

STATE OF WISCONSIN)
) ss.
DEPARTMENT OF AGRICULTURE,)
TRADE AND CONSUMER PROTECTION)

Clearinghouse Rule
No. ~~91-60~~ 93-104

CERTIFICATION

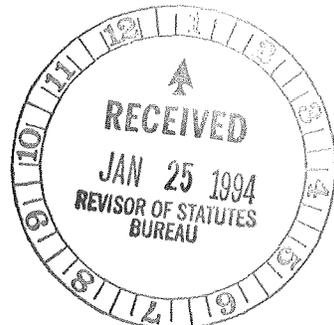
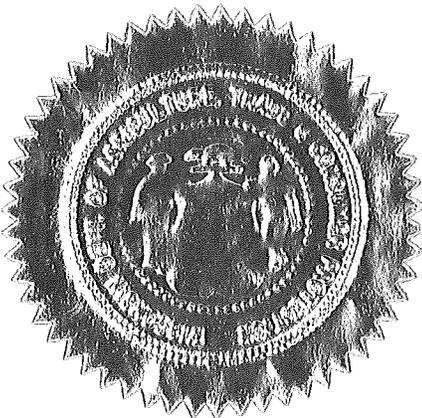
I, Alan T. Tracy, Secretary of the State of Wisconsin Department of Agriculture, Trade and Consumer Protection, and custodian of the department's official records, hereby certify that the attached rulemaking order which establishes fair packaging and labeling requirements for consumer commodities and adopts federal standards for nutritional labeling of food was signed and adopted by the Department on January 19, 1994.

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.

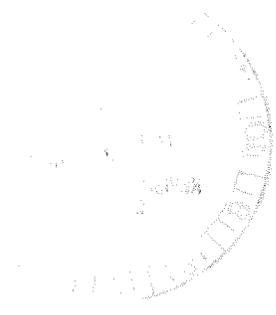
Signed and sealed this 19th day of January, 1994.

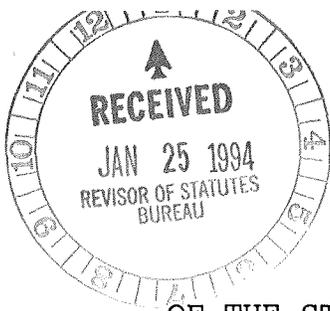
STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND
CONSUMER PROTECTION

By 
Alan T. Tracy, Secretary



4-1-94





01/19/94

ORDER
OF THE STATE OF WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION
ADOPTING RULES

1 The state of Wisconsin department of agriculture, trade and
2 consumer protection adopts the following order to repeal chs.
3 ATCP 58, 76, 77, 86 and 87 and to repeal and recreate ch. ATCP
4 90, relating to fair packaging and labeling of consumer
5 commodities, variations from net quantities declared on package
6 labels, and nutrition labeling of food.

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

Statutory authority: ss. 93.07(1), 97.09(1) and (4),
97.42(4)(j), 98.07(3) and (4), and
100.20(2), Stats.

Statutes interpreted: ss. 97.03(1), 97.09(1) and (4),
98.07 and 100.20, Stats.

I. Overview

This rule establishes standards for the fair packaging and labeling of consumer commodities, and for the nutritional labeling of food. The standards conform to federal standards adopted under the federal fair packaging and labeling act (FPLA) and the nutrition labeling and education act (NLEA).

This rule also prohibits short weights and measures. Under this rule, the net quantity of a commodity contained in a package may not be less than the net quantity declared on the package label, except for unavoidable variations that occur despite good packaging and distribution practices. The rule establishes standards of compliance, including standards for individual packages and inspection lots. The rule also establishes standards by which the department samples inspection lots to determine compliance with net quantity requirements.

Finally, this rule reorganizes current rules, and repeals several rules that are outdated or preempted by federal law.

II. Background; State and Federal Law

State Law

The department of agriculture, trade and consumer protection (DATCP) administers Wisconsin's weights and measures laws under ch. 98, Stats. DATCP administers these laws in cooperation with the national institute of standards and technology. Among other things, state weights and measures laws specify the required method of sale of commodities (by weight, measure or count), and prohibit sellers from giving buyers short weight or short measure. Under these laws, DATCP is authorized to prescribe fair packaging and labeling requirements, including net quantity labeling requirements.

DATCP also administers Wisconsin's food laws under ch. 97, Stats. Among other things, these laws prohibit misbranding of food, including misrepresentations related to food identity and quantity. DATCP may, by rule, adopt standards governing the packaging, labeling and sale of food.

Finally, under Wisconsin's "Little FTC Act," s. 100.20, Stats., DATCP may adopt rules prohibiting unfair business practices (including unfair labeling practices) and requiring fair practices.

Federal law

The federal fair packaging and labeling act (FPLA) establishes standards for the packaging and labeling of consumer commodities in interstate commerce. Among other things, the FPLA specifies net quantity labeling requirements for consumer commodities in package form. The FPLA is administered by the federal food and drug administration (FDA) as it applies to food, and by the federal trade commission (FTC) as it applies to other consumer commodities. The U.S. department of agriculture (USDA) administers similar requirements for meat and poultry.

The FDA also administers the federal food, drug and cosmetic act, which prohibits the sale of adulterated or misbranded food in interstate commerce. FDA adopts food standards of identity and food labeling requirements under the federal act. The USDA administers similar requirements for meat and poultry.

The nutrition labeling and education act of 1990 (NLEA) made major changes to federal food labeling requirements. Among other things, the NLEA created major new requirements related to nutrition labeling. The NLEA is administered by FDA as it applies to food, and USDA has adopted similar requirements for meat and poultry. FDA rules implementing NLEA requirements take effect on May 8, 1994. USDA rules implementing NLEA requirements take effect on July 6, 1994.

III. Consumer Commodities in Package Form; Labeling Requirements

General

This rule repeals and recreates DATCP's current rules related to fair packaging and labeling of consumer commodities. The rule establishes packaging and labeling requirements to help consumers determine the identity and quantity of package contents, and to make accurate value comparisons between competing products. The rule also makes a number of drafting and organizational changes designed to clarify the current rules.

The rule is based on federal requirements under the FPLA, and is designed to be consistent with federal requirements. The rule is also designed to be consistent with model state regulations developed by the national conference on weights and measures in cooperation with the national institute of standards and technology.

Under 1992 amendments to the FPLA, which take effect on February 14, 1994, the net contents of most consumer packages must be declared both in customary inch-pound units (inches, lbs., quarts, etc.) and in international metric units. This rule incorporates the new metric labeling requirements, together with other labeling changes contained in the FPLA amendments.

Rule Coverage

This rule establishes specific labeling requirements for "consumer commodities" including food, drugs, cosmetics, and other consumer items used for consumption, personal care or the performance of household tasks. The labeling requirements apply to "consumer commodities in package form" -- i.e., to consumer commodities that are enclosed in a package prior to retail sale. The labeling requirements do not apply to (a) bulk commodities that a consumer views and selects before the commodities are placed in a retail sale package, (b) unprocessed fruits or vegetables enclosed in transparent bags or containers, or (c) ready-to-eat restaurant foods or carryout foods.

Declaration of Product Identity

Under this rule, no person may sell or distribute a consumer commodity in package form unless each package clearly and conspicuously identifies the commodity contained in that package. The declaration of product identity must appear on the principal display panel of the package. The declaration must comply with minimum requirements related to content, size and location, so that the declaration is legible and informative to consumers. The rule prohibits deceptive declarations of product identity.

Declaration of Responsibility

Under this rule, no person may sell or distribute a consumer commodity in package form, at any place other than the place where the commodity was packaged, unless each package is clearly and conspicuously labeled with the name and business address of the manufacturer, packer or distributor who is responsible for introducing the consumer commodity into commerce in package form. The declaration of responsibility must comply with minimum requirements related to content, size and location, so that the declaration is legible and informative.

Declaration of Net Quantity; General

Under this rule, no person may sell or distribute a consumer commodity in package form unless each package bears a declaration of net quantity. The net quantity declaration must clearly disclose the net quantity of the consumer commodity contained in the package, exclusive of wrappers or other material packaged with the commodity. The declaration must appear on the principal display panel of the package. The declaration must comply with minimum requirements related to content, size and location, so that the declaration is legible and informative.

A net quantity declaration is not required for any of the following: (a) a commodity sold by count if the package contains only one unit of the commodity; (b) a commodity sold by count if the package contains 6 or fewer units and the number of units can be easily counted by consumers without opening the package; (c) a commodity sold at wholesale in random weight packages, for weighing and labeling at the point of retail sale, provided that the random packages are contained in a wholesale container that bears a net quantity declaration; or (d) a commodity that is exempt from quantity disclosure under ch. ATCP 91, Wis. Adm. Code (Methods of Sale of Commodities).

Net Quantity Declared by Weight, Measure or Count

In a declaration of net quantity, the net quantity must be expressed in terms of weight, measure or count, as provided under s. 98.06, Stats., and ch. ATCP 91, Wis. Adm. Code. With certain exceptions, commodities in liquid form must be sold by liquid measure, and commodities not in liquid form must be sold by weight. Certain commodities may also be sold by area or linear measure.

