except that rope caulk shall be sold by weight.

**13:47K-2.21 Polyethylene products**

(a) Consumer and nonconsumer polyethylene products offered and exposed for sale shall be sold by:

1. Length and width;
2. Area in square feet or square meters;

3. Thickness in mils (one mil=.001 inch) or micrometers (one micrometer=0.000039 inch; and

4. Weight.

(b) The following consumer polyethylene products at retail shall be sold as follows:

1. Food wrap by:

- i. Length and width; and
- ii. Area in square feet or square meters.

2. Lawn and trash bags by:

- i. Count;
- ii. Dimensions;
- iii. Thickness in mils (one mil=.001 inch) or micrometers (one micrometer=0.000039 inch); and
- iv. Capacity.

3. Food and sandwich bags by:

- i. Count;
- ii. Dimensions; and
- iii. Capacity.

(1) The capacity statement does not apply to fold-over sandwich bags.

(c) The labeled statement of weight for polyethylene sheeting and film products under (a) above shall be not less than the weight calculated by using either of the following formulas:

1. For inch-pound dimensions:

$W = T \times A \times 0.03613 \times D$ , 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 ASTM Standard D1505-98 "Standard Method of Test for Density Gradient Technique," as amended and supplemented, incorporated herein by reference, 0.03613 is a factor for converting  $\text{g/cm}^3$  to  $\text{lb/in}^3$ .

2. For metric dimensions:

$M = T \times A \times D/1000$  where

M = net mass in kilograms

T = nominal thickness in centimeters

A = nominal length in centimeters times nominal width in centimeters

D = density in grams per cubic centimeter as determined by ASTM Standard D1505-98, "Standard Method of Test For Density of Plastics by the Density Gradient Technique," as amended and supplemented, incorporated herein by reference.

3. For the purpose of this subsection, the minimum density shall be 0.92 gm/cubic cm (when D is not known) and the nominal width for bags in this calculation is twice the labeled width.

Amended by R.1995 d.541, effective October 16, 1995.

See: 27 N.J.R. 2875(a), 27 N.J.R. 3972(a).

Amended by R.2000 d.416, effective October 16, 2000.

See: 32 N.J.R. 2648(a), 32 N.J.R. 3858(a).

In (c), rewrote references to D in 1 and 2.

### 13:47K-2.22 Insulation

(a) Packaged loose-fill insulation, except cellulose, shall declare the type of insulation and 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 1,000 square feet, and the minimum weight per square foot at R-values of 11, 19, and 22. This information shall also be supplied for any additional R-values listed.

(b) 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 100 square feet, and minimum weight per square foot at R-values of 13, 19, 24, 32, and 40. This information shall also be supplied for any additional R-values listed.

(c) 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.

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

1. 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 31.5 bags of insulation to cover 1500 square feet area.

Signed and dated.

Amended by R.1995 d.541, effective October 16, 1995.

See: 27 N.J.R. 2875(a), 27 N.J.R. 3972(a).

**13:47K-2.23 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.

**13:47K-2.24 Liquefied petroleum gas cylinder tare weights**

(a) Whenever stamped tare weights on cylinders are employed in the sale of liquefied petroleum gas, the following shall apply.

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

2. 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.

**13:47K-2.25 Mulch**

(a) Mulches are defined as any product or material except peat or peat moss (see N.J.A.C. 13:47K-2.18) 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 simple purposes.

(b) 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.

**13:47K-2.26 Kindling wood**

(a) All kindling wood offered for sale, sold or distributed by avoirdupois net weight, except when sold in quantities of a bushel or half bushel.

(b) The quantity of contents either in terms of avoirdupois net weight or of the bushel or half bushel shall be declared on all containers used for this purpose.

**SUBCHAPTER 3. GENERAL****13:47K-3.1 Presentation of price**

Whenever an advertised, posted, or labeled 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.

**13:47K-3.2 Allowable differences: combination quantity declarations**

(a) 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:

1. For beverageware (pressed and blown tumblers and stemware), the allowable difference between actual and declared capacity shall be:

i. For inch-pound:

(1) Plus or minus 1/4 fluid ounce for items of five fluid ounce capacity or less;

(2) Plus or minus five percent of the stated capacity for items over five fluid ounce capacity.

ii. For metric:

(1) Plus or minus 10 milliliters for items of 200 milliliter capacity or less;

(2) Plus or minus five percent of the stated capacity for items over 200 milliliter capacity.

**13:47K-3.3 Machine vended commodities**

(a) All vending machines dispensing packaged commodities shall indicate:

1. Product identity;

2. Net quantity; and

3. Name, address, and telephone number of responsible party.

(b) The requirements 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.

**SUBCHAPTER 4. MARKING REQUIREMENTS****13:47K-4.1 Applications**

(a) This subchapter shall apply to packages and to commodities in package form, but shall not apply to:

1. Inner wrappings not intended to be individually sold to the customer;

2. 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;

3. 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;

4. 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, etc., and the tray itself is not intended to be sold);

5. Open carriers and transport 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 this subchapter; or

6. Commodities put up in variable weights and sizes for sale and intended to be either weighed or measured at the time of sale, where no package quantities are represented.

Amended by R.1995 d.541, effective October 16, 1995.  
See: 27 N.J.R. 2875(a), 27 N.J.R. 3972(a).

### 13:47K-4.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Commodity in package form” means a commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale. An individual item or lot of any commodity not in package form as defined in this section, but on which there is marked a selling price based on an established price per unit of weight or of measure, shall be considered a commodity in package form. Where the term “package” is used in N.J.S.A. 51:1-1 et seq., it shall be construed to mean “commodity in package form” as herein defined. For the purpose of this definition, single unit produce items wrapped in clear film shall not be construed as commodities in package form.

“Consumer package” or “package of consumer commodity” means a commodity in package form 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.

“Indirect sale” means a sale where a customer makes a selection and places an order, but is not present when the determination of the net quantity is made, such as Internet or on-line sales, sales conducted by telephone or facsimile, and catalog sales.

“Label” means 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 subchapter.

“Multi-unit package” means 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 subchapter.

“Nonconsumer package” or “package of nonconsumer commodity” means any commodity in package form other than a consumer package, and particularly a package intended solely for industrial or institutional use for wholesale distribution.

“Person” means either singular or plural, and shall include any individual, partnership, company, corporation, association, and society.

