

In subsection (d)(1) of this section, the qualification that an inspection be conducted at a reasonable time is stated expressly to conform to practice and to the restrictions generally imposed by the General Assembly on the power of a department to conduct similar administrative inspections. See, e.g., former Article 43, § 189D(e)(2) -- now § 4-225 of this subtitle.

4-212. EXEMPTIONS FROM LABELING REQUIREMENTS FOR FOODS SUBJECT TO ADDITIONAL PROCESSING, LABELING, OR PACKING.

(A) APPLICATION OF SECTION.

A FOOD IS NOT SUBJECT TO THE LABELING REQUIREMENTS OF THIS SUBTITLE IF A RULE OR REGULATION IS ADOPTED AS PROVIDED UNDER THIS SECTION TO EXEMPT IT.

(B) APPLICATION OF EXEMPTIONS ADOPTED UNDER FEDERAL ACT.

SUBJECT TO THE PROVISIONS OF § 4-241 OF THIS SUBTITLE, ANY RULE OR REGULATION ADOPTED UNDER THE FEDERAL ACT TO EXEMPT A FOOD FROM LABELING REQUIREMENTS IS EFFECTIVE AUTOMATICALLY IN THIS STATE.

(C) RULES AND REGULATIONS ADOPTED BY SECRETARY.

IN ADDITION TO THE STATE ADOPTED FEDERAL RULES AND REGULATIONS, THE SECRETARY SHALL ADOPT RULES AND REGULATIONS TO EXEMPT FROM THE LABELING REQUIREMENTS OF THIS SUBTITLE ANY FOOD THAT IS TO BE TRANSPORTED IN SUBSTANTIAL QUANTITIES FROM ONE ESTABLISHMENT TO ANOTHER, IF:

(1) IN ACCORDANCE WITH THE PRACTICE OF THE TRADE, THE FOOD IS TO BE PROCESSED, LABELED, OR REPACKED AT THE SECOND ESTABLISHMENT; AND

(2) THE SECRETARY HAS A REASONABLE BASIS TO BELIEVE THAT THE FOOD WILL NOT BE MISBRANDED OR ADULTERATED WHEN IT IS REMOVED FROM THE SECOND ESTABLISHMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Article 43, § 188E.

The attention of the General Assembly is invited to subsection (c)(2) of this section, which is derived from the phrase of former Article 43, § 188E that read: "... upon the condition that the food is not adulterated or misbranded under the provisions of this subheading upon removal from the processing, labeling or repacking establishment". This provision appeared to impose an unworkable condition on the exemptions