If the principal declaration of weight, measure or count is not fully informative, it must be combined with an additional declaration. For example, if a weight declaration is not fully informative, it must be combined with a declaration of measure or count. A declaration of count must also specify the size of the counted units unless the count declaration is fully informative.

Supplementary declarations, except those specifically required or authorized under the rule, may not appear on the principal display panel.

Net Quantity Declared in Metric and Non-Metric Units

Under this rule, if a declaration of net quantity is expressed in terms of weight or measure, the weight or measure must be expressed both in metric units and in customary inch-pound units (inches, pounds, quarts, etc.). This requirement is consistent with recent amendments to federal law. Exceptions are provided for some packages and commodities, consistent with federal law.

Consistent with federal law, this rule identifies the specific units and format which must be used to declare the weight or measure of a commodity in metric and non-metric units. The specific unit and format requirements ensure reasonable consistency of net quantity declarations, and facilitate value comparisons by consumers.

Consistent with recent amendments to federal law, this rule eliminates current requirements for non-metric "dual quantity" declarations. For example, the rule eliminates the current requirement that a net weight of one to 4 pounds be declared in ounces, followed by a parenthetical expression in pounds and ounces. Instead, the rule requires a single declaration in pounds, with any remainder expressed in ounces or fractions of pounds.

Special Packages and Commodities

Consistent with federal law, this rule establishes specific labeling requirements for certain types of packages and consumer commodities. These requirements apply in addition to, or in lieu of, the general labeling requirements specified for consumer commodities in package form. The rule establishes special requirements for multi-unit packages (containing 2 or more identical packages of the same commodity), combination packages (containing dissimilar commodities sold in the same package), variety packages (containing 2 or more units of reasonably similar commodities), random packages (e.g., non-uniform packages of cheese cut and wrapped by a retailer), and aerosol and pressurized packages.

This rule also establishes specific requirements or exemptions for certain commodities, including meat and poultry, tobacco products, pesticides, alcohol beverages, bags and container-type commodities, wearing apparel, textile products, threads and yarns, packaged seed, small food servings, milk and dairy products, juice and soft drinks, flour and eggs, cosmetics, film and recording media, paint and motor oil.

IV. SHORT WEIGHT OR MEASURE

General

This rule prohibits short weights and measures. Under this rule, the net quantity of a commodity contained in a package may not be less than the net quantity declared on the package label, except for unavoidable variations that occur despite good packaging and distribution practices.

This rule establishes standards of compliance and enforcement, including procedures by which the department samples inspection lots to determine compliance with net quantity requirements. These changes address issues presented in State v. Poly-America, Inc., 164 Wis. 2d 238 (Court of Appeals District III). These provisions apply to all commodities, including but not limited to consumer commodities.

Variation from Declared Net Quantity; Individual Package

Under this rule, the net quantity of a commodity contained in a package may not be less than the net quantity declared on the package label. There is an exemption for unavoidable variations that occur despite good packaging and distribution practices. However, a shortage in an individual package may not be unreasonable (i.e., it may not exceed the "maximum allowable variation" specified for that commodity by the national institute of standards and technology). Moreover, if the average net quantity per package in an "enforcement sample" collected according to this rule is less than the declared net quantity, there is a rebuttable presumption that the exemption does not apply to any package in that enforcement sample.

Enforcement Sample

Under this rule, a department or municipal inspector may test an "enforcement sample" of packages collected from an "inspection lot." An "enforcement sample" must include a specified minimum number of packages, based on the size of the "inspection lot" from which it is collected.

An "inspection lot" may consist of any group of identically labeled packages found at the same manufacturing, wholesale or retail premises. An "inspection lot" may include packages from different manufacturing or production lots, or from different wholesale shipments. An inspector must determine the scope of an "inspection lot" before collecting an "enforcement sample" from that lot.

Order Prohibiting Sale

Under this rule, if the average net quantity per package in any

"enforcement sample" is less than the declared net quantity, the inspector may issue an order prohibiting the sale of the entire "inspection lot" from which that "enforcement sample" is collected.

If, in any "enforcement sample," the number of packages containing an unreasonable shortage exceeds the number specified for a sample of that size under this rule, an inspector may issue an order prohibiting the sale of the entire "inspection lot" from which that "enforcement sample" is collected.

IV. NUTRITIONAL LABELING OF FOOD

General

The federal nutrition labeling and education act of 1990 (NLEA) made sweeping changes in food labeling requirements. The NLEA primarily applies to processed packaged food. Among other things, the NLEA establishes new requirements and limitations related to:

- Nutritional labeling (including fat content, etc.)
- Label format
- Serving size disclosures
- Nutrient lists
- Nutritional claims
- Labeling substitute foods (e.g. low fat or imitation foods)
- Health and dietary claims
- Ingredient labeling
- Food standards of identity
- Standard terminology

NLEA Rules Adopted by Reference

DATCP is responsible for administering NLEA at the state level, in cooperation with FDA and USDA. Food labeled in violation of NLEA requirements is also considered misbranded under s. 97.03, Stats. On January 6, 1993, FDA and USDA published final draft rules implementing NLEA requirements. The FDA rules take effect on May 8, 1994, and the USDA rules take effect on July 6, 1994.

Under s. 97.09(1), Stats., federal rules related to food definitions and standards of identity, quality and fill of container are automatically enforceable under state law. In order to facilitate enforcement of other NLEA labeling rules under state law, this rule incorporates FDA and USDA rules by reference under s. 97.09(4), Stats.

Under USDA rules, a meat or poultry product need not be labeled according to NLEA requirements if a plant produces less than 100,000 lbs. of that product annually and has fewer than 500 employees. As a result, most products produced at state licensed

meat establishments are exempt from NLEA labeling requirements.

Repeal of Preempted Rules or Outdated Rules

State labeling requirements that conflict with NLEA are preempted. This rule repeals the following DATCP rules that are now preempted by NLEA, or that are unnecessary or obsolete in light of current federal standards:

- ATCP 58 (Meat Products)
- ATCP 76 (Artificial Dairy Products)
- ATCP 77 (Reduced Fat Dairy Products; Product Description and Labeling)
- ATCP 86 (Definitions and Standards for Food)
- ATCP 87 (Dietary Food Labeling)

1 SECTION 1. Chapters ATCP 58, 76, 77, 86 and 87 are
2 repealed.

3 SECTION 2. Chapter ATCP 90 is repealed and recreated to
4 read:

5 **Chapter ATCP 90**

6 **FAIR PACKAGING AND LABELING**

- 7 ATCP 90.01 Definitions
8 ATCP 90.02 Declaration of Product Identity
9 ATCP 90.03 Declaration of Responsibility
10 ATCP 90.04 Declaration of Net Quantity
11 ATCP 90.05 Weight or Measure; How Expressed in Inch-Pound Units
12 ATCP 90.06 Weight or Measure; How Expressed in Metric Units
13 ATCP 90.07 Location and Prominence of Net Quantity Declaration
14 ATCP 90.08 Special Packages and Commodities; Labeling
15 Requirements
16 ATCP 90.09 Variations from Declared Net Quantity
17 ATCP 90.10 Nutritional Labeling of Food
18

19 NOTE: This chapter is adopted under authority of ss.
20 93.07(1), 97.09(1) and (4), 97.42(4)(j), 98.07(3)
21 and (4), and 100.20(2), Stats. Violations of this
22 chapter are subject to the penalties and remedies
23 provided under ss. 97.72, 97.73, 98.26, 100.20(5)
24 and (6), and 100.26(3) and (6), Stats.
25 Commodities sold or distributed in violation of
26 this chapter may be subject to holding orders or
27 rejection orders issued under s. 97.12(2),
28 97.42(9)(b) or 98.05(2), Stats.
29

1 **ATCP 90.01 DEFINITIONS.** As used in this chapter:

2 (1) "Alcohol beverage" has the meaning given under s.
3 125.02(1), Stats.

4 (2) "Bottled water" means all water packaged in bottles or
5 other containers and sold or distributed for drinking purposes.
6 "Bottled water" includes distilled water, artesian water, spring
7 water and mineral water, whether carbonated or uncarbonated.

8 (3) "Common fraction" means a numerical fraction,
9 consisting of a numerator and denominator, which is reduced to
10 its lowest terms and expressed in one of the following forms:

11 (a) In halves, quarters, eighths, sixteenths or thirty-
12 seconds.

13 (b) In thirds, if the fraction pertains to a linear measure
14 expressed in yards or feet.

15 (c) In another form, if that form is firmly established in
16 general consumer usage and trade custom.

17 (4) "Commodity" means any product or commodity that is
18 sold, offered for sale, or held or distributed for sale in this
19 state. "Commodity" includes, but is not limited to, a consumer
20 commodity.

21 (5) "Consumer commodity" means any of the following:

22 (a) Food as defined under s. 97.01(6), except alcohol
23 beverages.