“Petroleum products” means 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 regulation. Brake fluid, copier machine dispersant, antifreeze, cleaning solvents, and alcohol are not “petroleum products.”

“Principal display panel or panels” means 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.”

“Random package” means a package that is one of a lot, shipment, or delivery of packages of the same consumer commodity with various weights; that is, packages of the same consumer commodity with no fixed pattern of weight.

Amended by R.2006 d.129, effective April 3, 2006.  
See: 37 N.J.R. 3554(a), 38 N.J.R. 1577(a).

In definition for “commodity in package form,” added “-1 et seq.” to statutory citation; clarified that definition for “consumer package” applies to “consumer package or “package of consumer commodity”; clarified that definition for “nonconsumer package” applies to “nonconsumer package” or package of nonconsumer commodity”; added definition “indirect sale”.

**13:47K-4.3 Declaration of identity: consumer package**

(a) A declaration of identity on a consumer package shall appear on the principal display panel, and shall positively identify the commodity in the package by its common or usual name, description, generic term, or the like.

(b) 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.

**13:47K-4.4 Declaration of identity: nonconsumer package**

A declaration of identity on a nonconsumer package shall appear on the outside of a package and shall positively identify the commodity in the package by its common or usual name, description, generic term, or the like.

**13:47K-4.5 Declaration of responsibility: consumer and nonconsumer packages**

(a) 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 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 street address, city, State (or country, if outside the United States) and ZIP Code (or other mailing code used in countries other than the United States); however, 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 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 a commodity, such as "Manufactured for and packed by \_\_\_\_\_," "Distributed by \_\_\_\_\_," or any other wording of similar import that expresses the facts.

Amended by R.1995 d.541, effective October 16, 1995.  
See: 27 N.J.R. 2875(a), 27 N.J.R. 3972(a).

**Case Notes**

Packages containing computer accessories were not consumer packages subject to labeling requirements of weights, measures, and containers legislation. *State v. CompUSA*, 288 N.J.Super. 413, 672 A.2d 745 (A.D.1996).

**13:47K-4.6 Declaration of quantity: consumer packages**

(a) The metric and inch-pound systems of weights and measures are recognized as proper systems to be used in the

declaration of quantity. Units of both systems may be presented in a dual declaration of quantity.

1. Packages subject to Federal regulations regarding the declaration of the net quantity of contents in inch-pound and or System International (SI) metric units shall conform to such regulations. Packages not subject to such Federal regulations shall bear a statement of the net quantity of contents in either inch-pound or SI metric units.

(b) Where this subchapter 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 as follows:

1. For inch-pound units:

i. In common or decimal fractions of such largest whole unit; or

ii. 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.

2. For metric units, in decimal fractions of such largest whole unit.

(c) A declaration of net quantity of the commodity in the package, exclusive of wrappers and any other material packed with such commodity, shall appear on the principal display panel of a consumer package and, unless otherwise specified in this subchapter, shall be in terms of the largest whole unit.

1. The term "net weight" shall be used in conjunction with the declaration of quantity in units of weight. The term may either precede or follow the declaration of weight.

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

(d) The declaration of the quantity of a particular commodity shall be expressed in terms of liquid measure if the commodity is liquid, or 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.

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.

(e) When inch-pound units are used, the following shall apply:

1. A declaration of quantity:

i. In units of weight, shall be in terms of the avoirdupois pound or ounce;

ii. 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 degrees Fahrenheit (68°F), except:

(1) In the case of petroleum products and distilled spirits, for which the declaration shall express the volume at 60 degrees Fahrenheit (60°F);

(2) 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;

(3) In the case of a commodity that is normally sold in the refrigerated state, for which the declaration shall express the volume at 40 degrees Fahrenheit (40°F); and

(4) In the case of malt beverages, for which the declaration shall express the volume at 39.1 degrees Fahrenheit (39.1°F);

iii. In units of linear measure, shall be in terms of the yard, foot, or inch;

iv. In units of area measure, shall be in terms of the square yard, square foot, or square inch;

v. In units of volume measure, shall be in terms of the cubic yard, cubic foot, or cubic inch; and

vi. 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.

2. Any of the following symbols and abbreviations, and none other, shall be employed in the quantity statement under (e) above on a package of commodity:

avoirdupois	avdp
cubic	cu
feet or foot	ft
fluid	fl
gallon	gal
inch	in
liquid	liq
ounce	oz
pint	pt
pound	lb
quart	qt
square	sq
weight	wt
yard	yd

i. There normally are no periods following, nor plural forms of symbol. For example, "oz" is the symbol for both "ounce" and "ounces." Both upper and lower case letters are acceptable.

ii. 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 "20 fluid ounces, 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."

(f) Packages subject to Federal regulations regarding the declaration of the net quantity of contents in inch-pound and or System International (SI) metric units shall conform to such regulations. Packages not subject to such Federal regulations shall bear a statement of the net quantity of contents in either inch-pound or SI-metric units. Packages entering interstate commerce are restricted by Federal regulations to two decimal place quantity declarations.

1. When metric units are used, a declaration of quantity:

i. In units of weight, shall be in terms of the kilogram, gram, or milligram;

ii. In units of liquid measure, shall be in terms of the liter or milliliter, and shall express the volume of 20 degrees Centigrade (20°C), except:

(1) In the case of petroleum products or distilled spirits, for which the declaration shall express the volume at 15 degrees Centigrade (15°C);

(2) 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

(3) 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 Centigrade (4°C);

iii. In units of linear measure, shall be in terms of the meter, centimeter, or millimeter;

iv. In units of area measure, shall be in terms of the square meter or square centimeter; and

v. 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 will be used only when specifically designated as a method of sale.

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

kilogram	kg
gram	g
milligram	mg
liter	L or l
milliliter	mL or ml
meter	m
centimeter	cm
millimeter	mm
square meter	m <sup>2</sup>
square centimeter	cm <sup>2</sup>
cubic meter	m <sup>3</sup>
cubic centimeter	cm <sup>3</sup>

i. Symbols, except for liter, are not capitalized unless the unit is derived from a proper name. Periods should not be used after the symbol. Symbols are always written in the singular form—do not add “s” to express the plural when the symbol is used.

ii. The “l” symbol for liter and “ml” symbol for milliliter are permitted; however, the “L” symbol and the “mL” symbol are preferred.

