



# FMI State Issues Retreat

Middleburg, VA

August 2, 2016

## Weights and Measures Update

by David Sefcik



## NIST is Not a Regulatory Agency

- NIST cooperates with other Federal agencies, the States, standards development organizations, business and industry, the National Conference on Weights and Measures (NCWM), the Organization on International Legal Metrology (OIML) to develop model laws and regulations related to legal metrology.
- NIST supports the commercial measurement system by providing traceability, uniform laws, regulations, training, technical and other assistance to administrators, metrologists and field enforcement officials as well as to business and industry.



# NIST is a Scientific Institute

## 15 U.S.C. 272 §2. ESTABLISHMENT, FUNCTIONS, AND ACTIVITIES

(a) *There is established within the Department of Commerce a science, engineering, technology, and measurement laboratory to be known as the National Institute of Standards and Technology.*

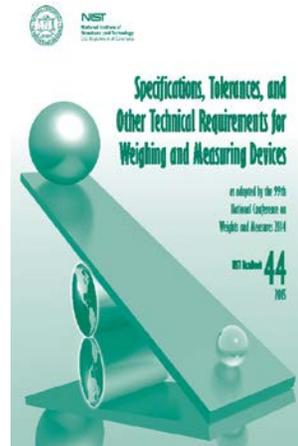
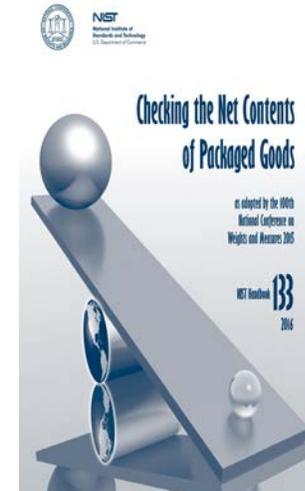
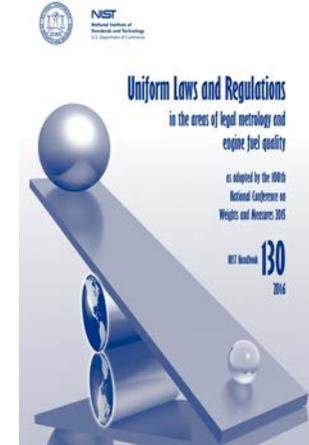
(b) *The Secretary of Commerce acting through ...“NIST” is authorized to take all actions necessary and appropriate to accomplish the purposes of this Act, including the following functions...*

(4) *cooperate with the States in securing uniformity in weights and measures laws and methods of inspection;*



# Handbooks

- HB130 – Uniform Laws and Regulations
  - Uniform Packaging and Labeling Regulation
  - Uniform Regulation for the Method of Sale of Commodities
  - Examination Procedure for Price Verification
- HB133 – Checking the Net Contents of Packaged Goods
- HB44 - Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices



# Emerging Issues

- Unit Pricing Best Practice Guide
- Method of Sale – “Meat, Seafood, Poultry, and Fish”
- Method of Sale – “Ready To Eat”
- Best Practice Guide for Quantity Expressions that Appear in Addition to the Declaration of Net Quantity
- FTC – FPLA Regulation Changes

# Unit Pricing Best Practice Guide

- **NIST Special Publication 1181, Unit Pricing Guide**  
**“A Best Practice Approach to Unit Pricing”**

Product Identity and Size	
Retail Price	Unit Price
Miscellaneous Information (Retailer Specific)	

# “The Marketplace”

## Lack of Standardization and Uniformity

Consistency of Units

Format

Font Size



Color Contrast

Abbreviations

# UPBPWG Participants

(21 participants)

