



container & labeling
compliance guide

Retail Regulations

Meeting container guidelines is no longer a “wait and see” scenario in some states.

by Megan Bame

The retail garden center will be the target area of enforcement for compliance to packaging and labeling regulations. In fact, the law applies only to retail sales, not to transactions between wholesale suppliers and retailers. However, the retailers were quick to call on the wholesale growers to make changes to their labeling practices, since most plants arrive at the garden center already labeled. It is vitally important that growers and retailers work together to find mutual capabilities that will satisfy the regulations and serve consumers' interests.

Label: Tag or Signage

Some might recall that in “the good old days,” growing plants was more about seed and fertilizer, but the industry's growth (which we've all enjoyed) has been fueled in large part by extensive marketing and providing value-added products.

A label or tag with a photo and plant care instructions has become almost commonplace. If plants are not individually tagged, the consumer can usually expect nearby signage in the garden center. That tag or signage adds value for the customer and, if designed properly, can be a marketing tool for the garden center, grower brand or a breeder's brand. The new regulations simply stipulate three specific pieces of information that need to appear on a tag or sign. Once old inventory is spent, reorders will be compliant.

It's not quite so easy for some smaller growers who have not yet adopted the use of photo tags and barcodes. It is certainly an additional cost that may be prohibitive in a business that relies on a small profit margin. Whether the retailer or grower makes concessions, there is a relatively low-cost solution that will satisfy the labeling regulations. The retailer,

who values the quality and service of his grower, may offer to create store signage based on information provided by the grower, or the grower may supply preprinted signage that includes the three key items. There are no size restrictions for signage, only that the net contents and declaration of responsibility appears in the bottom third.

A sticky situation may arise if a retailer only wants its name on the container. With the cost of custom labeling, the retailer should expect to pay a premium price. Retailers can declare themselves responsible, meaning they accept responsibility for the accuracy of the identity and net contents. Responsibility does not refer to plant health or quality. Its purpose is to provide consumers with the location of the vendor, distributor or retailer of the product for comparison purposes.

Beyond The Label

In addition to proper labeling of containers, the regulations apply to advertisements and other reference points, such as sales receipts. Mass marketers, with advertisements printed far in advance, are turning to their growers for pot sizes that reflect the container volume, such as a true gallon or a true quart. Though some retailers have expressed concern about confusing customers, those who have implemented the regulations have reported little feedback from customers – positive or negative.

The follow-through of labeling to the point of sale is important. While programming inventory may take some time, it will be a necessity as the volumetric net contents becomes more common. A receipt describing a 6-inch mum or a 10-inch basket will not comply with the law; however, ANLA Director of Membership and Industry Marketing Jonathan Bardzik says he believes that such a “minor” in-

fraction would be a second-tier issue, only attracting a fine if the business made no other efforts to comply.

If customers are allowed to “create-their-own combo,” and plants are removed from their originally labeled containers to be placed in a new container of a different size, they must be given a proper label for the net contents of the new container. Rose Clayton, director of floral for Clemens Family Markets in Pennsylvania, has her staff keep a measuring cup handy to determine the net contents of any container by pouring water into the liner prior to potting it up. The result is an accurate label in compliance with regulations. Clayton admits, “it takes time and effort, especially in the beginning, but the claim ‘I didn't have time’ may very well get you a fine.”

Regulatory Enforcement

It's important to remember that it is neither the growers nor the retailers prompting this change; it's the law. Enforcement of the regulations, including the establishments of fines and penalties, is carried out at the state and local level.

While enforcement in Pennsylvania is imminent, growers who ship to Pennsylvania will also be scrutinized. Other states have been said to be in a “wait and see” position. While it has been suggested that some states see this as a revenue-generating opportunity by levying fines to those not in compliance, the industry hopes that through its educational efforts, businesses will work toward compliance and demonstrate an effort to inform consumers nationwide.