(g) For prescribed units, using the inch-pound system, the following shall apply:

1. The declaration of quantity shall be expressed in terms of:

i. In the case of length measure of less than one foot, inches and fractions of inches;

ii. In the case of area measure of less than one square foot, square inches and fractions of square inches;

iii. In the case of weight of less than one pound, ounces and fractions of ounces; and

iv. In the case of liquid measure of less than one pint, fluid ounces and fractions of fluid ounces; provided that

v. 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.

(1) Packages entering interstate commerce are restricted by Federal regulations to two decimal place quantity foods.

2. On packages containing one pound or more but less than four pounds, the declaration shall be expressed in ounces and, in addition, shall be followed by a declaration in parentheses, expressed in terms of the largest whole unit; provided, that the quantity declaration appearing on a random package may be expressed in terms of pounds and decimal fractions of the pound carried out to not more than three decimal places.

i. Packages entering interstate commerce are restricted by Federal regulations to two decimal place quantity declarations.

3. On packages containing one pint or more, but less than one gallon, the declaration shall be expressed in fluid ounces and, in addition, shall be followed by declaration in parentheses, expressed in terms of the largest whole unit.

4. On packages containing one foot or more, but less than four feet, the declaration shall be expressed in inches and, in addition, shall be followed by a declaration in parentheses, expressed in terms of the largest whole unit.

5. On packages containing one square foot or more but less than four square feet, the declaration shall be expressed in square inches and, in addition, shall be followed by a declaration in parentheses, expressed in terms of the largest whole unit.

6. In the case of a length measure of four feet or more, the declaration of quantity shall be expressed in terms of feet, followed in parentheses by a declaration of yards and common or decimal fractions of the yard, or in terms of feet followed in parentheses by a declaration of yards with any remainder in terms of feet and inches. In case of an area measure of four square feet or more; a weight of four pounds or more; or a liquid measure of one gallon or more, the declaration of quantity shall be expressed in terms of the largest whole unit.

7. For bidimensional commodities (including roll-type commodities) the quantity declaration shall be expressed as follows:

i. If less than one square foot, in terms of linear inches and fractions of linear inches;

ii. If at least one square foot but less than four square feet, in terms of square inches followed in parentheses by a declaration of both the length and width, each being in terms of the largest whole unit; provided, that:

(1) No square inch declaration is required for a dimensional commodity of four inches width or less;

(2) A dimension of less than two feet may be stated in inches within the parenthetical declaration; and

(3) Commodities consisting of usable individual units (except roll-type commodities with individual usable units created by perforations, for which see (i) below) require a declaration of unit area but not a declaration of total area of all such units;

iii. If four square feet or more, in terms of square feet followed in parentheses by a declaration of the length and width in terms of largest whole unit provided that:

(1) No declaration in square feet is required for a bidimensional commodity with a width of four inches or less;

(2) Bidimensional commodities, with a width of four inches or less, shall have length expressed in inches followed by a statement in parentheses of the length in largest whole unit (Example: 2 inches by 360 inches (10 yards)); and

(3) A dimension of less than two feet may be stated in inches within the parenthetical declaration; and

iv. No declaration in square units is required for commodities for which the length and width measurements are critical in terms of end use (such as tablecloths or bedsheets) if such commodities clearly present the length and width measurements on the label.

(h) Packages subject to Federal regulations regarding the declaration of the net quantity of contents in inch-pound and or System International (SI) metric units shall conform to such regulations. Packages not subject to such Federal regulations shall bear a statement of the net quantity of contents in either inch-pound or SI metric units. Packages entering interstate commerce are restricted by Federal regulations to two decimal place quantity declarations.

1. For prescribed units as follows, using the metric system, the declaration of quantity shall be expressed in terms of:

i. In case of length measure of less than one meter, centimeters or millimeters;

ii. In case of area measure of less than one square meter, square centimeters and decimal fractions of square centimeters;

iii. In the case of weight of less than one kilogram, grams and decimal fractions of a gram, but if less than one gram, then in milligrams; and

iv. In the case of liquid or dry measure of less than one liter, milliliters; provided that

v. The quantity declaration appearing on a random weight package may be expressed in terms of decimal fractions of the largest appropriate unit, the fraction being carried out to not more than two decimal places.

(1) Packages subject to Federal regulations regarding the declaration of the net quantity of contents in inch-pound and or System International (SI) metric units shall conform to such regulations. Packages not subject to such Federal regulations shall bear a statement of the net quantity of contents in either inch-pound or SI metric units.

2. For prescribed units as follows, using the metric system, the declaration of quantity shall be expressed in terms of:

i. In case of length measure of one meter or more, in meters and decimal fractions to not more than two places;

ii. In case of area measure of one square meter or more, in square meters and decimal fractions to not more than two places;

iii. In case of weight of one kilogram or more, in kilograms and decimal fractions to not more than two places; and

iv. In case of liquid or dry measure of one liter or more, in liters and decimal fractions to not more than two places; provided that

v. The quantity declaration appearing on a random weight package may be expressed in terms of kilograms and decimal fractions carried out to not more than two decimal places.

3. For bidimensional commodities (including roll-type commodities), the quantity declaration shall be expressed:

i. If less than one square meter, in terms of length and width.

ii. If one square meter or more, in terms of square measure followed in parentheses by a declaration of length and width; provided that:

(1) Quantity declarations in bidimensional commodities with a width of 100 millimeter or less may be expressed in terms of width and length, only;

(2) Commodities consisting of usable individual units (except roll-type commodities with individual usable units created by perforations, for which see (i) below) require a declaration of unit area but not a declaration of total area of all such units; and

(3) No declaration in square units is required for commodities for which length and width measurements are critical in terms of end use (such as tablecloths or bedsheets) if such commodities clearly present the length and width measurements on the label.

(i) 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 subchapter include the number of plies and total number of usable units.

1. 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:

- i. Total area measurement;
- ii. Number of plies;
- iii. Count of usable units; and
- iv. Dimensions of a single usable unit.

(j) The following apply to the use of fractions in statements in declarations of net quantity:

1. A metric statement in a declaration of net quantity of contents of any consumer commodity may contain only decimal fractions.

2. An inch-pound statement in a declaration of net quantity of contents of any consumer commodity may contain common or decimal fractions. A common frac-

tion shall be in terms of halves, quarters, eighths, sixteenths, or thirty-seconds, except that:

i. 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

ii. If linear measurements are required in terms of yards or feet common fractions may be in terms of thirds.

