

**NEW JERSEY REGISTER**  
**VOLUME 38, ISSUE 7**  
**ISSUE DATE: APRIL 3, 2006**  
**RULE ADOPTIONS**  
**LAW AND PUBLIC SAFETY**  
**DIVISION OF CONSUMER AFFAIRS**  
**OFFICE OF WEIGHTS AND MEASURES**  
**Commodities in Package Form; Weights and Measures**

38 N.J.R. 1577(a)

Readoption with Amendments: N.J.A.C. 13:47K

Commodities in Package Form; Weights and Measures

Proposed: September 19, 2005 at 37 N.J.R. 3554(a).

Adopted: March 7, 2006 by the Office of Weights and Measures, Louis Greenleaf, State Superintendent.

Filed: March 9, 2006 as R.2006 d.129, without change.

Authority: N.J.S.A. 51:1-29 and 51:1-61

Effective Date: March 9, 2006, Readoption;

April 3, 2006, Amendments.

Expiration Date: March 9, 2011.

Summary of Public Comment and Agency Response:  
The Office did not receive any comments.

**Federal Standards Statement**

A Federal standards analysis is not required because the readopted rules are governed by N.J.S.A. 51:1-29 and 51:1-61. The rules readopted with amendments at N.J.A.C. 13:47K-1.2(a) and (c) and 1.5(a) reference Federal standards related to butter-like and/or margarine-like spreads; oleomargarine and margarine; and non-fluid milk products contained in 9 CFR Part 319, 319.700; 21 U.S.C. §§ 301 et seq.; and the Pasteurized Milk Ordinance of the U.S. Public Health Service, respectively. The rules readopted with amendments at N.J.A.C. 13:47K-5.2(b)5 contain the same standards as the Federal rules for maximum allowable variations for Federally inspected meat and poultry packages that move in interstate commerce. The Federal rules have been adopted by the U.S. Department of Agriculture pursuant to the Poultry Products Inspection Act and the Meat Inspection Act. The other rules readopted with amendments voluntarily adopt by reference the standards developed by the National Institute of Standards and Technology (NIST) Handbook 133 related to maximum allowable variations for certain food and nonfood packages in the State of New Jersey.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 13:47K.

Full text of the adopted amendments follows:

**13:47K-1.2 Butter, oleomargarine, margarine, butter-like and/or margarine-like spreads**

(a) For the purposes of this section "butter-like and/or margarine-like spreads" are those products that meet the Federal Standard of Identity for butter or margarine and oleomargarine (see 9 CFR Part 319, 319.700) except that they contain less than 80 percent fat and may contain other safe and suitable ingredients.

(b)-(d) (No change.)

### **13:47K-1.5 Other milk products**

(a) Cottage cheese, cottage cheese products, and other milk products that are solid, semisolid, viscous, or a mixture of solid and liquid, as defined in the Pasteurized Milk Ordinance of the U.S. Public Health Service, as amended (see Public Health Service, Food and Drug Administration, Publication 229, Title PMO grade A, 2003 Revision), shall be sold in terms of weight; provided, that cottage cheese, cottage cheese products, sour cream, and yogurt shall be packaged for retail sale only in weights per (a)1 or 2 below and, provided further, that the total net weight of multi-unit packages need not comply with (a)1 or 2 below if their individual units comply:

1.-2. (No change.)

### **13:47K-2.4 Writing paper; notebook paper; envelopes; and office paper**

(a)-(b) (No change.)

(c) A package of bond, mimeo, spirit duplicator, xerographic, and other paper, including cut-sized office paper and computer paper, shall bear a label that includes a declaration of quantity, in terms of sheet length and width and count, in the lower 30 percent of the principal display panel, and a declaration of identity including the "Basis Weight." "Basis Weight" as used in this subsection for labeling means the grade, category or identity of the paper determined according to the latest version of American Society for Testing and Materials Standard Test Method D646 for "Grammage of Paper and Paperwood (Mass Per Unit Area)" "Basis Weight" is used as a standard of identity and is not to be considered a net weight declaration.

## **Subchapter 4. MARKING REQUIREMENTS**

### **13:47K-4.2 Definitions**

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Commodity in package form" means a commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale. An individual item or lot of any commodity not in package form as defined in this section, but on which there is marked a selling price based on an established price per unit of weight or of measure, shall be considered a commodity in package form. Where the term "package" is used in N.J.S.A. 51:1-1 et seq., it shall be construed to mean "commodity in package form" as herein defined. For the purpose of this definition, single unit produce items wrapped in clear film shall not be construed as commodities in package form.

"Consumer package" or "package of consumer commodity" means a commodity in package form that is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption or use by individuals for the purposes of personal care or in the performance of services ordinarily rendered in or about the household or in connection with personal possessions.

