

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 16 AGRICULTURAL WEIGHTS AND MEASURES
PART 4 METHOD OF SALE OF COMMODITIES

21.16.4.1 ISSUING AGENCY: New Mexico State University, New Mexico Department of Agriculture
[7/1/97; 21.16.4.1 NMAC - Rn & A, 21 NMAC 16.4.1, 05/29/09]
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21.16.4.2 SCOPE: All processors, distributors and retailers of consumer commodities.
[7/1/97; 21.16.4.2 NMAC - Rn, 21 NMAC 16.4.2, 05/29/09]

21.16.4.3 STATUTORY AUTHORITY: Granted to the board of regents of New Mexico state university
under the Weights and Measures Law, Chapter 57, Article 17, Sections 1 through 19, New Mexico Statutes
Annotated, 1978 Compilation.
[7/1/97; 21.16.4.3 NMAC - Rn, 21 NMAC 16.4.3, 05/29/09]

21.16.4.4 DURATION: Permanent
[7/1/97; 21.16.4.4 NMAC - Rn, 21 NMAC 16.4.4, 05/29/09]

21.16.4.5 EFFECTIVE DATE: July 1, 1997
[7/1/97; 21.16.4.5 NMAC - Rn, 21 NMAC 16.4.5, 05/29/09]

21.16.4.6 OBJECTIVE: This part establishes the method of sale of specific commodities sold or offered
for sale in New Mexico.
[7/1/97; 21.16.4.6 NMAC - Rn, 21 NMAC 16.4.6, 05/29/09]

21.16.4.7 DEFINITIONS:

- A. "Berries" means all fruit whose names end in the term "berry".
 - B. "Cord" means the amount of fuelwood contained in a space of 128 cubic feet when the fuelwood
is ranked and well stowed and when one-half (1/2) the kerf of the wood is included.
 - C. "SI" means the international system of units.
 - D. "Shellfish" means aquatic animals having a shell, such as mollusks or crustaceans.
 - E. "Small fruits" include, but are not limited to, cherries, currants and cherry tomatoes.
- [7/1/97; 21.16.4.7 NMAC - Rn, 21 NMAC 16.4.7, 05/29/09]

21.16.4.8 [RESERVED]

21.16.4.9 METHODS OF SALE:

- A. Berries and small fruits: Shall be offered and exposed for sale and sold by weight, or by volume.
If sold by volume, berries and small fruits must be in measure containers having inch-pound capacities of one-half
(1/2) dry pint, one (1) dry pint, or one (1) dry quart or SI capacities of two-hundred fifty (250) milliliters, five
hundred (500) milliliters or one (1) liter. When sold by volume in measure containers, whether or not covered, the
measure containers themselves shall not be packages for labeling purposes.
- B. Bread: Bread kept, offered, or exposed for sale, whether or not packaged or sliced, shall be sold
by weight. The wrappers of bread sold and expressly represented at the time of sale as "stale bread" shall not be
considered packages for labeling purposes.
- C. Butter, oleomargarine, margarine, butter-like and/or margarine-like spreads: Shall be offered and
exposed for sale and sold by weight.
- 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. Meat, poultry, fish and seafood:
 - (1) Shall be sold by weight, except whole shellfish in the shell may be sold by weight, measure or
count.

(2) 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, and a quantity representation need not be made for each element.

F. Ready-to-eat food: When sold from bulk, or in single servings packed on the premises where sold, may be sold by weight, measure or count.

G. Fluid milk products: All fluid milk products, including but not limited to milk, lowfat milk, skim milk, non-fat milk, flavored milk, half and half, cream and cultured milk shall be sold in terms of fluid volume.

H. 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. public health service, as amended, shall be sold in terms of weight.

I. Factory packaged ice cream and similar frozen products: Ice cream, ice milk, frozen yogurt and similar products shall be sold in terms of fluid volume.

J. Sales of bulk commodities: Whenever the quantity is determined by the seller, all bulk deliveries of heating fuel and all bulk sales of one hundred (100) pounds or more net weight shall be accompanied by a delivery ticket containing the following information:

(1) the name and address of the buyer and seller;

(2) the date of the delivery;

(3) the quantity delivered and the quantity upon which the total selling price is based if this differs from the delivered quantity; and

(4) the identity of the commodity in the most descriptive terms commercially practicable including any quality representations made in connection with sale.

K. Fuelwood: Shall be advertised, offered for sale, and sold only by the cord or fractional part of a cord, except it may be sold by weight if the seller declares the price per unit of weight and the equivalent price per cord. The provisions of this method of sale shall not apply to fuelwood sold in packaged form in bundles of less than one hundred (100) pounds net weight.

L. Machine vended commodities: All vending machines dispensing packaged commodities shall indicate:

(1) product identity;

(2) net quantity; and

(3) name, address, and telephone number of party responsible for the vending machine;

(4) 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.

M. Exemptions for small packages: The following shall be exempt from the labeling requirements for net quantity of the contents:

(1) individually wrapped pieces of "penny candy," meat or meat products, and other confectionery of less than one-half (1/2) ounce or fifteen (15) grams net weight per individual piece provided the container in which such confectionery is shipped or sold fulfills all labeling requirements set forth in 57-17-12.A, NMSA, 1978; and

(2) individual-serving-size packages of food containing less than one-half (1/2) ounce or fifteen (15) grams or less than one-half (1/2) fluid ounce or fifteen (15) milliliters for use in restaurants, institutions and passenger carriers.

[7/1/97; 21.16.4.9 NMAC - Rn, 21 NMAC 16.4.9, 05/29/09]

21.16.4.10 [RESERVED]

HISTORY OF 21.16.4 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

NMDA Rule No. DOA 69-2, Regulation No. 3, Tolerances on Specific Loaves of Bread, filed 1/17/69.

NMDA Rule No. DOA 73-5, Regulatory Order No. 5, Method of Sale, filed 5/15/73.

NMDA Rule No. DOA 73-5, Amendment No. 1, Regulatory Order No. 10, Fuelwood, Price Representations, filed 9/15/75.

NMDA Rule No. 95-7, Method of Sale of Commodities, filed 11/14/95.

History of Repealed Material: [RESERVED]