

901:6-7-02 Food products.

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

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

(2) Have capacities in terms of:

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

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

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

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

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

Specific Commodity	Weight	Count	Head or Bunch	Dry measure (any size)	Dry measure (1 dry qt or larger)
Artichokes	X	X			
Asparagus	X		X		
Avocados	X	X			
Bananas	X	X			
Beans (green, yellow, etc)	X				X
Brussels sprouts (loose)	X			X	X
Brussels sprouts (on stalk)			X		
Cherries	X			X	X
Coconuts	X	X			
Sweet corn / corn on the cob		X			X
Cranberries	X			X	X
Dates	X				X
Eggplant	X	X			
Figs	X				X
Grapes	X				X
Kohlrabi	X	X	X	X	X
Melons (cut pieces)	X				
Mushrooms (small)	X			X	X
Mushrooms (Portobello,	X	X			

large)					
Okra	X			X	X
Peas	X			X	X
Peppers (bell and other varieties)	X	X		X	X
Pineapples (cored or whole)	X	X			
Rhubarb	X		X		
Tomatoes	X	X		X	X

General Commodity Groups	Weight	Count	Head or Bunch	Dry measure (up to any size)	Dry measure (1 dry qt or larger)
Berries (all)	X			X	
Citrus fruits (oranges, grapefruit, lemons, limes, etc)	X	X			X
Edible bulbs (onions, garlic, leeks, etc)	X	X	X	X	X
Edible tubers (Irish or sweet potatoes, ginger, horseradish, etc)	X	X		X	X
Flower vegetables (broccoli, cauliflower, brussels sprouts, etc)	X		X		
Gourd vegetables (cucumbers, squash, melons, pumpkins, etc)	X	X			X
Leaf vegetables (head lettuce, cabbage, celery, etc)	X		X		
Leaf vegetables (parsley, herbs, loose picked greens)	X		X	X	
Stone fruits (peaches, plums, prunes, etc)	X	X			X
Pome fruits (apples, pears, mangoes, etc)	X	X		X	X
Root vegetables (turnips, carrots, radishes, beets, rutabaga, etc)	X		X		X

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

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

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

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

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

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

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

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

(H) Clams, mussels, and oysters.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The following abbreviations may be used:

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

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

(1) Prior to delivery:

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

(b) The date of the contract;

(c) The name and address of the buyer;

(d) The total net weight (hanging weight) of the carcass, side, primal cut, meat, or poultry prior to cutting or processing;

(e) The USDA -AMS (United States department of agriculture-agriculture marketing service) quality grade and yield grade for the meat to be supplied if so represented;

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

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

(2) At the time of delivery:

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

(b) The date of delivery;

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

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

(3) Definitions:

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

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

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

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

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

(Q) Ready-to-eat food.

(1) Ready-to-eat food sold from bulk, or in single servings packed on the premises, may be sold by weight, measure, or count (count includes servings). If sold by weight, ready-to-eat frozen dairy products such as ice cream, ice milk and frozen yogurt must be offered, exposed, or advertised for sale in ounces or pounds.

(2) Definition: "Ready-to-eat food" is restaurant-style food offered or exposed for sale, whether in restaurants, supermarkets, or similar food service establishments, that is ready for consumption, though not necessarily on the premises where sold.

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

(R) At time of sale:

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

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

(b) The date of the written agreement;

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

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

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

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

- (2) In addition to paragraph (R)(1) of this rule, the following disclosures are required to be given to the buyer at the time of sale:
- (a) A written list of all food and non-food items to be sold, which shall include:
 - (i) The identity of each unit and, where applicable, the United States department of agriculture quality grade of the items, if so graded;
 - (ii) The primal source;
 - (iii) The brand or trade name;
 - (iv) The quantity of each item sold;
 - (v) The estimated serving size by net weight of each piece of meat, poultry, and seafood item offered for sale under the home food service plan, provided, however, that such estimates shall not differ from the actual weight at the time of delivery by more than five per cent and the dollar value of the meat, poultry, and seafood items delivered is equal to or greater than that represented to the buyer; and
 - (vi) The net weight, measure, or count of all other food and non-food items offered for sale.
 - (b) A current unit price list stating in dollars and cents the price per kilogram or pound or other appropriate unit of measure, and the total sale price of each item to be delivered. This price list shall clearly and conspicuously make reference to the fact of whether there are additional costs disclosed in the written agreement relating to any service charges associated with the purchase of the home food service plan.
 - (c) If a membership is sold, a written statement of all terms, conditions, benefits, and privileges applicable to the membership.
 - (d) If a service charge is included, a written statement specifically identifying the service(s) provided and the price(s) charged for them.
 - (S) At the time of delivery, the seller shall provide a receipt, for signature by buyer, disclosing the following information:
 - (1) The identity of the item and the net quantity of the contents in terms of either weight, measure, or count, as required by applicable law. The net weight of each food item delivered shall be within the limit specified in this rule; and
 - (2) The unit price and total sale price of each food and non-food item. The unit price shall be the same as that specified on the unit price list given to the buyer at the time of sale.

Effective: 7/15/2016

Five Year Review (FYR) Dates: 04/26/2016 and 07/05/2021

Promulgated Under: [119.03](#)

Statutory Authority: [1327.50](#), [901.10](#)

Rule Amplifies: [1327.50](#), [1327.55](#)

Prior Effective Dates: 1/1/1990, 3/4/1996, 1/18/2005, 10/28/2010, 1/1/13