24 (b) A drug as defined under 21 USC 321(g)(1), except
25 biological animal products, antibiotics, drugs dispensed by
26 prescription and drugs containing insulin.

1 (c) A device as defined under 21 USC 321(h).

2 (d) A cosmetic as defined under 21 USC 321(i).

3 (e) An article, product or commodity that is all of the
4 following:

5 1. Customarily produced and distributed for retail sale to
6 consumers.

7 2. Used by consumers for purposes of consumption, personal
8 care or the performance of household tasks.

9 3. In the process of use by consumers, is normally fully
10 consumed or expended.

11 NOTE: A illustrative list of commodities included or
12 excluded under par. (e) is available from the
13 department. The list is based on interpretations made
14 by the federal trade commission under 16 CFR 503.2 and
15 503.5 pursuant to the federal fair packaging and
16 labeling act, 15 USC 1451 to 1461.

17
18 (6) "Consumer commodity in package form" means a consumer
19 commodity that is enclosed in a package prior to retail sale.

20 "Consumer commodity in package form" does not include any of the
21 following:

22 (a) Bulk commodities that a consumer views and individually
23 selects before the commodities are placed in a retail sale
24 package.

25 (b) Unprocessed fruits or vegetables enclosed in
26 transparent wrappings or containers, so that the fruit or
27 vegetable contents are fully visible to the retail customer.

28 (c) Ready-to-eat restaurant foods or carryout foods served
29 from bulk containers by the retailer.

30 (7) "Declaration of net quantity" means the declaration

1 required to appear on the principal display panel of a package as
2 provided under s. ATCP 90.04(1).

3 (8) "Distribute" means to distribute for sale, whether at
4 wholesale or retail.

5 (9) "Enforcement sample" means a sample of packages
6 collected from an inspection lot according to s. ATCP
7 90.09(2)(a).

8 (10) "Good packaging and distribution practices" means
9 packaging and distribution practices that ensure, notwithstanding
10 imperfections in the manufacture or processing of a commodity,
11 that the actual net quantity of that commodity in a package will,
12 to a reasonable degree of scientific and statistical certainty,
13 conform to the declared net quantity at the point of retail sale.

14 (11) "Header label" or "header strip" means a label that is
15 attached across the top of a bag or other container that bears no
16 printed or graphic matter.

17 (12) "Inch-pound units" means the customary units of weight
18 or measure identified under s. ATCP 90.05.

19 (13) "Inspection lot" has the meaning given under s. ATCP
20 90.09(2)(b).

21 (14) "Metric units" means the international system of units
22 established in 1960 by the general conference on weights and
23 measures and interpreted or modified for the United States by the
24 United States secretary of commerce. "Metric units" includes the
25 units of weight or measure identified under s. ATCP 90.06.

26 (15) "Multi-unit package" means a package containing 2 or

1 more component packages of the same commodity, where each
2 component package contains the same quantity of the commodity.

3 NOTE: For example, a multi-unit package might contain 6
4 individually packaged and labeled bars of soap.

5
6 (16) "Package" means any container or wrapping in which a
7 consumer commodity is enclosed for purposes of retail sale.

8 "Package" does not include:

9 (a) An inner wrapping or container that is enclosed within
10 an outer package, unless the inner wrapping or container is
11 designed, labeled or used as a package for the retail sale of a
12 consumer commodity.

13 NOTE: For example, where a box (package) of chocolates
14 contains individually wrapped chocolate confections,
15 the inner wrappings do not constitute separate
16 "packages" for labeling purposes under this chapter.
17 However, individually packaged and labeled candy bars
18 do constitute separate "packages" even when sold in
19 multiples as part of a larger "multi-unit" package.

20
21 (b) A shipping container or wrapping used solely to
22 transport consumer commodities to a manufacturer, packer,
23 processor, wholesale distributor or retailer, provided that the
24 shipping container or wrapping is not designed or used for the
25 retail sale of any consumer commodity.

26 (c) A container used to display consumer commodities or
27 packages at retail, provided that the container is not sold at
28 retail with the consumer commodities or packages.

29 (d) A container or wrapping in which consumer commodities
30 or packages are placed after a retail customer has viewed and
31 individually selected those commodities or packages for purchase.

32 (e) An auxiliary container or wrapping enclosing one or

1 more packages, provided that the auxiliary container or wrapping
2 does not obscure any package disclosure required under this
3 chapter.

4 (f) A shipping container or outer wrapping used by a
5 retailer to ship or deliver a consumer commodity to a retail
6 customer, provided that the shipping container or outer wrapping
7 does not bear any printed matter related to any consumer
8 commodity.

9 (17) "Person" means an individual, corporation,
10 partnership, association, or other business organization or
11 entity.

12 (18) "Pesticide" has the meaning given under s. 94.67(25),
13 Stats.

14 (19) "Principal display panel" means that part of a package
15 which is most likely to be displayed to or examined by a consumer
16 under normal conditions of retail sale. If a package includes
17 more than one principal display panel, "principal display panel"
18 includes each of those panels. If a package is cylindrical in
19 shape, "principal display panel" means that 40% of the cylinder
20 circumference that is most likely to be displayed or presented to
21 a consumer under normal conditions of sale.

22 (20) "Random package" means either of the following:

23 (a) A package that is one of a lot, shipment or delivery of
24 packages of the same consumer commodity, where the packages have
25 no fixed pattern of weights.

26 (b) Retail packages of cheese which the retailer has cut,

1 weighed, packaged and labeled for sale at retail.

2 (21) "Retail sale" means the retail sale of a commodity.
3 "Retail sale" includes the retail display, offering or delivery
4 of a commodity for sale to consumers.

5 (22) "Sell" means to sell at wholesale or retail. "Sell"
6 includes holding for sale, displaying for sale, offering for sale
7 or selling.

8 (23) "Soft drink" means all beverages commonly known as
9 soft drinks or soda water, whether carbonated, uncarbonated,
10 sweetened or flavored.

11 (24) "Spot label" means a label, clearly defined by means
12 of a border, indentation or other demarcation, that covers only a
13 portion of a principal display panel that contains no other
14 printed or graphic matter of any kind.

15 (25) "Weight" means mass expressed in inch-pound units of
16 weight or metric units of mass or both, as provided in this
17 chapter.

18 (26) "Unreasonable shortage" means a shortage that exceeds
19 the maximum allowable variation specified for a commodity in the
20 national institute of standards and technology handbook 133,
21 "Checking the Net Contents of Packaged Goods."

22 NOTE: A copy of the national institute of standards and
23 technology handbook 133, "Checking the Net Contents of
24 Packaged Goods," is on file with the department, the
25 secretary of state and the revisor of statutes.
26

27 **ATCP 90.02 DECLARATION OF PRODUCT IDENTITY. (1)**

28 DECLARATION REQUIRED. No person may sell or distribute a
29 consumer commodity in package form unless each package clearly

1 and conspicuously identifies the commodity contained in that
2 package. The declaration shall identify the commodity by its
3 common or usual name, by its legally required name if any, or by
4 a generic name or other appropriate description that is readily
5 understood by consumers.

6 (2) LOCATION AND PROMINENCE. The declaration of identity
7 under sub. (1) shall appear on the principal display panel of
8 each package, and shall be a principal feature of that display
9 panel. The declaration shall be clearly printed in the English
10 language, in a conspicuous type size and style, and in a color
11 that contrasts to the color of the background. The declaration
12 shall be generally parallel to the base on which the package is
13 designed to rest when displayed, and shall be positioned so that
14 it can be readily seen and understood by consumers. Hand
15 lettered information, if any, shall be at least as conspicuous
16 and legible as printed information.

17 (3) DECEPTIVE DECLARATIONS PROHIBITED. The declaration of
18 identity under sub. (1) may not be false, deceptive or
19 misleading. Ingredients or components that are not present in
20 the commodity in substantial or significantly effective amounts
21 may not be featured in the declaration of identity.

22 **ATCP 90.03 DECLARATION OF RESPONSIBILITY.** (1) DECLARATION
23 REQUIRED. No person may sell a consumer commodity in package
24 form at any place other than the premises where the commodity was
25 packaged unless each package of the commodity is clearly and
26 conspicuously labeled with all of the following:

1 (a) Name of responsible person. The name of the
2 manufacturer, packer or distributor who is responsible for
3 introducing the consumer commodity into commerce in package form.
4 If the responsible person is a corporation, the label shall
5 specify the actual corporate name of that corporation. If the
6 responsible person is not a corporation, the label shall specify
7 the correct name under which that person does business.

8 (b) Business address. The business address of the
9 responsible person under par. (a). The business address shall
10 include street address, city, state and ZIP code, except that the
11 street address may be omitted if the address can be found under
12 the name of the responsible person in a current city directory or
13 telephone directory. If a person manufactures, packs or
14 distributes a consumer commodity at a place of business other
15 than the person's principal place of business, the label may
16 disclose the address of that principal place of business rather
17 than the actual place of manufacture, packing or distribution,
18 provided that the substitute disclosure is not deceptive or
19 misleading.

