

Clearinghouse Rule 99-151

STATE OF WISCONSIN)
) ss. Clearinghouse Rule
DEPARTMENT OF AGRICULTURE,) No. 99-151
TRADE AND CONSUMER PROTECTION) Docket No. 99-R-4

CERTIFICATION:

I, James E. Harsdorf, Secretary of the State of Wisconsin, Department of Agriculture, Trade and Consumer Protection, and custodian of the department's official records, hereby certify that on June 12, 2001, the department adopted the attached rule affecting ch. ATCP 81, Wisconsin Administrative Code, relating to cheese grading, packaging and labeling.

I further certify that I have compared the attached copy to the original on file in the department, and that the attached copy is a complete and accurate copy of the original.

Signed and sealed at Madison, Wisconsin, this 12 day of June, 2001.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By James E. Harsdorf
James E. Harsdorf
Secretary



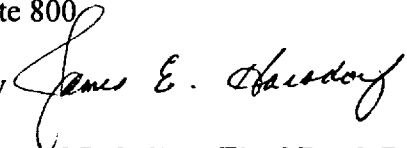


State of Wisconsin
Scott McCallum, Governor

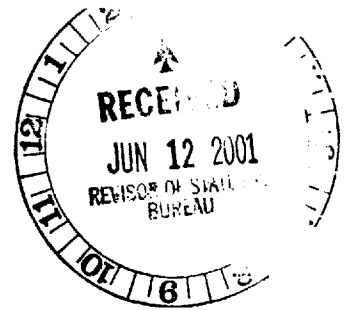
Department of Agriculture, Trade and Consumer Protection
James E. Harsdorf, Secretary

DATE: June 11, 2001

TO: Gary Poulson - Revisor of Statutes Office
131 West Wilson Street, Suite 800

FROM: James E. Harsdorf, Secretary 

SUBJECT: **Cheese Grading, Packaging and Labeling; Final Draft Rule for Publication**
(Clearinghouse Rule No. 99-151)



The Department of Agriculture, Trade and Consumer Protection (DATCP) hereby submits the following rule for publication:

CLEARINGHOUSE RULE #: 99-151

SUBJECT: Cheese Grading, Packaging and Labeling

ADM. CODE REFERENCE: ATPC 81

DATCP DOCKET #: 99-R-4

We are enclosing a copy of the final draft rule, as adopted by DATCP. We are also providing the following information for publication with the rule, as required by s. 227.114(6), Stats.

Final Regulatory Flexibility Analysis

This rule modifies current rules under ch. ATPC 81, Wis. Adm. Code, related to cheese grading, packaging and labeling.

Under this rule, cheese manufacturers will be permitted to use electronic code labeling as an alternative method to list any or all of the items of information required on the manufacturer's label for bulk cheese, as long as the cheese remains under the control and custody of the manufacturer. The decision to label bulk cheese in this manner will be fully voluntary. Coding methods will not be standardized under one uniform system from company to company. Therefore, the manufacturer must provide a scanner or other appropriate device where the cheese is located that enables an employe or agent of the department to decode the information into a readable format. If the cheese is stored in public warehouse facilities, the warehouse may need to make adjustments in its recordkeeping and warehousing operations.

Bulk cheese must be labeled by the manufacturer with a standard, uncoded label format if the cheese will be sold in bulk form at a later date. Bulk cheese is often sold to other cheese packaging plants, manufacturers of processed or cold pack cheese, retail stores, and restaurants that have a need for product label information in a readily understandable format. Standard formats may also be necessary for interstate shipments to comply with labeling laws in other states.

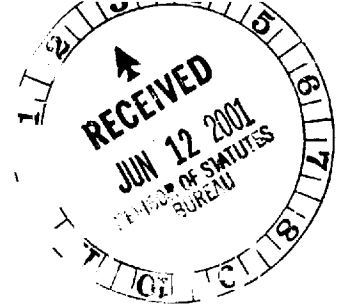
In this rule, Wisconsin grade labeling is prohibited on cheese manufactured in other states or foreign countries. Protection of the "added value" attributable to Wisconsin grade labels for Wisconsin-made cheese will be expected to enhance the marketshare of our state's dairy industry.

