

(d) *Bakery products.* Bakery products in transparent containers are exempt from labeling requirements of section 97.03, Wis. Stats., and these rules, if displayed with a counter card, sign or other device bearing the required label information. This exemption is limited to products produced by a baker and sold by him at his own retail outlets.

Note: See section 97.03 (2) (d), Wis. Stats.

(e) *Foods for processing.* Foods which are to be processed, labeled, or repacked in substantial quantities by the buyer are exempt from labeling requirements of section 97.03 (2) (e), Wis. Stats., and these rules.

Note: This exemption does not extend beyond that permitted by section 97.03 (2) (e), Wis. Stats. which reads as follows:

"(e) A food shall be exempt from the labeling requirements under this chapter if the food, in accordance with the practice of the trade, is to be processed, labeled or repacked in substantial quantities by the buyer, on condition that such food is not adulterated or misbranded under this chapter upon completion of such processing, labeling or repacking by the buyer."

History: Cr. Register, May, 1973, No. 209, eff. 6-1-73.

Ag 53.12 Variations to be allowed. (1) **VARIATIONS FROM DECLARED NET QUANTITY.** Except as otherwise provided by statutes or rules thereunder, variations from the declared net weight, measure, or count are permitted only when caused by unavoidable deviations in weighing, measuring, or counting the contents of individual packages that occur in good packaging practice, but such variations shall not be permitted to such extent that the average of the quantities in the packages of a particular commodity, or a lot of the commodity that is kept, offered, or exposed for sale, or sold, is below the quantity stated. No unreasonable shortage in any package shall be permitted, even though overages in other packages in the same shipment, delivery, or lot compensate for such shortage. Variations above the declared quantity shall not be unreasonably large.

(2) **VARIATIONS RESULTING FROM EXPOSURE.** Except as otherwise provided by statutes or rules thereunder, variations from the declared weight or measure shall be permitted when caused by ordinary and customary exposure to conditions that normally occur in good distribution practice and that unavoidably result in change of weight or measure, but only after the commodity is introduced into intrastate commerce. A commodity is "introduced into intrastate commerce" at the time of the first sale and delivery of the commodity within the state, the delivery being either directly to the purchaser or his agent, or to a common carrier for shipment to the purchaser or his agent. No exposure variations shall be recognized for commodities while in the possession or under the control of the packager or the person who introduces the package into intrastate commerce.

(3) **MAGNITUDE OF PERMITTED VARIATIONS.** The magnitude of variations permitted under this section shall, in the case of any shipment, delivery, or lot, be determined by the facts in each case.

History: Cr. Register, May, 1973, No. 209, eff. 6-1-73.

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