20 (c) Connection to commodity. If the responsible person
21 under par. (a) is not the person who manufactured or produced the
22 consumer commodity, the responsible person's name shall be
23 qualified by a phrase, such as "Manufactured for and packed by
24 _____" or "Distributed by _____,"
25 that indicates the responsible person's connection to the
26 consumer commodity.

1 (2) LOCATION AND PROMINENCE. The declaration of
2 responsibility under sub. (1) shall be clearly set forth on the
3 package label. The declaration shall be clearly printed in the
4 English language, in a conspicuous type size and style, and in a
5 color that contrasts to the color of the background. The
6 declaration shall be generally parallel to the base on which the
7 package is designed to rest when displayed, and shall be
8 positioned so that it can be readily seen and understood by
9 consumers. Hand lettered information, if any, shall be at least
10 as conspicuous and legible as printed information.

11 **ATCP 90.04 DECLARATION OF NET QUANTITY.** (1) DECLARATION
12 REQUIRED. (a) General. Except as provided under par. (b), no
13 person may sell or distribute any consumer commodity in package
14 form unless each package of that commodity bears a declaration of
15 net quantity. The declaration of net quantity shall clearly and
16 conspicuously disclose the net quantity of the consumer commodity
17 contained in that package, exclusive of wrappers and other
18 material packaged with the commodity. Except where different net
19 quantity declarations are provided for specific packages or
20 commodities under s. ATCP 90.08, the declaration of net quantity
21 shall comply with this section.

22 (b) Exemptions. Paragraph (a) does not apply to any of the
23 following:

24 1. A commodity sold by count if the package contains only
25 one unit of that commodity, or a small combination of items that
26 are customarily sold together as a single unit and understood by

1 consumers as constituting a single unit.

2 2. A commodity sold by count if the package contains 6 or
3 fewer units and the number of units can be easily counted by
4 consumers without opening the package.

5 3. Random packages of a commodity sold at wholesale, for
6 weighing and labeling at the point of retail sale, provided that
7 the random packages are contained in a wholesale container that
8 is labeled to show the combined net weight of the contents of
9 those random packages. This exemption does not apply to a random
10 package when sold at retail.

11 4. A commodity that is exempt from quantity disclosure,
12 pursuant to an exemption under ch. ATCP 91.

13 (2) LOCATION AND PROMINENCE. A declaration of net quantity
14 shall appear on the principal display panel of each package, and
15 shall comply with s. ATCP 90.07. The declaration shall be
16 separate from other information contained on the principal
17 display panel, and shall be printed in conspicuous, easily
18 legible and contrasting type.

19 (3) WEIGHT, MEASURE OR COUNT. In a declaration of net
20 quantity, the net quantity of a consumer commodity shall be
21 expressed in terms of weight, measure or count, as provided under
22 s. 98.06, Stats., and ch. ATCP 91.

23 NOTE: With certain exceptions, commodities in liquid form
24 must be sold by liquid measure, and commodities not in
25 liquid form must be sold by weight. Liquid commodities
26 may be sold by weight, and nonliquid commodities may be
27 sold by measure or count, if those forms of measurement
28 are in general use and provide an accurate statement of
29 quantity. Specific requirements and exceptions related
30 to method of sale may be found under s. 98.06, Stats.,

1 and ch. ATCP 91.

2
3 (4) WEIGHT OR MEASURE; HOW EXPRESSED. If a declaration of
4 net quantity is expressed in terms of weight or measure, the
5 weight or measure shall be expressed in appropriate inch-pound
6 units under s. ATCP 90.05 and in appropriate metric units under
7 s. ATCP 90.06.

8 (5) COMBINATION DECLARATIONS; REQUIRED. (a) Weight
9 declaration; combined with measure or count. If a declaration of
10 net quantity is expressed in terms of weight, the weight
11 declaration shall be combined with an appropriate declaration of
12 measure or count, unless the weight declaration alone is fully
13 informative.

14 (b) Declaration of measure; combined with weight or count.
15 If a declaration of net quantity is expressed in terms of
16 measure, the declaration of measure shall be combined with an
17 appropriate declaration of weight or count, unless the
18 declaration of measure alone is fully informative.

19 (c) Declaration of count; combined with weight or measure.
20 If a declaration of net quantity is expressed in terms of count,
21 the declaration of count shall be combined with an appropriate
22 declaration of weight or measure, unless the declaration of count
23 alone is fully informative.

24 (d) Declaration of count; size of counted units. If a
25 declaration of net quantity includes any declaration of count,
26 either as a primary or supplementary declaration, it shall also
27 specify the size of the individual counted units unless the

1 declaration of count is fully informative without a declaration
2 of unit size.

3 (e) Location on package. Combination declarations required
4 under this subsection shall be included as part of the principal
5 declaration of net quantity on the principal display panel of the
6 package.

7 (6) SUPPLEMENTARY DECLARATIONS; OPTIONAL. Net quantity
8 declarations required under this section may be supplemented by
9 other declarations of weight, measure or count, provided that the
10 supplementary declarations are not deceptive or misleading. A
11 supplementary declaration of net quantity may not appear on the
12 principal display panel of a package, or in conjunction with the
13 principal declaration of net quantity, unless the supplementary
14 declaration is required or specifically authorized under this
15 chapter to appear in conjunction with the principal declaration.

16 (7) ABBREVIATIONS. The following quantity abbreviations,
17 or other generally accepted abbreviations, may be used in a
18 declaration of net quantity:

- | | | |
|----|----------------------|-----------------|
| 19 | (a) Avoirdupois | avdp |
| 20 | (b) Centimeter | cm |
| 21 | (c) Count | ct |
| 22 | (d) Cubic | cu |
| 23 | (e) Cubic centimeter | cm ³ |
| 24 | (f) Cubic decimeter | dm ³ |
| 25 | (g) Cubic meter | m ³ |
| 26 | (h) Diameter | dia |

1	(i) Drained	dr
2	(j) Each	ea
3	(k) Foot or feet	ft
4	(l) Fluid	fl
5	(m) Gallon	gal
6	(n) Gram	g
7	(o) Inch	in
8	(p) Kilogram	kg
9	(q) Liquid	liq
10	(r) Liter	L or l
11	(s) Meter	m
12	(t) Micrometer	μm
13	(u) Milligram	mg
14	(v) Milliliter	mL or ml
15	(w) Millimeter	mm
16	(x) Ounce	oz
17	(y) Piece	pe
18	(z) Pint	pt
19	(aa) Pound	lb
20	(bb) Quart	qt
21	(cc) Square	sq
22	(dd) Square decimeter	dm^2
23	(ee) Square meter	m^2
24	(ff) Square centimeter	cm^2
25	(gg) Weight	wt
26	(hh) Yard	yd

1 NOTE: The above symbols need not be followed by periods or
2 expressed as plurals. For example, "oz" is the symbol
3 for both "ounce" and "ounces." Both upper and lower
4 case letters are acceptable.
5

6 **ATCP 90.05 WEIGHT OR MEASURE; HOW EXPRESSED IN INCH-POUND**

7 **UNITS.** A net quantity, when expressed in inch-pound units, shall
8 be expressed as follows:

9 (1) **WEIGHT; HOW EXPRESSED IN INCH-POUND UNITS.** If a net
10 quantity is declared in terms of weight, the weight shall be
11 expressed in pounds, with any remainder expressed in ounces or
12 common or decimal fractions of a pound. If the declared weight
13 is less than one pound, the declared weight shall be expressed in
14 ounces, with any remainder expressed as a common or decimal
15 fraction of an ounce.

16 NOTE: For example, a declared net weight may be expressed
17 in any of the following forms:
18

19 Net Wt 1 lb 8 oz
20 Net Wt 1.5 lb
21 Net Wt 1 1/2 lb
22 Net Wt 12 oz
23

24 The terms "pounds" and "ounces," as used in this
25 subsection, mean avoirdupois pounds and ounces.
26

27 (2) **LIQUID MEASURE; HOW EXPRESSED IN INCH-POUND UNITS.** (a)
28 **Units of liquid measure.** If a net quantity is declared in terms
29 of liquid measure, the liquid measure shall be expressed in the
30 largest whole units of liquid quarts, quarts and pints, or pints,
31 with any remainder expressed in fluid ounces or common or decimal
32 fractions of the pint or quart. If the declared measure is equal
33 to or greater than one United States gallon of 231 cubic inches,
34 the measure may be expressed in gallons, with any remainder

1 expressed in liquid quarts or in common or decimal fractions of a
2 gallon. If the declared measure is less than one pint, the
3 declared measure shall be expressed in fluid ounces, with any
4 remainder expressed as a common or decimal fraction of a fluid
5 ounce. The declared liquid measure shall be determined at the
6 temperature specified under par. (b).

