



**Monroe County**  
**Department of Weights and Measures**  
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## **REQUIREMENTS FOR SALES AT OPEN AIR MARKETS, FARMERS' MARKETS AND OTHER COMMERCIAL OUTLETS**

Retail sales of fruits, vegetables and other items are regulated by the Monroe County Department of Weights and Measures. Vendors may erroneously believe that they are exempt from these regulations because they sell relatively little compared to supermarkets or because they only sell a few months out of the year. They are wrong. Monroe County and State of Indiana Weights and Measures laws apply to all sales. The laws and regulations were established to ensure buyers receive sufficient and accurate information with which to compare quantity and price. As a vendor, complying with the laws and regulations protects you from perceptions of short-changing or misrepresenting your product.

The focus of this bulletin is on the sale of fresh produce at farmers' markets, roadside stands and other seasonal outlets.

### **METHOD OF SALE**

You may have seen different fruits and vegetables made available using several different types of containers or measures. Sometimes, these units are not the same as those used in wholesale markets or within specific markets, such as restaurants. However, legal weights and measures are required at all times. Produce may be sold by weight, measure, or count, depending on the commodity. Selling something "by count" is pretty simple to understand. Selling by "weight" or "measure" involves legally defined weights and measures.

Please see Appendix A for a table of the legal Methods of Sale for most common fruits and vegetables. If you are selling an item that is not listed in this table then please contact the Monroe County Department of Weights and Measures for the correct method of sale.

### **DIRECT SALES USING SCALES**

Direct sales by weight or measure are also called bulk sales. For example, when a customer tells the seller he wants "two pounds of potatoes"; the seller places potatoes on the scale until it reads two (2) pounds. This scale is being used for direct sales. **Scales used in direct sales must be inspected and approved by the Monroe County Department of Weights and Measures.**

To be certified, the scale must be and designed for commercial use. Not all scales can be certified. Scales for direct sales in commercial trade must meet certain standards set forth by the National Institute of Standards and Technology (N.I.S.T.) and must be certified by the National Type Evaluation Program (N.T.E.P.). Any commercial scale manufactured after January 1, 1986 must be labeled Class III if it is commercial quality. It will have an identification plate with the serial number, the manufacturer's name, a model number, maximum capacity, number of measurement divisions, and size of the smallest measurement.

Commercial quality scales manufactured before January 1, 1986 may be labeled class III and have an identification plate as described above. A scale manufactured before 1986 which has no class marking is commercial quality if it has a manufacturer's name, serial number, maximum capacity listing, and measurement division size printed on it.

It doesn't matter if it is an analog or digital scale. Scales stamped or labeled by the factory "**Not Legal for Trade**" will not be approved because these devices were not manufactured to meet the standards necessary for commercial trade and certification.

These devices will be rejected and red tagged. Below is a list of scale types that are generally **Not Legal for Trade**.

- baby scales,
- bathroom scales,
- restaurant portion scales,
- postal scales,
- kitchen utility scales

. If you purchase a new scale then Weights and Measures must be contacted prior to use. If purchasing a new or used scale and have questions then please feel free to contact the Monroe County Department of Weights and Measures and we will gladly help guide you in the right direction. Certifiable used scales may be available at a reasonable cost, as many grocery stores or other vendors replace older models of scales for electronic scanners and scales.

Scales will be inspected on an annual basis. If your scale is rejected, the inspector will attach a tag to the scale and give you a rejection report explaining why it was rejected. If the inspector attaches a yellow tag, you may continue to use the scale, but you must make the required repairs within an allotted amount of time. If the scale is red tagged, you must not use the scale until it has been repaired.

### **PREPACKAGED SALES**

Prepackaged sales occur when you weigh the product before sale and package the product with a quantity statement on the package. A 5-pound bag of potatoes or a 2-pound bag of green beans are examples of prepackaged produce sales. When prepackaging, the package must contain **at least** the weight specified on the package.

The Weights and Measures inspector's job in this case is to check the weight of the package for accuracy, not the scale. As long as the contents of the package weigh at least what it is labeled, it is in compliance.

If you sell prepackaged goods, there are legal requirements for what must be on the label. The label must include 2 out of 3 of the following; net weight, unit price (price per pound, gallon, etc), and the total price. If you are selling items of the same type, size, and price it is acceptable to make one sign to encompass the entire lot rather than labeling each individual package (Example: if you are selling blueberries at \$2 per quart, it is acceptable to make one sign. However, if you were also selling mushrooms for the same size and price, you would have to make a separate sign for the mushrooms) If you choose to use this method there must be a clear division between the items that are grouped together to avoid confusion.

### **NET WEIGHT**

Weight statement must be **net weight** (the weight of the product excluding the weight of the wrapping material or container). The only wording preceding or following the weight can be net

weight, or abbreviated net wt. You **cannot** say “approximate net weight” “more than net-wt”, or “at least net-weight.” **An example of proper wording is: Net wt. 2 pounds.**

An inspector checking this prepackaged item for accuracy of net weight would randomly sample the packages. The net weight of the samples must meet or exceed the stated net weight. The lot would be rejected if the average of the actual weight or quantity was less than the stated weight or quantity. Remember, fruits and vegetable will lose water weight after being harvested. If you package your produce in advance, the weight of a bag of carrots packaged Tuesday won't be the same by Saturday's market. In this case, you need to determine how much weight is lost over the time period (under a consistent set of storage conditions) and add that much extra weight when preparing the package to be sure the net weight is accurate when it is sold.

Label requirements are to your advantage. In addition to stating the net weight or count of the product, the label provides an opportunity to identify the source of the product.

### **SELLING BY MEASURE**

A standard dry pint or dry quart container is actually measured by the cubic inches it contains, not the shape. A quart is 67.2 cubic inches. A pint is half of that amount. A bushel contains 2150.42 cubic inches. An accurate measure would be when the container is filled and struck level across the top. The product should not be compressed and it does not have to be rounded above the sides of the container unless necessary to achieve the legal volume.

When purchasing containers, be certain they meet the legal definition of pints, quarts, pecks, etc. Just as water weight can be lost after harvest, volume can decrease as well. Some settling may also occur during transit. The contents must be at least level with the top of the container at the time of sale. It is recommended that growers overfill slightly to allow for these factors. Most items sold by measure at the farmers market will be sold by dry measure, described above.

Liquids (such as cider) are sold by liquid measure, which is slightly smaller since there is no possibility of air spaces in the liquid. For example, a dry quart is 67.2 cubic inches; a fluid quart is 57.75 cubic inches. If selling a fluid, determine exactly how full the container must be to hold the full, accurate fluid measure.

To obtain additional information or if you have any questions, please contact the Monroe County Department of Weights and Measures at **(812) 349-2566** or email us at [ssowder@co.monroe.in.us](mailto:ssowder@co.monroe.in.us)