3. A common fraction shall be reduced to its lowest term (Example:  $2/4$  becomes  $1/2$ ).

4. A decimal fraction shall not be carried out to more than two places, except that the quantity declaration appearing on a random package may be carried out to not more than three decimal places.

(k) 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 term 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).

1. An equivalent statement of the net quantity of contents in terms of either the inch-pound or metric system is not regarded as a supplemental statement and such statement may also appear on the principal display panel; provided, that it conforms to both (e) and (f) above.

2. In all conversions for the purpose of showing an equivalent metric or inch-pound quantity to a rounded inch-pound or metric quantity, the number of significant digits retained should be such that accuracy is neither sacrificed nor exaggerated. As a general rule, converted values should be rounded down by dropping any digit beyond the first three. (Example: 196.4 grams becomes 196 grams or 1.759 feet becomes 1.75 feet.)

(l) 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.

(m) 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.

Amended by R.2000 d.416, effective October 16, 2000.  
See: 32 N.J.R. 2648(a), 32 N.J.R. 3858(a).

Rewrote (a) and the introductory paragraph in (f); in (g), deleted a former second sentence in 1v(1), and deleted a former second sentence in 2i; and in (h), rewrote the introductory paragraph and 1v(1).

### 13:47K-4.7 Declaration of quantity: nonconsumer packages

(a) The metric and inch-pound systems of weights and measures are recognized as proper systems to be used in the declaration of quantity. Units of both systems might be combined in a dual declaration of quantity.

1. Although nonconsumer packages under this subchapter might bear metric declarations only, this subchapter should not be construed to supersede any labeling requirement specified in Federal law.

(b) 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 (see N.J.A.C. 13:47K-4.6(b)).

(c) 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) When inch-pound units are used, the following shall apply:

1. A declaration of quantity:

i. In units of weight, shall be in terms of the avoirdupois pound or ounce;

ii. 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 degrees Fahrenheit (68°F) except:

(1) In the case of petroleum products or distilled spirits, for which the declaration shall express the volume at 60 degrees Fahrenheit (60°F);

(2) In the case of a commodity that is normally sold and consumed while frozen, for which the declaration shall express the volume at frozen temperature;

(3) In the case of a commodity that is normally sold in the refrigerated state, for which the declaration shall express the volume at 40 degrees Fahrenheit (40°F); and

(4) In the case of malt beverages, for which the declaration shall express the volume at 39.1 degrees Fahrenheit (39.1°F);

iii. In units of linear measure, shall be in terms of the yard, foot, or inch;

iv. In units of area measure, shall be in terms of the square yard, square foot, or square inch;

v. In units of volume measure, shall be in terms of the cubic yard, cubic foot, or cubic inch; and

vi. 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.

2. 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 symbols and abbreviations, see N.J.A.C. 13:47K-4.6(e)2).

(e) When metric units are used, the following shall apply:

1. A declaration of quantity:

i. In units of weight, shall be in terms of the kilogram, gram, or milligram;

ii. In units of liquid measure, shall be in terms of the liter or milliliter, and shall express the volume at 20 degrees Centigrade (20°C); except

(1) In the case of petroleum products or distilled spirits, for which the declaration shall express the volume at 15 degrees Centigrade (15°C);

(2) 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

(3) 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 Centigrade (4°C);

iii. In units of linear measure, shall be in terms of the meter, centimeter, or millimeter;

iv. In units of area measure, shall be in terms of the square meter or square centimeter; and

v. 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 will be used only when specifically designated as a method of sale.

2. Only those symbols as detailed in N.J.A.C. 13:47K-4.6(f)2, and none other, may be employed in the quantity statement on a package of commodity.

(f) 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.

#### 13:47K-4.8 Prominence and placement: consumer packages

(a) 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.

1. The declaration or declarations of quantity of the contents of a package shall appear in the bottom 30 percent of the principal display panel or panels. For cylindrical containers, see also N.J.A.C. 13:47K-4.10(g) for additional requirements.

2. 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.

3. 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.

4. The area surrounding the quantity declaration shall be free of printed information above and below, by a space equal to at least the height of the lettering in the declaration, 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.

5. 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 packages rest as it is designed to be displayed.

(b) The following governs the calculation of area of the principal display panel for purposes of type size.

1. The area of the principal display panel shall be as follows:

i. In the case of a rectangular container, one entire side that properly can be considered to be the principal display panel, the product of the height times the width of that side;

ii. In the case of a cylindrical or nearly cylindrical container, 40 percent of the product of the height of the container times the circumference; or

iii. In the case of any other shaped container, 40 percent 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 event the area shall consist of the entire such surface.

2. 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.

3. The height of any letter or number in the required quantity declaration shall be not less than that shown in Table 1 below with the 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. In the case of the symbol for milliliter, the "m" shall meet the minimum height standard.

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

Table 1  
Minimum Height of Numbers and Letters

Area of principal display panel	Minimum height of numbers and letters	Minimum height: label information blown, formed, or molded on surface of container
5 square inches (in <sup>2</sup> ) and less	1/16 inch	1/8 inch
Greater than 5 in <sup>2</sup> and not greater than 25 in <sup>2</sup>	1/8 inch	3/16 inch
Greater than 25 in <sup>2</sup> and not greater than 100 in <sup>2</sup>	3/16 inch	1/4 inch
Greater than 100 in <sup>2</sup> and not greater than 400 in <sup>2</sup>	1/4 inch	5/16 inch
Greater than 400 in <sup>2</sup>	1/2 inch	3/8 inch

**13:47K-4.9 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 entirely clear and equal to printing in legibility.

**13:47K-4.10 Requirements: specific consumer commodities, nonconsumer commodities, packages, containers**

(a) For an individual package affixed to 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) (Reserved)

(c) 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.

(d) Requirements for the declaration of quantity on multi-unit packages are as follows:

1. Any package containing more than one individual "commodity in package form" (see N.J.A.C. 13:47K-4.2) of the same commodity shall bear on the outside of the package a declaration of the following:

- i. The number of individual units;
- ii. The quantity of each individual unit;

2. The total quantity of the contents of the multi-unit package; provided, that any such declaration of total quantity shall not be required to include the parenthetical quantity statement of a dual quantity representation. (Example: soap bars, "6 Bars, Net Weight 75 grams each; Total Net Weight 450 grams"); and

3. Open multi-unit retail food packages 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.

(e) Any package containing individual units of dissimilar commodities (such as an antiques or a housecleaning kit, for example) shall bear on the label of the package a quantity declaration for each unit. (Example: sponges and cleaner: "2 sponges, each 10 centimeters x 15 centimeters x 2 centimeters; 1 box cleaner, net weight 150 grams.")