## Trade Associations



# UPBPWG Participants

## Weights and Measures Officials



## Industry



# UPBPWG Participants

## Academia

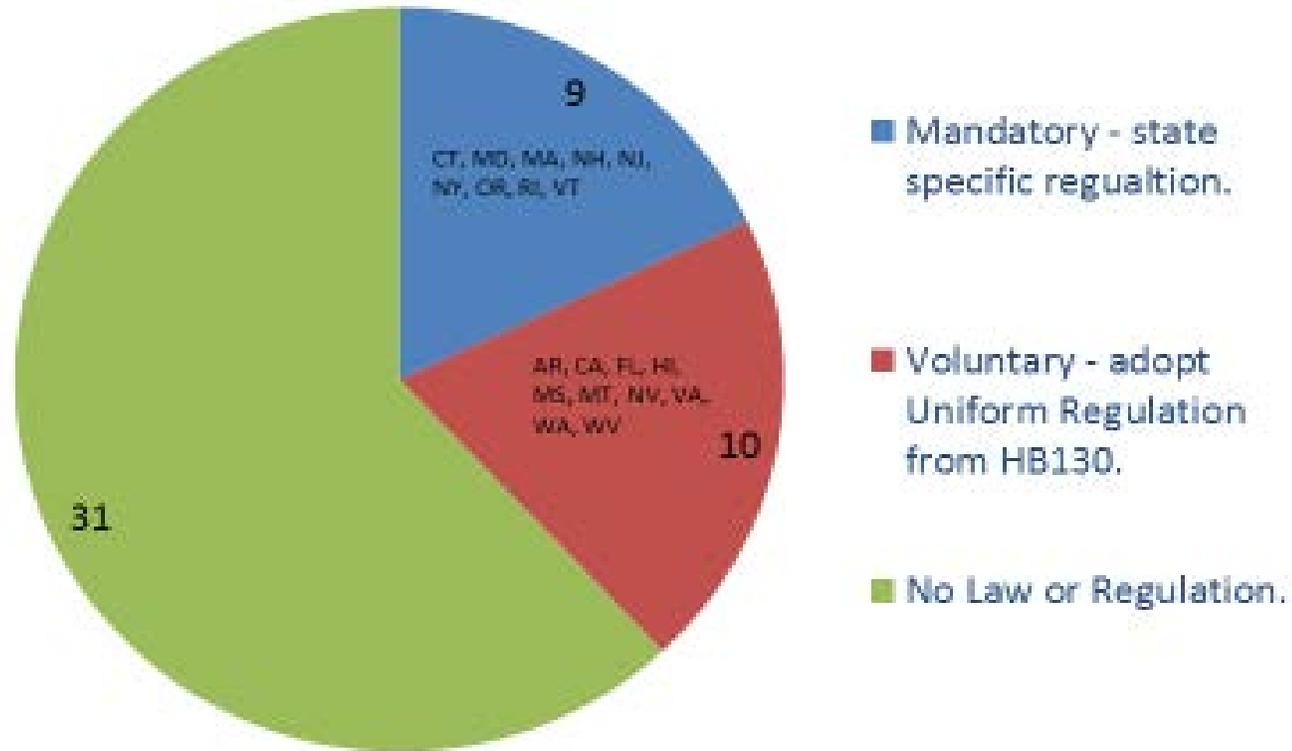


## Consumer Interests and Independents



Weights and Measures Consulting

# State Adoption



# Unit Pricing Best Practice Guide

Label Using U.S. Customary Units of Measurement  
(Label is not to scale and for example purposes only.)

<b>Best Brand Filtered Water 16.9 FL OZ</b>	
<b>Retail Price</b> <b>\$ 1.05</b>	<b>Unit Price</b> <b>6¢ per fl oz</b>
Retailer barcode goes here along with other retailer data (order code, pack size, UPC number...)	