7 NOTE: For example, a liquid measure may be expressed in any
8 of the following ways:
9

- 10 Net contents: 1 gal, 2 qt
- 11 Net contents: 1.5 gal
- 12 Net contents: 6 qt
- 13 Net contents: 1 qt, 1 pt
- 14 Net contents: 1.25 qt
- 15 Net contents: 1 pt, 8 oz
- 16 Net contents: 1 1/2 pt
- 17 Net contents: 1.5 pt
- 18 Net contents: 8 oz

19
20 (b) Temperature at which liquid measure is determined. A

21 declared liquid measure under par. (a) shall be determined at 68
22 degrees F., except that:

23 1. For petroleum products, the liquid measure shall be
24 determined at 60 degrees F.

25 2. For commodities normally sold and consumed while frozen,
26 the liquid measure shall be determined at the temperature of the
27 frozen commodity.

28 3. For commodities normally sold in a refrigerated state,
29 the liquid measure shall be determined at 40 degrees F.

30 (3) DRY MEASURE; HOW EXPRESSED IN INCH-POUND UNITS. If a
31 net quantity is declared in terms of dry measure, the dry measure
32 shall be expressed in terms of the United States bushel of
33 2,150.42 cubic inches, or in terms of the peck, dry quart or dry

1 pint subdivisions of the bushel. The declaration shall be
2 expressed in an appropriate fashion to avoid misunderstanding,
3 and to facilitate price comparisons by consumers. Whenever a
4 declaration of dry measure is expressed in terms of a dry pint or
5 dry quart, the term "dry" shall immediately precede the term
6 "pint" or "quart" unless the declaration also includes a
7 reference to bushels or pecks.

8 (4) CUBIC MEASURE; HOW EXPRESSED IN INCH-POUND UNITS. If a
9 net quantity is declared in terms of cubic measure, the cubic
10 measure shall be expressed in terms of the cubic yard, cubic foot
11 or cubic inch. The declaration shall be expressed in an
12 appropriate fashion to avoid misunderstanding, and to facilitate
13 price comparisons by consumers.

14 (5) LINEAR MEASURE; HOW EXPRESSED IN INCH-POUND UNITS. If
15 a net quantity is declared in terms of linear measure, the linear
16 measure shall be expressed in terms of the largest whole units of
17 yards, yards and feet, or feet, with any remainder expressed in
18 terms of inches or common or decimal fractions of the yard or
19 foot. If the declared measure is less than one foot, the
20 declared measure shall be expressed in inches, with any remainder
21 expressed as a common or decimal fraction of an inch.

22 NOTE: For example, a linear measure may be expressed in
23 inch-pound units in any of the following ways:

24
25 2 yd
26 1 yd, 1 ft
27 1 ft, 6 in
28 1 1/2 ft
29 1.5 ft
30 6 in
31

1 (6) AREA MEASURE; HOW EXPRESSED IN INCH-POUND UNITS. If a
2 net quantity is declared in terms of area measure, the area
3 measure shall be expressed in terms of the largest whole units of
4 square yards, square feet and square inches, with any remainder
5 expressed in square inches or common or decimal fractions of the
6 square yard or square foot. If the declared measure is less than
7 one square foot, the declared measure shall be expressed in
8 square inches, with any remainder expressed as a common or
9 decimal fraction of a square inch.

10 (7) SIZE OF BIDIMENSIONAL COMMODITIES; HOW EXPRESSED IN
11 INCH-POUND UNITS. For bidimensional commodities, including roll-
12 type commodities, that are customarily measured in terms of area
13 or in terms of length and width, the net quantity of the
14 commodity shall be expressed as follows:

15 (a) Less than one square foot. If the total area of a
16 bidimensional commodity is less than one square foot, the net
17 quantity shall be declared in terms of length and width. The
18 length and width shall be expressed in linear inches, with any
19 remainder expressed as a common or decimal fraction of a linear
20 inch.

21 (b) One to 4 square feet. Except as provided under par.
22 (d) or (e), if the total area of a bidimensional commodity is
23 less than 4 square feet but not less than one square foot, the
24 net quantity shall be declared in terms of square inches. The
25 square inch declaration shall be followed by a parenthetical
26 declaration of length and width.

1 (c) Four square feet or more. Except as provided under
2 par. (d) or (e), if the total area of a bidimensional commodity
3 is 4 square feet or more, the net quantity shall be declared in
4 terms of square feet, with any remainder expressed in square
5 inches or common or decimal fractions of a square foot. The
6 square foot declaration shall be followed by a parenthetical
7 declaration of length and width.

8 (d) Width less than 4 inches. If a bidimensional commodity
9 is less than 4 inches wide, the net quantity may be declared in
10 terms of length and width, without any declaration of area.

11 (e) Two or more individual units; number, size and ply
12 count. 1. If a package contains 2 or more separate units of a
13 bidimensional commodity, the net quantity of package contents
14 shall be declared in terms of the number of individual units in
15 the package, the number of plies per unit, and the area or
16 dimensions of each unit.

17 NOTE: For example, a package of facial tissues must
18 disclose the number of tissues contained in the
19 package, the number of plies per tissue and the size of
20 each tissue ("100 2-ply facial tissues, 8 1/2 inches by
21 10 inches"), but need not specify the combined area of
22 all the tissues contained in the package.
23

24 2. If a roll-type bidimensional commodity, made up of one
25 or more plies, is perforated to create individually usable units
26 that are connected to each other at the time of sale, the
27 declaration of net quantity shall include the total area or
28 dimensions of the roll, the number of individual units contained
29 on the roll, the number of plies per unit, and the area or
30 dimensions of each individual unit. A package containing a

1 perforated roll of bags shall be labeled in compliance with this
2 subdivision, but need not specify the total area or dimensions of
3 the roll.

4 NOTE: For example, a packaged roll of paper towels must
5 disclose the total area of the roll, the number of
6 individual paper towels contained on the roll, the
7 number of plies per towel, and the size of each towel.
8

9 **ATCP 90.06 WEIGHT OR MEASURE; HOW DECLARED IN METRIC UNITS.**

10 A net quantity, when expressed in metric units, shall be
11 expressed as follows:

12 (1) **WEIGHT; HOW EXPRESSED IN METRIC UNITS.** If a net
13 quantity is declared in terms of weight, the weight shall be
14 expressed in terms of kilograms, grams or milligrams, as follows:

15 (a) Less than one kilogram. If the declared weight is less
16 than one kilogram but not less than one gram, the declared weight
17 shall be expressed in grams, with any remainder expressed as a
18 decimal fraction of a gram. If the declared weight is less than
19 one gram, it shall be expressed in milligrams.

20 (b) One kilogram or more. If the declared weight is one
21 kilogram or more, the declared weight shall be expressed in
22 kilograms, with any remainder expressed as a decimal fraction of
23 a kilogram.

24 (2) **LIQUID MEASURE; HOW EXPRESSED IN METRIC UNITS.** (a)
25 General. If a net quantity is declared in terms of liquid
26 measure, the liquid measure shall be expressed in liters or
27 milliliters. If the declared measure is less than one liter, the
28 declared measure shall be expressed in milliliters. If the
29 declared measure is one liter or more, the declared measure shall

1 be expressed in liters, with any remainder expressed in
2 milliliters.

3 (b) Temperature at which liquid measure is determined. If
4 a net quantity is declared in terms of liquid measure, the
5 declared liquid measure shall be determined at 20 degrees C.,
6 except that:

7 1. For petroleum products, the liquid measure shall be
8 determined at 15 degrees C.

9 2. For commodities normally sold and consumed while frozen,
10 the liquid measure shall be determined at the temperature of the
11 frozen commodity.

12 3. For commodities normally sold in a refrigerated state,
13 the liquid measure shall be determined at 4 degrees C.

14 (3) VOLUME OTHER THAN LIQUID MEASURE; HOW EXPRESSED IN
15 METRIC UNITS. If net quantity is declared in terms of volume,
16 the volume shall be expressed in terms of the liter and
17 milliliter, except where use of the cubic meter and cubic
18 centimeter are specifically authorized or required by law.

19 (4) LINEAR MEASURE; HOW EXPRESSED. If net quantity is
20 declared in terms of linear measure, the linear measure shall be
21 expressed in terms of meters, centimeters or millimeters. If the
22 declared measure is less than one meter, it shall be expressed in
23 centimeters or millimeters. If the declared measure is one meter
24 or more, it shall be expressed in meters, with any remainder
25 expressed as a decimal fraction of a meter.

26 (5) AREA MEASURE; HOW EXPRESSED. If net quantity is

1 declared in terms of area measure, the declared measure shall be
2 expressed in terms of square meters, square decimeters or square
3 centimeters. If the declared measure is less than one square
4 meter, it shall be expressed in square decimeters and decimal
5 fractions of a square decimeter, or in square centimeters and
6 decimal fractions of a square centimeter. If the declared
7 measure is one square meter or more, it shall be expressed in
8 square meters and decimal fractions of a meter.

9 (6) SIZE OF BIDIMENSIONAL COMMODITIES; HOW EXPRESSED. For
10 bidimensional commodities, including roll-type commodities, that
11 are measured in terms of area or in terms of length and width,
12 the net quantity of the commodity shall be expressed as follows:

13 (a) Less than one square meter. If the total area of the
14 bidimensional commodity is less than one square meter, the net
15 quantity shall be declared in terms of length and width.