Under the rule, licensed cheese graders must maintain and make their grading records available for inspection. Recordkeeping requirements will now include the name of the cheese, identification of the state and dairy plant where the cheese was manufactured, the date of manufacture and the vat identification of each grade lot. Many graders already record and keep this information on a voluntary basis. The required manufacturing information will enable traceback in dairy plant records to ascertain fat and moisture content for each lot of cheese if the fat or moisture content is measured. This requirement has the potential to decrease the need for official sampling when monitoring compliance with standards of identity and the need to place a product under temporary holding order. It will also enable the department to confirm that out-of-state cheese is not grade-labeled with a Wisconsin grade mark

At the request of industry, this rule eliminates the weight and size requirements for Swiss cheese rindless blocks to provide greater flexibility for our manufacturers to meet the demand of their customers. Other rule changes are minor and technical in nature and are not expected to require any additional reporting or recordkeeping, knowledge or professional skills, nor increase costs to small businesses.

Legislative Committee Action

On March 22, 2001, the department transmitted the above rule for legislative committee review. The rule was assigned to the Senate Committee on Labor and Agriculture on March 28 and the Assembly Committee on Agriculture on April 2, 2001. No action was taken by the Senate Committee on Labor and Agriculture during the review period. The Assembly Committee on Agriculture requested a meeting with the department and a 30-day extension of the initial review period. No action was taken during the extended review period.



**ORDER OF THE STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION
ADOPTING, AMENDING OR REPEALING RULES**

1 The state of Wisconsin department of agriculture, trade and consumer protection adopts the
2 following order to repeal ATCP 81.20(6); to amend 81.20(intro.) and (4), 81.22(1), 81.24(1) and
3 (3), and 81.30(2)(chart); to repeal and recreate 81.20 (note) and 81.21(2); and to create 81.215
4 and 81.25(1)(e); relating to cheese grading, packaging and labeling.

**Analysis Prepared by the Department of
Agriculture, Trade and Consumer Protection**

Statutory Authority: ss. 93.07(1), 97.09(4) and 97.177(4), Stats.

Statutes Interpreted: s. 97.177, Stats.

The department of agriculture, trade and consumer protection (DATCP) regulates the grading, packaging and labeling of cheese in this state. This rule modifies current rules related to cheese grading, packaging and labeling. The current rules are contained in ch. ATCP 81, Wis. Adm. Code.

Wisconsin Cheese; Manufacturer's Label

Under current rules, a cheese manufacturer must label all bulk cheese with the name of the cheese, state identification, dairy plant identification, vat identification and date of manufacture. The labeling must remain on the bulk cheese until the cheese is used in the manufacture or processing of another food, or until the cheese is relabeled by a buyer who cuts and repackages the bulk cheese into consumer size packages.

This rule permits a cheese manufacturer to use electronic code labeling to display any or all of the required bulk cheese label information. Conventional labeling (not just electronic code labeling) must appear on all bulk cheese that leaves the manufacturer's custody and control. If a cheese manufacturer uses electronic code labeling, the manufacturer must provide a scanner or other device that enables a DATCP employee or agent to decode the information into a readable format at the place where the manufacturer keeps the cheese.

Under current rules, the bulk cheese label must disclose the month, date and year of manufacture. Under this rule, the labeler may abbreviate the date of manufacture using an alphanumeric or all numeric format. The abbreviation shall clearly identify the month, date and year, or a Julian calendar date consisting of a 2-digit designation for the year of manufacture followed by a 3-digit Julian date. A Julian calendar date is the numerical designation for a specified day of the year using consecutive numbers between "001" for January 1 and "365" for December 31.

Cheese from other States or Countries; Wisconsin Grade Labeling Prohibited

Under current rules, cheese from other states or countries may be identified with a Wisconsin grade mark or grade label if it is graded by a Wisconsin licensed cheese grader and labeled to identify the state or country of origin. This rule prohibits the use of Wisconsin grade labeling on cheese originating from other states or countries, even if that cheese is graded by a Wisconsin licensed grader. The prohibition eliminates the likelihood of confusion or misunderstanding by buyers and consumers as to the origin of the cheese, since Wisconsin graded cheese is stamped with a Wisconsin grade stamp that includes an outline of the state's borders.

Age Labeling of Cheese

Under current rules, if a manufacturer labels cheese as "aged" or "cured," the manufacturer's label must also disclose the minimum length of time that the cheese has been aged or cured. This rule applies the same requirement to any cheese (including retail cheese packages) labeled "aged" or "cured," regardless of who labeled that cheese.

Grade Labeling of Certain Wisconsin Manufactured Cheese

This rule clarifies that Wisconsin manufactured cheese must be graded and labeled only if there is a Wisconsin grade standard for that particular cheese variety. There are no Wisconsin grade standards for some cheeses such as Blue cheese, Parmesan, Gorgonzola, Mozzarella and pasteurized process cheeses.