# Method of Sale – “Meat, Seafood, Poultry, Fish”

- **1.5. Meat, Poultry, Fish, and Seafood.** [NOTE 3, page 110] – Shall be sold by weight, except that whole shellfish in the shell may be sold by weight, measure, and/or count. Shellfish are aquatic animals having a shell, such as mollusks (for example, scallops) or crustaceans (for example, lobster or shrimp).
- (Amended 20XX)
- **If meat, poultry, fish, or seafood is kept, offered or exposed for sale from bulk (e.g., direct service counters), by the portion or piece according to a pre-determined fixed weight, the product identity and net weight shall be displayed, as well as the unit price at which it is offered for sale.** This information shall appear on a label or sign immediately adjacent to the meat, poultry, fish or seafood and must be presented in an easy-to-read type style and color. **The font size of the net weight and unit price declaration shall be equal to or greater than the font size used for the product identity.**
- **The unit price required** under Sections 1.5.(a) **shall be in terms of** the unit price-per-kilogram or **unit price-per-pound**, and not in common or decimal fractions of the permitted units. **A supplemental declaration of a price per unit (i.e., price per ounce) is permitted.**
- Similar or competing commodities kept, offered, or exposed for sale from bulk in any single display or facility shall have unit prices posted or advertised in the same terms uniformly and consistently expressed (i.e., all in either prices–per- kilogram or prices–per pound, not in differing units) to readily facilitate value comparison.
- (Added 20XX)



# Method of Sale – “Ready To Eat”

- **1.12.1. Definition - Ready-to-Eat Food.** –Restaurant **style type** food offered or exposed for sale, whether in restaurants, supermarkets, or similar food service establishments, that is ready for **immediate human** consumption, though not necessarily on the premises where sold, **and which does not require any cooking or heating preparation by the customer.** Ready-to-Eat Food does not include sliced luncheon products, such as meat, poultry, or cheese when sold separately.
- **1.12.2. Methods of Sale.** –Ready-to-Eat Food sold from **retail cases displaying product in** bulk or in **single** servings packed **or prepared** on the premises may be sold by weight, measure, or count **(i.e., by piece, portion, or serving)** ~~(count includes servings)~~. If pre-packaged, the product shall have the appropriate statement of quantity set forth in the current edition of NIST Handbook 130, Uniform Packaging and Labeling Regulation [UPLR].)

# Some examples of Ready-to-Eat food items (The list is not intended to be all inclusive):

- Servings of pastas, potato or coleslaw
- Servings of salads, vegetables, or grains such as rice
- Pizzas, whole or sliced
- Meat/vegetable pockets/pies
- Tacos, fajitas, enchiladas, tostadas
- Cooked, whole chickens or turkeys
- Buckets, -tubs, or individual pieces of cooked chicken or fish
- Cooked ribs by the slab or piece
- Stuffed clams, oysters, shrimp, and fish
- Cooked shrimp or crab cakes
- Slices of cake, pie, and quiche
- Donuts, bagels, and rolls for individual sale
- Cookies and brownies for individual sale
- Sandwiches, egg, and spring roll
- Servings of prepared chili or soup
- Stuffed peppers, tomatoes, and cabbage
- Knishes
- Pickles

# Best Practice Guide for Quantity Expressions Which Appear in Addition to the Declaration of Net Quantity

- Intended to provide guidance and recommendations regarding best practices.
- Manufacturer's are doing this to provide additional information for consumers to make better and more informed product purchase decisions.
- The consensus of the NCWM has been that the development of best practice for manufacturers is a better and more holistic solution as opposed to narrowly targeted regulation.

Contains more than  
**30** delicious cookies!

## My Favorite

Chocolate Chip Cookies

2.0 LB (907 g)

**MAKES**



**QUARTS**

Makes **2 Gallons More** than  
Other 2 LB Juice Mixes

## My Favorite

Juice Mix

2.0 LB (907 g)

Same fill as our  
**15 LB**  
regular product!

## My Favorite

CAT LITTER

8 LB (3.6 kg)

# FTC – FPLA Regulation Changes (Effective 12/7/15)

- **Section 5. Declaration of Responsibility:** Consumer and Non-consumer Packages – Allow for the use of on-line resources in lieu of a printed telephone directory.
- **Section 13. Retail Sale Price Representations:** Negates Section 13 in NIST HB130.
  - Cent's Off Representation
  - Introductory offers
  - Economy Sizes (value packs)

# In Closing

## “We Value Our Partnership”

- Training/Education/Outreach Opportunities
- Creative Ways to Keep FMI Engaged
- Weights and Measures – Advocate or Adversary?

# Contacts

## NIST Handbooks 130 & 133

[www.nist.gov/pml/wmd](http://www.nist.gov/pml/wmd)

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## SI Resources & Information

<http://www.nist.gov/metric>

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