(f) Any package containing individual units of reasonably similar commodities (such as, for example, seasonal gift packages, variety packages of cereal) shall bear on the label of the package a declaration of the total quantity of commodity in the package. (Example: plastic tableware: 4 spoons, 4 forks, 4 knives, 12 pieces total.)

(g) In the case of a cylindrical or nearly cylindrical containers, information required to appear on the principal display panel shall appear within that 40 percent of the circumference which is most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale.

(h) The measurement of container-type commodities shall be expressed as follows:

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

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

(1) When the unit bag is characterized by two dimensions because of the absence of a gusset, the width and length will be expressed:

(A) For 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. (Examples: "25 BAGS, 17 inches x 20 inches" or "100 BAGS, 20 inches x 2 feet 6 inches" or "50 BAGS, 20 inches x 2-1/2 feet")

(B) For metric units, in millimeters, except a dimension of one meter or more will be expressed in meters with the remainder in terms of decimal fractions of the meter (Examples: "25 BAGS, 500 millimeters x 600 millimeters" or "50 BAGS, 750 millimeters x 1.2 meters")

(2) When the unit bag is gusseted, the dimensions will be expressed as width, depth, and length, as follows:

(A) For inch-pound units, in feet, with any remainder in terms of inches or the common or decimal fractions of the foot. (Examples: "25 BAGS, 17 inches x 4 inches x 20 inches" or "100 BAGS, 20 inches x 12 inches x 2-1/2 feet")

(B) For metric units, in millimeters, except a dimension of one meter or more will be expressed in meters with the remainder in terms of decimal fractions of the meter. (Examples: "25 BAGS, 430 millimeters x 100 millimeters x 500 millimeters" or "50 BAGS, 500 millimeters x 300 millimeters x 1.2 meters")

ii. 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 50 millimeters or two inches. (Examples: "2 PANS, 8 inches x 8 inches" or "2 PANS, 203 millimeters x 203 millimeters")

iii. For circular or other generally round-shaped containers, except cups, and the like, in terms of count followed by the diameter and depth, except depth need not be listed when less than 50 millimeters or two inches. (Examples: "4 PANS, 8 inches diameter x 4 inches" or "4 PANS, 200 millimeters diameter x 100 millimeters")

iv. 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. (Examples: "24 CUPS, 6 fluid ounces capacity" or "24 CUPS, 250 milliliter capacity")

2. 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:

i. For inch-pound units:

(1) 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, ounce, with any remainder in terms of the common or decimal fraction of that unit). (Examples: Freezer Box—"4 BOXES, 1 quart capacity, 5 inches x 4 inches x 3 inches")

(2) 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 a remainder in terms of the common or decimal fraction of that unit. (Examples: Leaf Bags—"8 BAGS, 6 bushel capacity, 3 feet x 5 feet")

(3) 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. (Examples: Garbage Can Liners—"10 LINERS, 2 feet 6 inches x 3 feet 9 inches. FITS UP TO 30-GALLON CANS")

ii. For metric units, volume measure for all containers and liners. (Examples: "4 BOXES, 1 liter capacity, 150 millimeters x 120 millimeters x 90 millimeters"; "8 BAGS, 200 liter capacity, 85 millimeters x 1.5 meters" or "10 LINERS, 750 millimeters x 1 meter, FITS UP TO 120 LITER CANS")

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

(i) The following are requirements for textile products, threads and yarns:

1. Wearing apparel (including nontextile 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 N.J.A.C. 13:47K-4.6(d).

2. Bedsheets, blankets, pillowcases, comforters, quilts, bedspreads, mattress covers and pads, afghans, throws, dresser and other furniture scarfs, tablecloths and napkins, flags, curtains, drapes, dishtowels, dish cloths, towels, face cloths, utility cloths, bath mats, carpets and rugs, pot holders, fixture and appliance covers, non-rectangular diapers, slip covers, etc., shall be exempt from the requirements of N.J.A.C. 13:47K-4.6(g)7 and (h)3, provided that:

i. The quantity statement for fitted sheets and mattress covers shall state, in inches or centimeters, 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", "queen", "king", "California king", etc. (Example: "Double Sheet for 54 inch x 75 inch mattress.")

ii. The quantity statement for flat sheets shall state, in inches or centimeters, the length and width of the mattress for which the sheet is designed, followed in parentheses by a statement, in inches or centimeters, of the length and width of the finished sheet. The quantity statement shall also state the size designation of the mattress for which the sheet is designed, such as "twin", "double", "queen", "king", "California king", if the item is intended to fit such a mattress. (Example: "Twin Flat Sheet for 39 inch mattress (66 inch x 96 inch finished size).")

iii. The quantity statement for pillowcases shall state, in inches or centimeters, the length and width of the pillow for which the pillowcase is designed, followed in parentheses by a statement, in inches or centimeters, of length and width of the finished pillowcase. The quantity statement for pillowcases shall also state the size designation of the pillow for which the pillowcase is designed, for example, "youth," "standard," "queen", etc. if the item is intended to fit such pillows. (Example: "Standard Pillowcase for 20 inch x 26 inch pillow (20 inch x 30 inch finished size).")

iv. The quantity statement for blankets, comforters, quilts, bedspreads, mattress pads, afghans, and throws shall state, in inches or centimeters, the length and width of the finished item. The quantity statement shall also state the length of any ornamentation and the size designation of the mattress for which the item is designed, if it is intended to fit, for example, a "twin", "double", "queen", "king", or "California king", etc. mattress.

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

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

vii. The quantity statement for carpets and rugs shall state, in feet or meters, with any remainder in decimal fractions of the meter for metric sizes or 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 inches or centimeters, the length of any ornamentation.