16 (b) One square meter or more. If the total area of the
17 bidimensional commodity is one square meter or more, the
18 declaration of net quantity shall specify the area and the linear
19 dimensions of the commodity. No declaration of area is required
20 if the width of the commodity is 100 millimeters or less, or if
21 the length and width of the commodity are critical for the end
22 use of the commodity.

23 (c) Two or more individual units; number, size and ply
24 count. 1. If a package contains 2 or more separate units of a
25 bidimensional commodity, the net quantity of package contents
26 shall be declared in terms of the number of individual units in

1 the package, the number of plies per unit, and the area or
2 dimensions of each unit.

3 NOTE: For example, a package of facial tissues must
4 disclose the number of tissues contained in the
5 package, the number of plies per tissue and the size of
6 each tissue, but need not specify the combined area of
7 all the tissues contained in the package.
8

9 2. If a roll-type bidimensional commodity, made up of one
10 or more plies, is perforated to create individually usable units
11 that are connected to each other at the time of sale, the
12 declaration of net quantity shall include the total area or
13 dimensions of the roll, the number of individual units contained
14 on the roll, the number of plies per unit, and the area or
15 dimensions of each individual unit. A package containing a
16 perforated roll of bags shall be labeled in compliance with this
17 subdivision, but need not specify the total area or dimensions of
18 the roll.

19 NOTE: For example, a packaged roll of paper towels must
20 disclose the total area of the roll, the number of
21 individual paper towels contained on the roll, the
22 number of plies per towel, and the size of each towel.
23

24 **ATCP 90.07 LOCATION AND PROMINENCE OF NET QUANTITY**

25 **DECLARATION.** (1) GENERAL. A declaration of net quantity under
26 s. ATCP 90.04 shall appear on the principal display panel, and
27 shall comply with this section.

28 (2) LOCATION AND POSITION. (a) General. A declaration of
29 net quantity shall appear in the bottom 30 percent of the
30 principal display panel, except that the declaration may appear
31 elsewhere on the principal display panel if the panel area is 32
32 cm² (5 in²) or less. The declaration of net quantity shall be

1 generally parallel to the base on which the package is designed
2 to rest when displayed.

3 (b) Spot label or header label. If all of the required
4 declarations under s. ATCP 90.02 to 90.04 are contained on a spot
5 label or header label, the declaration of net quantity may appear
6 on the lower 30 percent of the spot label or header label, rather
7 than on the lower 30 percent of the principal display panel.

8 (3) TYPE STYLE. A declaration of net quantity shall be
9 boldly and clearly printed in a conspicuous type size and style,
10 so that the declaration is conspicuous in relation to other
11 printed or graphic matter on the principal display panel. The
12 declaration may be blown, formed or molded onto a glass or
13 plastic surface if all other printed or graphic matter is
14 likewise blown, formed or molded onto that surface. Hand printed
15 information, if any, shall be at least as conspicuous and legible
16 as other printed information.

17 (4) COLOR CONTRAST. A declaration of net quantity shall be
18 printed in a color that contrasts conspicuously with its
19 background, except that a declaration blown, formed or molded
20 onto a glass or plastic surface need not be in a contrasting
21 color if all other printed or graphic matter is likewise blown,
22 formed or molded onto that surface.

23 (5) SEPARATED FROM OTHER INFORMATION. The area immediately
24 surrounding a declaration of net quantity shall be free of other
25 printed information. The free area shall extend above and below
26 the declaration by a distance equal to not less than the

1 lettering height required for the declaration under sub. (6).
 2 The free area shall extend to the left and right of the
 3 declaration by a distance equal to at least twice the width of
 4 the letter "N" of the style used in the declaration and the size
 5 required for the declaration under sub. (6).

6 (6) MINIMUM SIZE OF NUMBERS AND LETTERS. (a) Minimum
 7 height. In a declaration of net quantity, the height of each
 8 number and letter shall be not less than that shown in Table 1,
 9 based on the area of the principal display panel determined
 10 according to sub. (7). In a common fraction, the numerator and
 11 denominator shall each be at least one-half the height required
 12 for other numbers under Table 1.

13 (b) Minimum width. In a declaration of net quantity, no
 14 number or letter may be more than 3 times as high as it is wide.

15 **TABLE 1. Minimum height of numbers and letters**

16 17 18 19	Area of principal 20 display panel	Minimum height 21 (general)	Minimum height if blown, 22 formed or molded onto 23 package surface
24 25 26	32 cm ² (5 in ²) or less.....	1.6 mm (1/16 in)	3.2 mm (1/8 in)
27 28 29 30 31	Greater than 32 cm ² (5 in ²) but not greater than 161 cm ² (25 in ²)...	3.2 mm (1/8 in)	4.8 mm (3/16 in)
32 33 34 35 36 37	Greater than 161 cm ² (25 in ²) but not greater than 645 cm ² (100 in ²).....	4.8 mm (3/16 in)	6.4 mm (1/4 in)

1	Greater than		
2	645 cm ² (100 in ²)		
3	but not greater		
4	than 2581 cm ²		
5	(400 in ²).....	6.4 mm	7.9 mm
6		(1/4 in)	(5/16 in)
7			
8	Greater than		
9	2581 cm ² (400 in ²)	12.7 mm	14.3 mm
10		(1/2 in)	(9/16 in)
11			

(7) AREA OF PRINCIPAL DISPLAY PANEL. (a) General. For the purpose of determining required minimum type sizes under sub. (6), the square-inch area of the principal display panel shall be determined as follows:

1. For a rectangular package, the area is the height of the principal display panel multiplied by the width of the principal display panel. A rectangular bag is considered a rectangular container under this subdivision even if the bag is not rectangular when filled.

2. For a cylindrical package, the area is 40 percent of the package height multiplied by the package circumference.

3. If a package, other than a rectangular or cylindrical package, presents a surface constituting an obvious principal display panel, the area of the principal display panel is the area of that surface.

NOTE: For example, on a triangular package of cheese, the top surface of the package normally constitutes the principal display panel, and the area of that surface is used for the purpose of calculating minimum type sizes under sub. (6).

4. Except as provided under subdivisions 1 to 3, the area is 40 percent of the total area of the package surface, including

1 package tops and bottoms, flanges at the tops and bottoms of
2 cans, and the shoulders and necks of bottles or jars.

3 (b) Packages with 2 or more principal display panels. If a
4 package has 2 or more principal display panels, the square inch
5 area of the largest panel shall be used under sub. (6) to
6 determine the required minimum type size for declarations of net
7 quantity on all of the panels. The same type size shall be used
8 for declarations of net quantity on all of the panels.

9 (c) Spot labels and header labels. If a declaration of net
10 quantity appears on a spot label or header label under sub.

11 (2)(b), the required minimum type size under sub. (6) shall be
12 calculated under par. (a) based on the area of the principal
13 display panel, rather than on the area of the spot label or
14 header label.

15 **ATCP 90.08 SPECIAL PACKAGES AND COMMODITIES; LABELING**

16 **REQUIREMENTS.** (1) GENERAL. This section establishes specific
17 labeling requirements for certain packages and consumer
18 commodities. These requirements apply in addition to, or in lieu
19 of, other labeling requirements under this chapter. Packages and
20 commodities under this section shall comply with all applicable
21 labeling requirements under this chapter, unless this section
22 specifically exempts them from those requirements.

23 (2) MULTI-UNIT PACKAGES. No person may sell or distribute
24 a consumer commodity in package form in a multi-unit package
25 unless both of the following apply:

26 (a) Each of the component packages in the multi-unit

1 package is labeled in compliance with s. ATCP 90.02 to 90.04.

2 (b) The multi-unit package bears a declaration of net
3 quantity that includes all of the following:

4 1. The number of component packages contained in the multi-
5 unit package.

6 2. The net quantity of the consumer commodity contained in
7 each component package, declared in compliance with s. ATCP
8 90.04.

9 3. The total net contents of the multi-unit package. The
10 total net contents shall be declared in compliance with s. ATCP
11 90.04.

12 NOTE: A container or wrapping which encloses 2 or more
13 individual packages does not constitute a "package" or
14 "multi-unit package" if it qualifies under any of the
15 exemptions under s. ATCP 90.01(16)(a) to (f).
16

17 (3) COMBINATION PACKAGES. If dissimilar consumer
18 commodities are sold together in a single package, the package
19 shall bear a separate declaration of net quantity for each
20 different commodity, except that no declaration is required for
21 exempt commodities under s. ATCP 90.04(1)(b). The net quantity
22 declaration on a combination package need not comply with the
23 location requirement under s. ATCP 90.07(2), the free area
24 requirement under s. ATCP 90.07(5) or the minimum height
25 requirements under s. ATCP 90.07(6)(a).

