

Chapter Ag 53**LABEL STATEMENTS OF QUANTITY**

Ag 53.01 Permitted variations in quantity

Ag 53.02 Exemptions for small packages

Ag 53.01 Permitted variations in quantity. (1) The label statement of quantity shall express the minimum quantity, or the average quantity, of the contents of the packages. If the statement is not so qualified as to show definitely that the quantity expressed is the minimum quantity, the statement shall be considered to express the average quantity.

(2) Where the statement expresses the minimum quantity, no variations below the stated minimum shall be permitted except variations below the stated weight or measure caused by ordinary and customary exposure, after the food is sold and delivered by the manufacturer, packer or distributor, to conditions which normally occur in good distribution practice and which unavoidably result in decreased weight or measure. Variations above the stated minimum shall not be unreasonably large.

(3) Where the statement does not express the minimum quantity:

(a) Variations from the stated weight or measure shall be permitted when caused by ordinary and customary exposure, after the food is sold and delivered by the manufacturer, packer or distributor, to conditions which normally occur in good distribution practice and which unavoidably result in change of weight or measure.

(b) Variations from the stated weight, measure, or numerical count shall be permitted when caused by unavoidable deviations in weighing, measuring, or counting the contents of individual packages which occur in good packing practice. But variations shall not be permitted to such extent that the average of the quantities in the packages comprising a shipment or other delivery of the food is below the quantity stated, and no unreasonable shortage in any package shall be permitted, even though overages in other packages in the same shipment or delivery compensate for such shortage. The average of quantities in packages may be determined on the basis of a representative, random sample.

(4) The extent of variations from the stated quantity of the contents permissible under subsections (2) and (3) in the case of each shipment or other delivery shall be determined by the facts in such case.

Ag 53.02 Exemptions for small packages. A food shall be exempt from compliance with subparagraph 2 of section 97.60 (3) (g), Wis. Stats., (requiring a label statement of quantity) if:

(1) The quantity of the contents, as expressed in terms applicable to such food, is less than one-half ounce avoirdupois, or less than one-

half fluid ounce, or (in case the units of the food can be easily counted without opening the package) less than six units.

(2) The statement of the quantity of the contents of the package, together with all other information required by law to appear on the label, cannot, because of insufficient label space, be so placed on the label as to comply with the requirements for conspicuousness prescribed by section 97.60 (3) (j), Wis. Stats.