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

ix. The quantity statement for textile products such as potholders, fixture and appliance covers, non-rectangular diapers, slip covers, etc., shall be stated in terms of count and may include size designations and dimensions.

x. The quantity statement for other than rectangular textile products identified in (b)1 through 8 above shall state the geometric shape of the product and the dimensions that are customarily used in describing such geometric shape. (Example: "Oval Tablecloth 70 inches x 100 inches" representing the maximum length and width in this case).

xi. 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. Variety packages of textiles that are required by reason of N.J.A.C. 13:47K-4.6(d) to provide a combination declaration stating the quantity of each individual unit, shall be exempt from the requirements in this subchapter for:

i. Location (see N.J.A.C. 13:47K-4.8(a)1);

ii. Free area (see N.J.A.C. 13:47K-4.8(a)4); and

iii. Minimum height of numbers and letters (see N.J.A.C. 13:47K-4.8(b)3).

4. Sewing and handicraft threads shall be exempt from the requirements of N.J.A.C. 13:47K-4.6(g)6 and (h)2, provided that:

i. The net quantity statement for inch-pound sizes of sewing and handicraft threads shall be expressed in terms of yards.

ii. The net quantity statement for yarns shall be expressed in terms of weight.

iii. 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, employed to identify the vendor, shall be filed with the Superintendent.

iv. Each unit of industrial thread shall be marked to show its net length in terms of meters or yards or its net weight in terms of kilograms or grams or 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 or yards of thread on each bobbin.

(j) Packages of seeds intended for planting shall be in full accord with this subchapter except as follows:

1. The quantity statement shall appear in the upper 30 percent of the principal display panel.

2. The quantity statement shall be in terms of the largest whole unit of the metric system for all weights up to seven grams, and in grams or in ounces for all other weights less than 225 grams or eight ounces. Packaged seeds weighing 225 grams or eight ounces or more shall not be subject to this subsection.

3. The quantity statement for coated seed, encapsulated seed, pelletized seed, preplanters, seed tapes, etc., shall be in terms of count.

Amended by R.1995 d.541, effective October 16, 1995.

See: 27 N.J.R. 2875(a), 27 N.J.R. 3972(a).

Amended by R.2000 d.416, effective October 16, 2000.

See: 32 N.J.R. 2648(a), 32 N.J.R. 3858(a).

In (d)3, deleted a reference to the authority of the Food and Drug Administration or the U.S. Department of Agriculture.

### 13:47K-4.11 Exemptions

(a) Whenever any consumer commodity or package of consumer commodity is exempt from the requirements for dual quantity declaration, the net quantity required to appear on the package shall be in terms of the largest whole unit (except see N.J.A.C. 13:47K-4.10(d)1ii).

(b) A random package bearing a label conspicuously declaring the net weight, the price per kilogram or pound, and the total price shall be exempt from the type size, dual declaration, placement, and free area requirements of this subchapter. 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.

1. This exemption shall also apply to uniform weight packages of cheese and cheese products labeled in the same manner and by the same type of equipment as random packages exempt by this section.

2. A random package manufactured or produced and offered for indirect sale shall be exempt from the labeling requirements of unit price and total price and need only bear a statement of net weight at the time of delivery if:

i. The unit price is set forth and established in the initial product offering;

ii. 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

iii. When the product is delivered, the customer receives a receipt bearing the following information: identity, declared net weight, unit price and the total price.

(c) Individually wrapped pieces of "penny candy" and other confectionary of less than 15 grams or 1/2 ounce net weight per individual piece shall be exempt from the labeling requirements of this subchapter when the container in which such confectionary is shipped is in conformance with the labeling requirements of this subchapter. Similarly, when such confectionary items are sold in bags or boxes, such items shall be exempt from the labeling requirements of this subchapter including the required declaration of net quantity of contents, when the declaration of the bag or box meets requirements of this subchapter.

(d) Individually wrapped and labeled packages of meat or meat products of less than 1/2 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 subchapter.

(e) Individual serving size packages of foods containing less than 15 grams or 1/2 ounce or less than 15 milliliters or 1/2 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 subchapter.

(f) 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 subchapter, such individual cuts, plugs and twists of tobacco and cigars shall be exempt from such labeling requirements.

(g) Nothing in this subchapter shall be deemed to preclude the continued use of reusable (returnable) glass containers, provided that such glass containers ordered after September 17, 1990 shall conform to all requirements of this subchapter.

(h) Cartons of cigarettes and small cigars, containing 10 individual packages of 20, labeled in accordance with the requirements of this subchapter, shall be exempt from the requirements set forth in N.J.A.C. 13:47K-4.8(a)1 and (b) 3 and N.J.A.C. 13:47K-4.10(d), provided that such cartons bear a declaration of the net quantity of commodity in the package.

(i) Packages of meat and meat products, poultry products, tobacco and tobacco products, insecticides, fungicides, rodenticides, and alcoholic beverages shall be exempt from those portions of this subchapter requiring dual declarations in customary units and specifying location and minimum type size of the net quantity declaration, provided that quantity labeling requirements for such products are specified in Federal Law, so as to follow reasonably sound principles of providing consumer information.

(j) Exemptions relating to fluid dairy products, ice cream and similar frozen desserts are as follows:

1. When packaged in 1/2 liquid pint and 1/2 gallon containers, fluid dairy products, ice cream and similar frozen desserts are exempt from the requirements for stating net contents of 8 fluid ounces and 64 fluid ounces, which may be expressed as 1/2 pint and 1/2 gallon, respectively.

2. When packaged in one liquid pint, one liquid quart, and 1/2 gallon containers, fluid dairy products, ice cream and similar frozen desserts are exempt from the dual net contents declaration requirements of N.J.A.C. 13:47K-4.6(g)3.

3. When measured by and packaged in measure containers as defined in "Measure Container Code of National Bureau of Standards Handbook 44," fluid dairy products, ice cream and similar frozen desserts are exempt from the requirement of N.J.A.C. 13:47K-4.8(a)1 that the declaration of net contents be located within the bottom 30 percent of the principal display panel.

4. Milk and milk products when measured by and packaged in glass or plastic containers of 1/2 pint, one pint, one quart, 1/2 gallon, and one gallon capacities are exempt from the placement requirement of N.J.A.C. 13:47K-4.8(a)1 that the declaration of net contents be located within the bottom 30 percent of the principal display panel, provided that 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.

(k) Exemptions for single strength and less than single strength fruit juice beverages, imitations thereof, and drinking water (for purposes of this subsection, hereinafter referred to as "these products") are as follows:

1. When packaged in glass, plastic, or fluid milk type paper containers of eight and 64 fluid ounce capacity, these products are exempt from the requirements of N.J.A.C. 13:47K-4.6(e)1ii, to the extent that net contents of eight fluid ounces and 64 fluid ounces (or two quarts) may be expressed as 1/2 pint (or half pint) and 1/2 gallon (or half gallon), respectively.