26 NOTE: Sewing kits, upholstery kits and antiquing kits are
27 examples of combination packages under this subsection.
28 A container or wrapping does not constitute a "package"
29 or "combination package" if it qualifies under any of
30 the exemptions under s. ATCP 90.01(16)(a) to (f).
31

32 (4) VARIETY PACKAGES. If a package contains 2 or more

1 units of reasonably similar commodities, the package shall bear a
2 declaration of the combined net quantity of the commodities
3 contained in the package, except that no declaration is required
4 for exempt commodities under s. ATCP 90.04(1)(b). The net
5 quantity declaration on a variety package need not comply with
6 the location requirement under s. ATCP 90.07(2), the free area
7 requirement under s. ATCP 90.07(5) and the minimum height
8 requirements under s. ATCP 90.07(6)(a).

9 NOTE: Examples of variety packages under this subsection
10 include seasonal gift packages of cheese and variety
11 packages of cereal. A container or wrapping does not
12 constitute a "package" or "variety package" if it
13 qualifies under any of the exemptions under s. ATCP
14 90.01(16)(a) to (f).
15

16 (5) RANDOM PACKAGES. A random package need not comply with
17 s. ATCP 90.04(4), or with s. ATCP 90.07(2), (5) or (6), provided
18 that the random package complies with both of the following
19 requirements:

20 (a) The package bears a label which conspicuously declares
21 the net weight of the package contents, expressed in inch-pound
22 units under s. ATCP 90.05(1) or metric units under s. ATCP
23 90.06(1).

24 (b) When it is offered or exposed for sale at retail, the
25 package label conspicuously discloses the price per kilogram or
26 pound, and the total price of the package contents.

27 (6) AEROSOL AND SIMILAR PRESSURIZED PACKAGES. If a
28 consumer commodity is contained in an aerosol or similar
29 pressurized package, the net quantity of the consumer commodity
30 shall be declared in terms of weight. The declared net weight

1 shall include the net weight of any propellant that will be
2 expelled when the commodity is released according to instructions
3 shown on the package.

4 (7) COMMODITIES LABELED ACCORDING TO FEDERAL OR STATE LAW.

5 Packages of meat and meat products, poultry products, tobacco
6 products, pesticides, and alcohol beverages are exempt from the
7 location and minimum size requirements under s. ATCP 90.07(2) and
8 (6), provided that the packages are labeled in compliance with
9 federal labeling requirements applicable to those commodities.

10 (8) PACKAGES OF CONTAINER-TYPE COMMODITIES. (a) General.

11 If container-type consumer commodities such as bags, cups,
12 dishes, boxes or pans, are sold in package form, the declaration
13 of net quantity shall comply with this subsection.

14 (b) Bags. 1. If bag-type consumer commodities are sold in
15 package form, the net quantity of bags contained in each package
16 shall be declared in terms of count. The count declaration shall
17 be followed by a declaration showing the linear dimensions of the
18 individual bags, as provided under subd. 2. The linear
19 dimensions shall be expressed in metric units under subd. 3 and
20 in inch-pound units under subd. 4. If bags are sold by capacity,
21 the capacity of the bags shall be declared according to par. (f).

22 2. If the bags in a package are gusseted, the declaration
23 of bag dimensions under subd. 1 shall include the length, width
24 and depth of the individual bags. If the bags are not gusseted,
25 the declaration shall include the length and width of the
26 individual bags.

1 3. When bag dimensions are expressed in metric units, the
2 dimensions shall be expressed in millimeters except that a
3 dimension of one meter or more shall be expressed in meters with
4 any remainder expressed as a decimal fraction of a meter.

5 4. When bag dimensions are expressed in inch-pound units,
6 the dimensions shall be expressed in inches except that any
7 dimension of more than 2 feet shall be expressed in feet with any
8 remainder expressed in inches or as a common or decimal fraction
9 of a foot.

10 NOTE: See also ss. ATCP 90.05(7)(e) and 90.06(6)(c).

11 (c) Angular or oblong containers. For square, rectangular,
12 oblong or similar containers, the net quantity shall be declared
13 in terms of count, followed by the length, width and depth of the
14 individual containers, except that depth need not be included if
15 less than 50 millimeters or 2 inches.

16 (d) Circular containers. For circular or other generally
17 round-shaped containers, except cups, the net quantity shall be
18 declared in terms of count, followed by diameter and depth,
19 except that depth need not be included if less than 50
20 millimeters or 2 inches.

21 (e) Cups. The net quantity of cups or cup-like containers
22 shall be declared in terms of count and liquid capacity per cup.

23 (f) Capacity. If a package of container-type consumer
24 products includes any reference to the capacity of those
25 containers, the capacity of the containers shall be included in
26 the declaration of net quantity. The capacity shall be expressed

1 in metric units of volume. The capacity shall also be expressed
2 in inch-pound units as follows:

3 1. In inch-pound units of liquid measure if the containers
4 are designed to contain liquids, semisolids, viscous materials,
5 or mixtures of solids and liquids.

6 2. In inch-pound units of dry measure if the containers are
7 designed to contain solids.

8 3. If the containers are used as liners for other more
9 permanent containers, in the same inch-pound units normally used
10 to express the capacity of the more permanent containers.

11 (9) WEARING APPAREL. Packaged wearing apparel, including
12 non-textile apparel and accessories such as leather goods and
13 footwear, need not be labeled with a net quantity declaration
14 under s. ATCP 90.04 if the package contains only one item of
15 apparel, or if the package contains a single pair of items, such
16 as gloves or shoes, that are normally sold in pairs.

17 (10) TEXTILES AND RELATED PRODUCTS. A declaration of
18 quantity for the following textile products need not comply with
19 ss. ATCP 90.04(4), 90.05(7) or 90.06(6), provided that the
20 declaration of quantity complies with the following requirements:

21 (a) Bedsheets and mattress covers. The declaration of
22 quantity for rectangular bedsheets or mattress covers shall
23 include all of the following:

24 1. The length and width, in centimeters or inches, of the
25 mattress for which the item is designed. In the case of a flat
26 bedsheet, this declaration shall be followed by a parenthetical

1 declaration, in centimeters or inches, of the length and width of
2 the finished sheet.

3 2. The size category of the mattress for which the item is
4 designed, if the mattress falls into the "twin," "double,"
5 "queen," "king" or "California king" size category.

6 (b) Pillowcases. The declaration of quantity for
7 rectangular pillowcases shall include all of the following:

8 1. The length and width, in centimeters or inches, of the
9 pillow for which the pillowcase is designed. This shall be
10 followed by a parenthetical declaration, in centimeters or
11 inches, of the length and width of the finished pillowcase.

12 2. The size category of the pillow for which the pillowcase
13 is designed, if the pillow falls into a standard size category
14 such as "youth," "standard" or "queen."

15 (c) Blankets and related items. The declaration of
16 quantity for rectangular blankets, comforters, quilts,
17 bedspreads, mattress pads, afghans, throws and related items
18 shall include both of the following:

19 1. The length and width of the finished item, in
20 centimeters or inches.

21 2. The size category of the mattress for which the item is
22 designed, if the item is designed for a mattress that falls into
23 the "twin," "double," "queen," "king" or "California king" size
24 category.

25 (d) Tablecloths and napkins. The declaration of quantity
26 for rectangular tablecloths, napkins and related items shall

1 state, in centimeters or inches, the length and width of each
2 finished item. The declaration may also include a parenthetical
3 statement, in centimeters or inches, of the item's length and
4 width before hemming.

5 (e) Draperies and related items. The declaration of
6 quantity for rectangular curtains, drapes, flags, furniture
7 scarfs and related items shall state, in centimeters or inches,
8 the length and width of each finished item. The quantity
9 statement may also state parenthetically, in centimeters or
10 inches, the length of any ornamentation.

11 (f) Carpets and rugs. The declaration of quantity for
12 rectangular carpets and rugs shall state the length and width of
13 the item in meters or feet. If the declaration is stated in
14 meters, any remainder shall be expressed in decimal fractions of
15 the meter. If the declaration is stated in feet, any remainder
16 shall be expressed in common or decimal fractions of the foot or
17 in inches. The declaration of quantity may also state
18 parenthetically, in centimeters or inches, the length of any
19 ornamentation.

20 (g) Towels and related items. The declaration of quantity
21 for rectangular dish towels, dish cloths, bath towels, face
22 cloths, utility cloths, bath mats and related items shall state,
23 in centimeters or inches, the length and width of the item if the
24 item is woven. If the item is knitted, its dimensions need not
25 be stated.

26 (h) Nonrectangular and irregular items. 1. The

1 declaration of quantity for textile products such as potholders,
2 fixture and appliance covers, slip covers and nonrectangular
3 diapers shall be stated in terms of count and may include size
4 designations and dimensions.

5 2. The declaration of quantity for nonrectangular textile
6 products of the types identified under pars. (a) to (g) shall
7 state the geometric shape of the product and the dimensions that
8 are customarily used in describing that geometric shape.
9 Dimensions may be stated in metric or inch-pound units
10 corresponding to those specified under pars. (a) to (g).

