



Record of Decision

Originator	Area	Date	Submitted to
Fresh Fruit and Vegetable Program Officer	Headquarters	December 22, 2010	

Product/Subject

The manner in which the net quantity may be declared on prepackaged fresh fruits or vegetables.

Question or Description of Problem

The *Consumer Packaging and Labelling Regulations*, section 22(5) indicates that the net quantity of prepackaged fresh produce can be declared by weight, volume or in terms of numerical count.

The *Fresh Fruit and Vegetable Regulations* sections 19(1) and (2) indicate that the declaration of net quantity can only be declared by count for a very limited number of fresh produce items, for example, heads of lettuce, cauliflower etc.

Additionally, the *Consumer Packaging and Labelling Act*, section 4, requires that the net quantity of prepackaged products be declared by count or in a unit of measurement set out in Schedule I of the *Weights and Measures Act*, those being metric units. The *Fresh Fruit and Vegetable Regulations*, however, require that the net quantity of prepackaged fresh fruits and vegetables be declared in both metric and Canadian units [subsection 14(1)] or in terms of 25, 50, 125, 250, 500 or 750 grams or millilitres or whole number multiples of 500 grams or millilitres.

Considering that the *Fresh Fruit and Vegetable Regulations* only pertain to produce marketed interprovincially, imported or exported, then produce grown and marketed within the same province would have different requirements, those of the *Consumer Packaging and Labelling Regulations*, for net quantity declaration, than the same produce shipped interprovincially, imported or exported. This could be seen as a trade restriction.

Decision

In the matter of declaration of net quantity on prepackaged fresh fruits and vegetables, the CFIA will accept a declaration by weight, volume or in terms of numerical count. Furthermore, the CFIA will accept metric units as a sole unit of measure on prepackaged fresh produce, as well as metric and Canadian units. This Decision will remain in effect until such time as the *Fresh Fruit and Vegetable Regulations* are amended to coincide with the *Consumer Packaging and Labelling Act and Regulations*.

Rationale

Subsection 3(1) of the *Consumer Packaging and Labelling Act* stipulates that the provisions of that Act that are applicable to any product, apply, notwithstanding any other Act of Parliament. Notwithstanding is a term which means, regardless of any other provision of law. Thus, we accept that the *Consumer Packaging and Labelling Act and Regulations* supersede the *Fresh Fruit and Vegetable Regulations* in this matter.

Background Information

Recommended

Final

Decision by

Date

Fresh Fruit and Vegetable Program Officer

January 10, 2011

Approved by

Division

Date

Decision No.

Fresh Fruit and Vegetable
National Program Manager

Agrifood

January 13, 2011

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