Grade Labeling Retail Cheese Packages

Under current rules, DATCP may authorize a licensed food processing plant or retail food establishment to grade label retail packages of cheese. This rule clarifies that a licensed dairy plant may also cut, wrap and grade label cheese for retail distribution. A Wisconsin licensed cheese grader must grade the cheese, and the grade labeling must comply according to applicable DATCP rules.

Swiss Cheese

This rule eliminates current weight and size requirements for rindless blocks of Swiss cheese. This change will give Wisconsin manufacturers greater flexibility to meet customers' demands. DATCP's Food Safety Task Force recommended this change.

Recordkeeping

Under current rules, a licensed cheese grader must keep records showing the name of each person for whom cheese is graded, the quantity graded, the grading date, and the grade of each graded lot. This rule also requires the grader to keep records showing the name of the cheese, identification of the state and dairy plant where the cheese was manufactured, the date of manufacture and the vat identification of each graded lot. The required manufacturing information will allow graders to check fat and moisture content for each lot of cheese if the fat or moisture content is measured.

SECTION 1. ATCP 81.20(intro.) and (4) are amended to read:

ATCP 81.20 (intro.) All cheese manufactured in this state shall be labeled at the dairy plant or cheese factory with all of the items listed under subs. (1) to (5). The labeling of ~~bulk cheese~~ shall remain on the cheese until the cheese is used in the manufacture or processing of another food, or until it is relabeled by a buyer who cuts and repackages the bulk unit into consumer size packages. A manufacturer may not use electronic code labeling as the sole means to display labeling required under this section, except when the cheese is under the manufacturer's custody and control. If a manufacturer uses electronic code labeling, the manufacturer shall provide a scanner or other device that enables a department employe or agent to decode the information into a readable format at the place where the manufacturer keeps the cheese.

(4) DATE OF MANUFACTURE. The month, date and year of manufacture for the cheese. The date of manufacture may be abbreviated using an alphanumeric or all numeric format. The abbreviation shall clearly identify the month, date and year, or a Julian calendar date consisting of a 2 digit designation for the year of manufacture followed by a 3 digit Julian date.

SECTION 2. ATCP 81.20(6) is repealed.

SECTION 3. ATCP 81.20 (note) is repealed and recreated to read:

NOTE: A manufacturer's label will substantially comply with this subsection if it uses one of the following alternative formats for each label requirement under subs. (1) to (5):

TYPE OF CHEESE	TYPE OF CHEESE	TYPE OF CHEESE	TYPE OF CHEESE
WISCONSIN	WISCONSIN	55-1402 VAT A	55-1402 VAT A
1402 VAT A	1402 VAT A	12-9-90	90/343
DEC 9 90	12-9-90		

SECTION 4. ATCP 81.21 (2) is repealed and recreated to read:

ATCP 81.21 (2) WISCONSIN GRADE LABELING PROHIBITED. No person may use any Wisconsin grade mark or Wisconsin grade label designation on cheese manufactured in another state or country.

1 SECTION 5. ATCP 81.215 is created to read:

2 ATCP 81.215 Age labeling of cheese. If the label on any bulk cheese or retail package
3 of cheese states that the cheese is “aged” or “cured,” the label shall state the minimum length of
4 time in days, months or years that the cheese has been aged or cured since it was manufactured.

5 SECTION 6. ATCP 81.22(1) is amended to read:

6 ATCP 81.22(1) GRADES. ~~All cheese~~ Cheese manufactured and sold in this state shall be
7 graded or identified in one of the following categories, according to the grade standards
8 applicable to the particular cheese variety in ~~subch.~~ subchs. IV to VII, if there is a Wisconsin
9 grade standard for that variety in subchs. IV to VII:

10 SECTION 7. ATCP 81.24(1) and (3) are amended to read:

11 ATCP 81.24(1) GENERAL. A retail food establishment licensed under s. 97.30, Stats., or
12 a food processing plant licensed under s. 97.29 Stats., may obtain a cheese grade labeling permit
13 from the department. A permit holder may affix a cheese grade label to retail packages of graded
14 cheese purchased in bulk by the permit holder if the bulk lot has been graded as Wisconsin
15 Certified Premium Grade AA, Wisconsin Grade A or Wisconsin State Brand and the cheese is
16 cut, packaged and labeled for retail distribution. No retail food establishment may grade label
17 retail packages of cheese without a permit from the department. Retail grade labeling shall
18 comply with this section. A dairy plant licensed under s. 97.20, Stats., may cut, wrap and grade
19 label cheese for retail distribution if the cheese is graded by a cheese grader licensed under
20 s. 97.175, Stats., and the retail packages are grade labeled as required under s. ATCP 81.22.