There will inevitably be challenges between the grower and retailer. However, if the grower/retailer relationship is a partnership, it is imperative that the two work together to reach the common goal of selling as many plants as possible. TGC

The Pennsylvania Point-Of-View

Three Pennsylvania operations share their experiences with labeling regulations.

by Megan Bame

Clemens Family Markets, Kulpsville, Penn.

After hours of reading about container labeling issues, Rose Clayton approached her vendors about being compliant with the law in late 2004. To her surprise and disappointment, she was met with “a brick wall or a deer in the headlights look.”

Clayton is the director of floral for Clemens Family Markets, a small, 20-store chain in Pennsylvania with an extensive offering of fresh goods, including an outdoor garden program. She started by discussing liability and expectations with her growers. When the “big boxes” began making strides toward compliance, the growers understood they would not have a choice. Clayton offered to meet the growers halfway, by accepting full retailer responsibility for 2005, but expecting growers to provide compliant labeling by 2006. Retailer responsibility meant the market would rely on signage to provide consumers with the declarations of identity, net contents and responsibility for all floral products.

Though she understood the scope of the law and her growers were working toward compliance, educating her staff and implementing solutions was another major hurdle.

“I gathered other products from the store, like water, chips and cereal, and asked the staff to locate the identity, the net contents and the responsible party on each product,” she says. “Of course, they all knew where to look for that information.”

Now she applied it to the floral department. Immediately, the staff came up with questions and problems Clayton had not considered from a practical application point-of-view. The biggest

change she had overlooked was the need for a new template for the signs.

Though the nursery industry as a whole has been slow to respond, it doesn't keep Clayton from calling and double-checking a container volume if it looks questionable. “There are many different levels of understanding, different levels of participation and different levels of compliance,” she says.

Waterloo Gardens, Exton, Penn.

Though Waterloo Gardens is working toward compliance, Bob Short, annuals and tropicals buyer, admits, “It's a big headache.” The retailer is working with its local growers now to standardize container sizes. Next year, its 4-inch annual growers will all be using the same pot, allowing Waterloo to use one sign over the display of each type of annual.

“This year we were able to display all the geraniums from one grower under a sign, and that worked well,” Short recalls. He understands the financial burden many small growers will face as retailers request labels or a certain pot size. Waterloo has some flexibility by creating pressure-sensitive tags in-house, on-demand.

Waterloo does a tremendous volume of combination containers, dish gardens and terrariums in unique containers. It is still considering the most efficient way of determining the net contents of these containers.

Its diversity of availability may be such a logistical nightmare that Waterloo may be forced to cut back, at least temporarily, to grasp how to manage the flow of product and stay compliant.

Unfortunately, none of its Florida suppliers of tropicals and foliage are willing to tag as requested, at least not yet. Short

has found that many in the industry are still unaware of the regulations, are unsure about what the regulations mean to them or are waiting to see how strictly the regulations will be enforced.

Earlier this year Waterloo stopped referring to size in its advertisements, instead using generalizations such as, “Large house plants starting at...”

Short says: “We will continue to work toward compliance, but it's not going to be easy. It will be an interesting spring.”

J. Franklin Styers Nurseries, Concordville, Penn.

Bill Simeral, president and owner of J. Franklin Styers Nurseries, reports few problems complying with regulations. The company's growers are using tags that comply and it is not aware of any grower problems. According to Simeral, “Writing up the details on our landscape design plans has been the biggest challenge.”

Styers held a staff orientation meeting in the spring to familiarize the staff with the expectations of the regulations and explain the legal issues, even to the point of not referring to pot size in inches. The company hasn't had any complaints or reports of confusion from customers since the change. Styers has not used signage, fully relying on pot labels.

“This actually happened at a good time for us,” Simeral says. “We've been testing a new marketing approach that uses less signage to declutter the garden center and put the focus on tags and labels.”

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About the author: **Megan Bame**, the author of “Beyond The Basics,” “Retail Regulations” and “The Pennsylvania Point-Of-View,” is a freelance writer based in Salisbury, N.C. She can be reached at meganbame@yahoo.com.



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