"Indirect sale" means a sale where a customer makes a selection and places an order, but is not present when the determination of the net quantity is made, such as Internet or on-line sales, sales conducted by telephone or facsimile, and catalog sales.

"Nonconsumer package" or "package of nonconsumer commodity" means any commodity in package form other than a consumer package, and particularly a package intended solely for industrial or institutional use for wholesale distribution.

### **13:47K-4.11 Exemptions**

(a) (No change.)

(b) A random package bearing a label conspicuously declaring the net weight, the price per kilogram or pound, and the total price shall be exempt from the type size, dual declaration, placement, and free area requirements of this subchapter. In the case of a random package packed at one place for subsequent sale at another, neither the price per unit of weight nor the total selling price need appear on the package, provided the package label includes both such prices at the time it is offered or exposed for sale at retail.

1. (No change.)

2. A random package manufactured or produced and offered for indirect sale shall be exempt from the labeling requirements of unit price and total price and need only bear a statement of net weight at the time of delivery if:

i. The unit price is set forth and established in the initial product offering;

ii. The maximum possible net weight, unit price, and maximum possible price are provided to the customer by order confirmation when the product is ordered; and

iii. When the product is delivered, the customer receives a receipt bearing the following information: identity, declared net weight, unit price and the total price.

(c)-(z) (No change.)

(aa) Those products, including pillows, cushions, comforters, mattress pads and sleeping bags, that bear a permanent label as designated by the Association of Bedding and Furniture Law Officials or by the California Bureau of Home Furnishings and Thermal Insulation shall be exempt from the requirements for location (N.J.A.C. 13:47K-4.8(a)1), size of letters or numbers (N.J.A.C. 13:47K-4.8(b)3 and (b)3i), free area (N.J.A.C. 13:47K-4.8(a)4) and the declarations of identity and responsibility (N.J.A.C. 13:47K-4.3(a) and 4.5), provided that declarations of identity, quantity, and responsibility are presented on a permanently attached label and satisfy the other requirements of this subchapter, and further provided that the information on such permanently attached label be fully observable to the purchaser.

(bb)-(dd) (No change.)

**13:47K-5.2 Maximum allowable variations**

(a) The following table sets forth the maximum allowable variations for foam aerosol products:

Avoirdupois:

	MAV	
Labeled weight of package	Ounce	Pound
0 to less than 1 1/2 oz	0	0
1 1/2 oz to less than 5 oz	1/16	0.004
5 oz to		

less than 8 oz	1/8	0.008			
8 oz to less than 11 oz	3/16	0.012			
11 oz to less than 14 oz	1/4	0.016			
14 oz to less than 1 lb 1 oz	5/16	0.020			
1 lb 1 oz or more	3/8	0.023			
		Metric:	MAV Grams		
		0 to less than 50 g	0		50 g to less than 100 g
		100 g to less than 200 g	3		
		200 g to less than 300 g	5		
		300 g to less than 400 g	7		
		400 g to less than 500 g	9		
			10	(b) The maximum allowable variations below shall conform to the following or revised or later editions, if in effect, incorporated herein by reference:	

Over  
500 g

1. The National Institute of Standards and Technology's (NIST's) Maximum Allowable Variations for Packages Labeled by Weight referenced as Table 2-5 of Appendix A of the Fourth Edition of NIST Handbook 133 (2005);
2. The NIST's Maximum Allowable Variations for Packages Labeled by Liquid and Dry Volume referenced as Table 2-6 of Appendix A of the Fourth Edition of NIST Handbook 133 (2005);
3. The NIST's Maximum Allowable Variations for Packages Labeled by Count referenced as Table 2-7 of Appendix A of the Fourth Edition of NIST Handbook 133 (2005);
4. The NIST's Maximum Allowable Variations for Packages Labeled by Length, (Width) or Area referenced as Table 2-8 of Appendix A of the Fourth Edition of NIST Handbook 133 (2005); and
5. The U.S. Department of Agriculture's Maximum Allowable Variations for Meat and Poultry Groups and Lower Limits for Individual Packages referenced as Table 2-9 of Appendix A of the Fourth Edition of NIST Handbook 133 (2005).

(c) The tables referenced in (b) above are part of a document that is reviewed and/or revised periodically as needed; the most current document is to be used. The NIST Handbook 133 can be obtained from: Weights and Measures Division, National Institute of Standards and Technology, 100 Bureau Drive, Stop 2600, Gaithersburg, MD 20899-2600, telephone number (301) 975-4004, or at the NIST website at [www.nist.gov](http://www.nist.gov).

Recodify existing (b)-(e) as (d)-(g) (No change in text.)