2. When packaged in glass, plastic, or fluid milk type paper containers of one pint, one quart and 1/2 gallon capacities, these products are exempt from the dual net contents declaration requirements of N.J.A.C. 13:47K-4.6(g) 3.

3. When packaged in glass or plastic containers of 1/2 pint, one pint, one quart, 1/2 gallon and one gallon capacities, these products are exempt from the placement requirement of N.J.A.C. 13:47K-4.8(a)1 that the declaration of net contents be located within the bottom 30 percent of the principal display panel, provided that 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.

(l) Bottles of soft drinks shall be exempt from the placement requirements for the declaration of the following:

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 subchapter appears only on the bottle closure.

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

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.

(n) 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 (N.J.A.C. 13:47K-4.3(b)) and the net quantity declaration (N.J.A.C. 13:47K-4.8(a)5) be generally parallel to the base of the package. When packaged in eight ounce and one pound units, butter is exempt from the requirement for location (N.J.A.C. 13:47K-4.8(a)1) of net quantity declaration and, when packaged in one pound units, is exempt from the requirement for dual quantity declaration (N.J.A.C. 13:47K-4.6(g)2).

(o) Cartons containing 12 eggs shall be exempt from the requirement for location (N.J.A.C. 13:47K-4.8(a)1) of net quantity declaration. When such cartons are designed to permit division in half, each half shall be exempt from the labeling requirements of this subchapter if the undivided carton conforms to all such requirements.

(p) Packages of wheat flour in conventional two, five, 10, 25, 50 and 100 pound packages shall be exempt from the requirement in this subchapter for location (N.J.A.C. 13:47K-4.8(a)1) of the net quantity declaration and, when packaged in units of two pounds, shall be exempt also from the requirement for dual quantity declaration (N.J.A.C. 13:47K-4.6(g)2).

(q) On a principal display panel of five square inches or less, the declaration of quantity need not appear in the bottom 30 percent of the principal display panel if that declaration satisfies the other requirements of this subchapter.

(r) 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 1/4 ounce or less, may be a tear-away tag or tape affixed to the decorative container bearing the mandatory label information as required by this subchapter.

(s) Combination packages are exempt from the requirements in this subchapter for the following:

1. Location (see N.J.A.C. 13:47K-4.8(a)1);
2. Free area (see N.J.A.C. 13:47K-4.8(a)4); and
3. Minimum height of numbers and letters (see N.J.A.C. 13:47K-4.8(b)3).

(t) 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 subchapter for location (see N.J.A.C. 13:47K-4.8(a)1) of the net quantity declaration, and shall be exempt from the requirement for a dual quantity declaration (see N.J.A.C. 13:47K-4.6(g)2).

(u) Corn flour and corn meal packaged in conventional five, 10, 25, 50 and 100 pound bags shall be exempt from the requirement in this subchapter for location (see N.J.A.C. 13:47K-4.8(a)1) of the net quantity declaration.

(v) Prescription and insulin containing drugs subject to the provisions of Section 503(b)(1) or 506 of the Federal Food, Drug and Cosmetic Act shall be exempt from the provisions of this subchapter.

(w) Camera film packaged and labeled for retail sale is exempt from the net quantity statement requirements of this subchapter that specify how measurement of commodities should be expressed, provided that:

1. The net quantity of contents on packages of movie film and bulk still film is expressed in terms of the number of linear meters or feet of usable film contained therein;
2. The net quantity of contents on packages of movie film is expressed in terms of the running time of the exposed film for that portion of film that is of entertainment value. "Entertainment value" is defined as

that portion of a film that commences with the first frame of sound or picture, whichever comes first after the countdown sequence and ends with either the last frame of credits, the last frame of the phrase "The End", or the end of sound, whichever is last; and

3. The net quantity of contents on packages of still film is expressed in terms of the number of exposures the contents will provide. The length and width measurements of the individual exposures, expressed in millimeters or inches, are authorized as an optional statement. (Example: "36 exposures, 36 millimeters x 24 millimeters" or "12 exposures, 2-1/4 inches x 2-1/4 inches")

(x) Exemptions for paints and kindred products are as follows:

1. Paints, varnishes, lacquers, thinners, removers, oils, resins, and solvents, when packed in one liquid pint and one liquid quart units, shall be exempt from the dual quantity declaration requirements of N.J.A.C. 13:47K-4.6(g)3.

2. Tint base paint may be labeled on the principal display panel, in terms of a quart or a gallon including the colorant selected by the purchaser, provided that the system employed ensures that the purchaser always obtains 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.

i. 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 subchapter.

(y) Antifreeze, when packed in one liquid quart units, in metal or plastic containers, shall be exempt from the dual quantity declaration requirements of N.J.A.C. 13:47K-4.6(g)3.

(z) Motor oils, when packed in one liquid quart units, shall be exempt from the dual quantity declaration requirements of N.J.A.C. 13:47K-4.6(g)3. Additionally, motor oil in one liquid quart, one gallon, 1-1/4 gallon, two gallon, and 2-1/2 gallon units, bearing the principal display panel on the body of the container, is exempt from the requirements of N.J.A.C. 13:47K-4.3, Declaration of identity: consumer package, 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 1/4 inch.

(aa) 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 and Thermal Insulation shall be exempt from the requirements for location (N.J.A.C. 13:47K-4.8(a)1), size of letters or numbers (N.J.A.C. 13:47K-4.8(b)3 and (b)3i), free area (N.J.A.C. 13:47K-4.8(a)4) and the declarations of identity and responsibility (N.J.A.C. 13:47K-4.3(a) and 4.5), provided that declarations of identity, quantity, and responsibility are presented on a permanently attached label and satisfy the other requirements of this subchapter, and further provided that the information on such permanently attached label be fully observable to the purchaser.

(bb) 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 N.J.A.C. 13:47K-4.6, Declaration of quantity: consumer packages, while moving in commerce and while held for sale prior to weighing and marking, provided that the outside container bears a label declaration of the total net weight.

(cc) 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 subchapter except that those containing six or less items need not include a statement of count.

(dd) Packaged fishing lines and reels are exempt from the dual quantity declaration requirements of N.J.A.C. 13:47K-4.6(g)6, provided that length of line or capacity of reel as appropriate is presented in terms of meters or yards in full accord with all other requirements of this subchapter.

