§ 503.4 Net quantity of contents, numerical count.

To clarify the requirement for declaration of net quantity in terms of count for the purpose of §§500.6 and 500.7 of this chapter, the following interpretation is rendered.

(a) When a consumer commodity is properly measured in terms of count only, or in terms of count and weight, volume, area, or dimension, the regulations are interpreted not to require the declaration of the net content as “one”, provided the statement of identity clearly expresses the fact that only one unit is contained in the package. Thus the unit synthetic sponge, the unit light bulb, and the unit dry cell battery do not require a net quantity statement of “one sponge,” “one light bulb,” or “one dry cell battery.” However, there still exists the necessity to provide a net quantity statement to specify weight, volume, area, or dimensions when such are required. For example, the synthetic sponge
which is packaged, requires dimensions such as “5 in. × 3 in. × 1 in.” A multi-component package or a package containing two or more units of the same commodity shall bear the net quantity statement in terms of count, and weight, volume, area, or dimensions as required. This interpretation does not preclude the option to enumerate a unit count on a single packaged commodity if so desired.

(b) [Reserved]

[34 FR 18087, Nov. 8, 1969]

§ 503.5 Interpretation of the definition of “consumer commodity” as contained in section 10(a) of the Fair Packaging and Labeling Act.

(a) Section 10(a) of the Fair Packaging and Labeling Act defines the term consumer commodity in four classifications. These are:

(1) Any food, drug, device, or cosmetic;

(2) And any other article, product, or commodity of any kind or class which is customarily produced or distributed for sale through retail sales agencies or instrumentalities.

(i) For consumption by individuals and which usually is consumed or expended in the course of such consumption.

(ii) For use by individuals for purposes of personal care and which usually is consumed or expended in the course of such use.

(iii) For use by individuals in the performance of services ordinarily rendered within the household and which usually is consumed or expended in the course of such use.

(b) Section 10(a) then expressly excludes:

(1) Meats, poultry, and tobacco;

(2) Economic poisons and biologics for animals;

(3) Prescription drugs;

(4) Alcoholic beverages, and

(5) Agricultural and vegetable seeds.

(c) Pursuant to sections 5 and 7 of the Fair Packaging and Labeling Act, the authority to promulgate regulations and to enforce the Act as to any food, drug, device, or cosmetic has been delegated to the Secretary of Health, Education, and Welfare and as to any other “consumer commodity” to the Federal Trade Commission.

(d) As to these articles, products, or commodities subject to regulation by the Federal Trade Commission, the legislative history of the Act demonstrates the intent of Congress, for the reasons stated therein, to place the following categories outside the scope of the definition of “consumer commodity”:

(1) Durable articles or commodities;

(2) Textiles or items of apparel;

(3) Any household appliance, equipment, or furnishing, including feather and down-filled products, synthetic-filled bed pillows, mattress pads and patchwork quilts, comforters and decorative curtains;

(4) Bottled gas for heating or cooking purposes;

(5) Paints and kindred products;

(6) Flowers, fertilizer, and fertilizer materials, plants or shrubs, garden and lawn supplies;

(7) Pet care supplies;

(8) Stationery and writing supplies, gift wraps, fountain pens, mechanical pencils, and kindred products.

(e) The articles, products, or commodities that are within the terms of section 10(a) of the Act and subject to regulation by the Federal Trade Commission are either expendable commodities for consumption by individuals, expendable commodities used for personal care, or expendable commodities used for household services. The primary terms in section 10(a) for defining these categories are:

(1) Consumption by individuals;

(2) Use by individuals;

(3) Personal care by individuals;

(4) Performances of services ordinarily rendered within the household by individuals;

(5) Consumed or expended.

(f) These terms are defined as follows:

(1) Consumption by individuals. This term as it is used in section 10(a) means the using up of an article, product, or commodity by an individual.

(2) Use by individuals. This term as it is used in section 10(a) means the employment or application of an article, product, or commodity by an individual.

(3) Personal care by individuals. This term as it is used in section 10(a) means that activity of an individual...