21 (3) RETAIL PACKAGE GRADE LABELING. The department shall issue a permit identification
22 number to each grade labeling permit holder under sub. (1). The identification number shall
23 consist of the letter prefix "P", followed by a three-digit identification number. When affixing a
24 grade label to retail packages of graded cheese under this section, the permit holder shall print

the specified grade and the permit holder's identification number within a miniature outline map of the boundaries of the state of Wisconsin. The type shall be designed and spaced so as to be legible and present a symmetrical appearance. ~~Cheese manufactured in a state other than Wisconsin or in a foreign country, and grade labeled under sub. (1) shall identify the state or country of origin on the retail package label in a type size not smaller than the type size required for the net weight statement.~~

SECTION 8. ATCP 81.25(1)(e) is created to read:

ATCP 81.25(1)(e) The information required under ATCP 81.20(1) to (5).

SECTION 9. ATCP 81.30(2)(chart) is amended to read:

ATCP 81.30(2)(chart)

Style	Weight in Pounds	Diameter in Inches	Height in Inches	Length in Inches	Width in Inches
(1) Cheddar	70 to 78	14½	12 to 12¼		
(2) Flat	32 to 37	14½	6⅞ to 6¾		
(3) Daisy	21 to 24	14	4 to 4¼		
(4) Longhorn	12½ to 13¾	6	12 to 12½		
(5) Midget	11 to 12½	9¼	4¼ to 4⅝		
(6) 20-lb. Block	20¼ to 22		3⅝ to 3¾	14 to 14¼	11 to 11¼
(7) 40-lb. Block	41 to 44		6⅞ to 7¼	14 to 14¼	11 to 11¼
(8) 60-lb. Block	61 to 65		10⅞ to 10¾	14 to 14¼	11 to 11¼
(9) 640-lb. Block	640 (min.)				
(10) Barrel; 55 gal.					
(a) Metal	480 (min.)	22½	33½		
(b) Fiber	480 (min.)	23½	33 to 34		
(11) Swiss Cheese					
Rindless Blocks					
(a) Single	95 to 98		7 to 8¼	25 to 26¼	15 to 15¾
(b) Double	190 to 196		7 to 8¼	25 to 26¼	30 to 31¼

1 **SECTION 10.** ATCP 81.70(4)(b) is amended to read:

2 ATCP 81.70(4)(b) *Rindless Swiss cheese*. A rindless block of grade A Swiss cheese shall
3 ~~be not less than 6 ½ inches nor more than 8 ½ inches in height. The cheese block shall be~~
4 reasonably uniform in size and well shaped. The wrapper or covering shall adequately and
5 securely envelop the cheese. The wrapper or covering may be slightly wrinkled, but shall be
6 neat, unbroken and fully protect the surface of the cheese. The surface of the cheese may contain
7 a very slight amount of mold, but no mold shall have penetrated the interior of the cheese. Finish
8 and appearance standards are shown in the grade A column of Table 16 under par. (a).

9 **SECTION 11.** ATCP 81.71(4)(b) is amended to read:

10 ATCP 81.71(4)(b) *Rindless Swiss cheese*. ~~A rindless block of Swiss cheese shall be not~~
11 ~~less than 6 ½ inches nor more than 8 ½ inches in height.~~ The wrapper or covering for a rindless
12 block of Swiss cheese shall adequately and securely envelop the cheese. The wrapper or
13 covering may be slightly wrinkled, but it shall be neat and unbroken and shall fully protect the
14 surface of the cheese. The surface of the cheese may contain a slight amount of mold but no
15 mold shall penetrate the interior of the cheese. The cheese may contain various undesirable
16 finish and appearance characteristics to a slight degree for the applicable trait. Finish and
17 appearance standards are shown in the grade B column of Table 16 under s. ATCP 81.70 (4) (a).

18 **SECTION 12. Effective date.** The rules contained in this order shall take effect on the
19 first day of the month following publication in the Wisconsin administrative register, as provided
20 under s. 227.22(2) (intro.), Stats.

Dated this 12 day of June, 2001.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By James E. Harsdorf
James E. Harsdorf
Secretary