Amended by R.2000 d.416, effective October 16, 2000.  
 See: 32 N.J.R. 2648(a), 32 N.J.R. 3858(a).  
 In (a) and (k)2, changed N.J.A.C. references.  
 Amended by R.2006 d.129, effective April 3, 2006.  
 See: 37 N.J.R. 3554(a), 38 N.J.R. 1577(a).  
 Added (b)2; in (aa), added "and Thermal Insulation".

SUBCHAPTER 5. VARIATIONS

13:47K-5.1 Packaging variations

(a) 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 good packaging practice, but 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 practices in the same shipment, delivery, or lot compensate for such shortages. Variations above the declared quantity shall not be unreasonably large.

(b) 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 that the phrase "introduced into intrastate commerce" as used in this subsection 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 agent; or
2. To a common carrier for shipments 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.

13:47K-5.2 Maximum allowable variations

(a) The following table sets forth the maximum allowable variations for foam aerosol products:

**Avoirdupois:**

Labeled weight of package	MAV	
	Ounce	Pound
0 to less than 1 1/2 oz	0	0
1 1/2 oz to less than 5 oz	1/16	0.004
5 oz to less than 8 oz	1/8	0.008
8 oz to less than 11 oz	3/16	0.012
11 oz to less than 14 oz	1/4	0.016
14 oz to less than 1 lb 1 oz	5/16	0.020
1 lb 1 oz or more	3/8	0.023

**Metric:**

Metric:	MAV
	Grams
0 to less than 50 g	0
50 g to less than 100 g	1
100 g to less than 200 g	3
200 g to less than 300 g	5
300 g to less than 400 g	7
400 g to less than 500 g	9
Over 500 g	10

(b) The maximum allowable variations below shall conform to the following or revised or later editions, if in effect, incorporated herein by reference:

1. The National Institute of Standards and Technology's (NIST's) Maximum Allowable Variations for Packages Labeled by Weight referenced as Table 2-5 of Appendix A of the Fourth Edition of NIST Handbook 133 (2005);
2. The NIST's Maximum Allowable Variations for Packages Labeled by Liquid and Dry Volume referenced as Table 2-6 of Appendix A of the Fourth Edition of NIST Handbook 133 (2005);

3. The NIST’s Maximum Allowable Variations for Packages Labeled by Count referenced as Table 2-7 of Appendix A of the Fourth Edition of NIST Handbook 133 (2005);

4. The NIST’s Maximum Allowable Variations for Packages Labeled by Length, (Width) or Area referenced as Table 2-8 of Appendix A of the Fourth Edition of NIST Handbook 133 (2005); and

5. The U.S. Department of Agriculture’s Maximum Allowable Variations for Meat and Poultry Groups and Lower Limits for Individual Packages referenced as Table 2-9 of Appendix A of the Fourth Edition of NIST Handbook 133 (2005).

(c) The tables referenced in (b) above are part of a document that is reviewed and/or revised periodically as needed; the most current document is to be used. The NIST Handbook 133 can be obtained from: Weights and Measures Division, National Institute of Standards and Technology, 100 Bureau Drive, Stop 2600, Gaithersburg, MD 20899-2600, telephone number (301) 975-4004, or at the NIST website at [www.nist.gov](http://www.nist.gov).

(d) Allowed variations from declared dimensions for textiles are as follows:

1. For an item with no declared dimension less than 24 inches or 60 centimeters, a minus variation greater than three percent of a declared dimension and a plus variation greater than six percent of a declared dimension should be considered unreasonable.

2. For an item with a declared dimension less than 24 inches or 60 centimeters, a minus variation greater than six percent of that declared dimension and a plus variation greater than 12 percent of that declared dimension should be considered unreasonable.

(e) For mulch, an individual package minus variation greater than five percent of the declared volume shall be considered unreasonable.

(f) Allowed variations from declared thickness for polyethylene products are as follows for any single measurement of thickness:

1. When the labeled thickness is less than one mil (0.001 inch), any individual thickness measurement of a polyethylene product may be as much as 35 percent below the labeled thickness (that is, at least 65 percent of the labeled thickness), as set forth in ASTM Standard D2103-97, “Standard Specification of Polyethylene Film and

Sheeting,” 1997, as amended and supplemented, incorporated herein by reference.

2. When the labeled thickness is one mil or larger, any individual thickness measurement of a polyethylene product may be as much as 20 percent below the labeled thickness (that is, at least 80 percent of the labeled thickness), as set forth in ASTM Standard D-4397-96, “Specification for Polyethylene Sheeting for Construction, Industrial and Agricultural Applications,” 1996, as amended and supplemented, incorporated herein by reference.

(g) The following table sets forth permitted variations for the boundaries of the gray area for different sizes of flour packages:

Column 1	Column 2	Column 3	Column 4
The labeled weight is	The average package error is minus and between zero and 3% of label weight	And any individual package error is minus and is between the MAV	MAV +3%
2 lb	-0.06 lb	-0.07 lb	-0.13 lb
5 lb	-0.15 lb	-0.14 lb	-0.29 lb
10 lb	-0.30 lb	-0.22 lb	-0.52 lb
20 lb	-0.60 lb	-0.31 lb	-0.91 lb
25 lb	-0.75 lb	-0.37 lb	-1.12 lb
50 lb	-1.50 lb	-0.50 lb	-2.00 lb
100 lb	-3.00 lb	-2.00 lb	-5.00 lb

Amended by R.1995 d.541, effective October 16, 1995.

See: 27 N.J.R. 2875(a), 27 N.J.R. 3972(a).

Amended by R.2000 d.416, effective October 16, 2000.

See: 32 N.J.R. 2648(a), 32 N.J.R. 3858(a).

In (d), changed ASTM Standard references in 1 and 2.

Amended by R.2006 d.129, effective April 3, 2006.

See: 37 N.J.R. 3554(a), 38 N.J.R. 1577(a).

Rewrote (a); recodified former (b)-(e) as (d)-(g); added (b) and (c).

**13:47K-5.3 Definitions**

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

“ASTM” means American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959, telephone (610) 832-9500, [www.ASTM.org](http://www.ASTM.org).

New Rule, R.2000 d.416, effective October 16, 2000.

See: 32 N.J.R. 2648(a), 32 N.J.R. 3858(a).