

(2) Permit a statement of differences of opinion with respect to the effectiveness of a drug unless each of the opinions expressed is supported by substantial evidence of effectiveness as defined in sections 505(d) and 512(d) of the act.

§ 1.23 Procedures for requesting variations and exemptions from required label statements.

Section 403(e) of the act (in this part 1, the term *act* means the Federal Food, Drug, and Cosmetic Act) provides for the establishment by regulation of reasonable variations and exemptions for small packages from the required declaration of net quantity of contents. Section 403(i) of the act provides for the establishment by regulation of exemptions from the required declaration of ingredients where such declaration is impracticable, or results in deception or unfair competition. Section 502(b) of the act provides for the establishment by regulation of reasonable variations and exemptions for small packages from the required declaration of net quantity of contents. Section 602(b) of the act provides for the establishment by regulation of reasonable variations and exemptions for small packages from the required declaration of net quantity of contents. Section 5(b) of the Fair Packaging and Labeling Act provides for the establishment by regulation of exemptions from certain required declarations of net quantity of contents, identity of commodity, identity and location of manufacturer, packer, or distributor, and from declaration of net quantity of servings represented, based on a finding that full compliance with such required declarations is impracticable or not necessary for the adequate protection of consumers, and a further finding that the nature, form, or quantity of the packaged consumer commodity or other good and sufficient reasons justify such exemptions. The Commissioner, on his own initiative or on petition of an interested person, may propose a variation or exemption based upon any of the foregoing statutory provisions, including proposed findings if section 5(b) of the Fair Packaging and Labeling Act applies, pursuant to parts 10, 12, 13, 14, 15, 16, and 19 of this chapter.

§ 1.24 Exemptions from required label statements.

The following exemptions are granted from label statements required by this part:

(a) *Foods.* (1) While held for sale, a food shall be exempt from the required declaration of net quantity of contents specified in this part if said food is received in bulk containers at a retail establishment and is accurately weighed, measured, or counted either within the view of the purchaser or in compliance with the purchaser's order.

(2) Random food packages, as defined in § 101.105(j) of this chapter, bearing labels declaring net weight, price per pound or per specified number of pounds, and total price shall be exempt from the type size, dual declaration, and placement requirements of § 101.105 of this chapter if the accurate statement of net weight is presented conspicuously on the principal display panel of the package. In the case of food packed in random packages at one place for subsequent shipment and sale at another, the price sections of the label may be left blank provided they are filled in by the seller prior to retail sale. This exemption shall also apply to uniform weight packages of cheese and cheese products labeled in the same manner and by the same type of equipment as random food packages exempted by this paragraph (a)(2) except that the labels shall bear a declaration of price per pound and not price per specified number of pounds.

(3) Individual serving-size packages of foods containing less than ½ ounce or less than ½ fluid ounce for use in restaurants, institutions, and passenger carriers, and not intended for sale at retail, shall be exempt from the required declaration of net quantity of contents specified in this part.

(4) Individually wrapped pieces of *penny candy* and other confectionery of less than one-half ounce net weight per individual piece shall be exempt from the labeling requirements of this part when the container in which such confectionery is shipped is in conformance with the labeling requirements of this part. Similarly, when such confectionery items are sold in bags or boxes,