



Department of Planning & Community & Economic Development

## **Building Inspection Division**

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April 9, 2019

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Michelle Wilson, Chairperson, NCWM Laws & Regulations Committee

Doug Musick, Committee Member, CWMA Laws & Regulations Committee

Louis Sakin, Chairperson, NEWMA Laws & Regulations Committee

To the NCWM and Regional Laws and Regulations Committees:

There are various methods of sale being used to sell very similar types of pet treats and chews. At issue is the lack of uniformity concerning method of sale giving the consumer no measurable way to compare product value. NIST Handbook 130, Method of Sale, Section 2.37. Pet Treats or Chews requires that pet treats and chews be sold by net weight. Industry has submitted a proposal to modify Section 2.37. Pet Treats or Chews. I am addressing their justifications for amending the current method of sale.

The pet treat industry is rapidly growing with many manufacturers entering the market place. The cost to consumers for these products range from \$10.00 to \$40.00 per pound, with some exceeding \$100.00 per pound. Product materials can vary in thickness and density. Without a net weight, the consumer can't calculate their cost. They are not able to do a cost comparison across products and manufacturers. A Powerpoint presentation based on this issue was presented at the CWMA interim conference in 2017 and submitted to the NCWM Laws and Regulation Committee where it was posted for all CWMA members. It highlighted similar products with conflicting methods of sale. The amendment to HB130, Section 2.37. Pet Treats or Chews proposed by the Pet Food Institute is found on the last page of this submitted Powerpoint presentation.

In addition, the FDA and 21 CFR 501 requires method of sale for these products to be by net weight. It specifies that the method of sale used must give accurate information regarding the net quantity of contents to facilitate value comparisons by consumers. Count alone does not provide a good tool for comparison because of the variation in product materials. Currently, the method of sale for similar pet treats and chews vary. A customary method of sale, other than net weight, has not been established. In the FDA Animal Health Literacy information per the FDA website under "Net Quantity Statement" it indicates the importance of the consumer checking the quantity statements when comparing costs. It also mentions the difference in the density of products you are comparing. It specifically states "a cost-per-ounce or per-pound comparison between products is always prudent." The intent of Section 2.37 Pet Treats or Chews is to reinforce an already existing law that requires net quantity and the ability of the consumer to

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compare. A separate proposal developed by the NCWM L & R Committee would add an “enforceable date” to the existing method of sale (see Powerpoint presentation). This will provide industry with adequate time to modify their labels for compliance. A time frame for enforcement has been granted on various other product labeling changes adopted at the conference.

I am in agreement with adding an enforceable date as proposed the NCWM L & R Committee and the Pet Food Institute. I do not agree with the change to Handbook 130, Section 2.37. Pet Treats or Chews to allow single units to be sold by count exclusively. The Pet Food Institute in their proposal did not use the correct 21 CFR 501.8 to justify the use of count. 21 CFR 501.8 is specifically for labeling of animal food with number of servings. The current Handbook 130, Section 2.37 Pet Treats or Chews does not pertain to serving size requirements and serving size requirements are not a weights and measures issue. They also cite 16 CFR 500.7 Net Quantity of Contents, Method of Expression as justification for using count, but the prevailing point in this section is that the consumer must be given a declaration that provides sufficient information to facilitate value comparisons. That is stated twice in this section. Without method of sale uniformity there is not sufficient information to compare value for a consumer. In reference to the consumer having the ability to contact Pet Food Institute members’ consumer help lines for with questions, this would not be a typical solution to a consumer wanting a value comparison. Most value comparisons are made at the time of purchase.

Sincerely,

Cindy Lease – Weights and Measures Inspector

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