11 3. If textile product remnants of assorted sizes are sold
12 by count, the declaration of quantity shall include the term
13 "irregular dimensions" and shall specify the minimum size of the
14 remnants.

15 (11) THREADS AND YARNS. Notwithstanding ss. ATCP 90.04(4),
16 90.05(7) and 90.06(6), the declaration of net quantity for sewing
17 thread, handicraft thread and yarn shall comply with the
18 following requirements:

19 (a) The net quantity of nonindustrial sewing or handicraft
20 thread shall be expressed in terms of yards.

21 (b) The net quantity of yarn shall be expressed in terms of
22 inch-pound units of weight.

23 (12) PACKAGED SEED. (a) Declaration of quantity; location
24 on small packages. Notwithstanding s. ATCP 90.07(2), the
25 declaration of net quantity on a package of seed intended for
26 planting shall appear in the upper 30 percent of the principal

1 display panel if the net weight of package contents is 7 grams
2 (1/4 ounce) or less.

3 (b) Net quantity; how declared. The declaration of net
4 quantity on a package of seed intended for planting shall comply
5 with the following requirements:

6 1. The net quantity of seed shall be expressed in terms of
7 weight, except that the net quantity of coated seed, encapsulated
8 seed, pelletized seed, and seeds contained in preplanters and
9 seed tapes shall be declared in terms of count.

10 2. Notwithstanding s. ATCP 90.04(4), if the net weight of
11 the package contents is 7 grams or less, the net weight shall be
12 expressed in metric units according to s. ATCP 90.06(1), but need
13 not be expressed in inch-pound units.

14 3. Notwithstanding s. ATCP 90.04(4), if the net weight of
15 package contents is more than 7 grams, but not more than 225
16 grams (8 oz.), the net weight may be expressed either in metric
17 units under s. ATCP 90.06(1) or inch-pound units under s. ATCP
18 90.05(1), or both.

19 (13) FOOD AND TOBACCO PRODUCTS; SMALL ITEMS. (a) Small
20 confections. Individually wrapped candies or confectionery items
21 having a net weight of less than 15 grams (1/2 oz.) per item are
22 exempt from the package labeling requirements under this chapter,
23 provided that the secondary package or container in which the
24 individual wrapped items are sold or shipped complies with this
25 chapter.

26 (b) Small packages of meat or meat products. Individually

1 wrapped and labeled packages of meat or meat products which have
2 a net weight of less than 15 grams (1/2 oz.), and which are
3 contained in a shipping container, need not bear a declaration of
4 net quantity if the shipping container bears a declaration of net
5 quantity that complies with s. ATCP 90.04.

6 (c) Small individual food servings. Individual serving
7 size packages of food which contain less than 15 grams (1/2 oz.)
8 net weight or less than 15 ml. (1/2 fl. oz.) net liquid measure
9 of food for use in restaurants, institutions or passenger
10 carriers, and which are not intended for sale at retail, need not
11 comply with s. ATCP 90.04.

12 (d) Tobacco products. 1. Individually wrapped cigars, and
13 individually wrapped cuts, plugs or twists of tobacco, are exempt
14 from the package labeling requirements under this chapter,
15 provided that the secondary package or container in which the
16 individual wrapped items are sold or shipped complies with this
17 chapter.

18 2. A carton of cigarettes or small cigars, containing ten
19 individual packages of twenty cigarettes or small cigars, is
20 exempt from the multi-unit package requirements under sub. (2),
21 and from the location and minimum size requirements under s. ATCP
22 90.07(2) and (6), provided that the individual component packages
23 are labeled in compliance with this chapter and the carton bears
24 a declaration under s. ATCP 90.04 stating the net contents of the
25 carton.

26 (14) MILK, DAIRY PRODUCTS, BUTTER AND MARGARINE. (a) Milk,

1 fluid milk products, ice cream and frozen desserts. 1.

2 Notwithstanding s. ATCP 90.05(2)(a), if fluid milk, fluid milk
3 products, ice cream or frozen desserts are measured by and
4 packaged in 1/2 pint or 1/2 gallon containers, the net contents
5 may be stated as 1/2 pint or 1/2 gallon, respectively.

6 2. If fluid milk, fluid milk products, ice cream or frozen
7 desserts are measured by and packaged in measure containers as
8 defined in the "Measure Container Code" of the national institute
9 of standards and technology handbook 44, the net quantity
10 declaration need not comply with the location requirement under
11 s. ATCP 90.07(2).

12 NOTE: The "Measure Container Code" of the national
13 institute of standards and technology handbook 44 is on
14 file with the department, the secretary of state and
15 the revisor of statutes.
16

17 3. If milk or fluid milk products are measured by and
18 packaged in glass or plastic containers of 1/2 pint, one pint,
19 one quart, 1/2 gallon or one gallon capacities, the net quantity
20 declaration need not comply with the location requirement under
21 s. ATCP 90.07(2), provided that other required label information
22 is conspicuously displayed on the cap or outside closure and the
23 net quantity declaration is conspicuously blown, formed or molded
24 into or permanently applied to that part of the glass or plastic
25 container that is at or above the shoulder of the container.

26 (b) Butter. Notwithstanding ss. ATCP 90.02(2) and
27 90.07(2), if butter is packaged in 4-ounce, 8-ounce or one-pound
28 packages with continuous label copy wrapping, the declaration of
29 identity and the net quantity declaration need not be parallel to

1 the base of the package. If butter is packaged in 8-ounce or
2 one-pound packages, the declaration of quantity need not comply
3 with the location requirements under s. ATCP 90.07(2).

4 (c) Margarine and butter substitutes. If margarine or
5 butter substitutes are packaged in a one-pound rectangular
6 packages, the net quantity declaration need not comply with the
7 location requirements under s. ATCP 90.07(2). This exemption
8 does not apply to whipped or soft products, or to packages
9 containing more than 4 sticks of margarine or butter substitute.

10 (15) FRUIT JUICE, BOTTLED WATER AND SOFT DRINKS. (a) Net
11 quantity; how expressed. Notwithstanding s. ATCP 90.05(2)(a), if
12 fruit juice, imitation fruit juice, bottled water or a soft drink
13 is packaged in a 1/2 pint or 1/2 gallon quantity, the net
14 contents may be stated as 1/2 pint or 1/2 gallon, respectively.

15 (b) Net quantity declaration; location. If fruit juice,
16 imitation fruit juice, bottled water or a soft drink is packaged
17 in glass or plastic containers in quantities of 1/2 pint, one
18 pint, one quart, 1/2 gallon or one gallon, the net quantity
19 declaration need not comply with the location requirement under
20 s. ATCP 90.07(2), provided that other required label information
21 is conspicuously displayed on the cap or outside closure and the
22 net quantity declaration is conspicuously blown, formed, molded
23 into the container, or permanently applied to the container, at
24 or above the shoulder of the container.

25 (b) Declaration of product identity; soft drinks and
26 bottled water. On a bottle of soft drink or bottled water, the

1 declaration of product identity need not comply with the location
2 requirement under s. ATCP 90.02(2), provided that the declaration
3 appears on the bottle closure.

4 (c) Multi-unit packages of soft drink or bottled water.

5 Multi-unit packages of soft drink or bottled water need not bear
6 a declaration of product identity under s. ATCP 90.02 or a
7 declaration of responsibility under s. ATCP 90.03, provided that
8 the individual soft drink containers in the multi-unit package
9 comply with ss. ATCP 90.02 and 90.03.

10 (16) FLOUR AND EGGS. (a) Wheat flour. If wheat flour is
11 packaged in units of 2, 5, 10, 25, 50 or 100 pounds, the net
12 quantity declaration need not comply with the location
13 requirement under s. ATCP 90.07(2).

14 (b) Corn flour and corn meal. If corn flour or corn meal
15 is packaged in units of 5, 10, 25, 50 or 100 pounds, the net
16 quantity declaration need not comply with the location
17 requirement under s. ATCP 90.07(2).

18 (c) Eggs. The net quantity declaration on a carton of 12
19 eggs need not comply with the location requirement under s. ATCP
20 90.07(2). If an egg carton is designed so that the retail
21 purchaser can divide the carton in half, each half is exempt from
22 the labeling requirements under this chapter, provided that the
23 whole carton complies with this chapter.

24 (17) COSMETICS IN DECORATIVE CONTAINERS. If cosmetics are
25 packaged in "boudoir-type" containers, including decorative
26 containers of the "cartridge," "pillbox," "compact," or "pencil"

1 variety, or containers with a capacity of 7 grams (1/4 oz.) or
2 less, labeling required under this chapter to appear on the
3 principal display panel may appear on a tear-away tag or tape
4 affixed to the container.

5 (18) FILM AND RECORDING MEDIA. The net quantity
6 declaration on packages of film, recording tape or other image
7 and audio media packaged and labeled for retail sale need not be
8 expressed according to s. ATCP 90.05 or 90.06, provided that the
9 net quantity declaration complies with the following applicable
10 requirements:

11 (a) Unexposed or unrecorded media. 1. For unexposed still
12 film, still tape or other still image media, the net quantity
13 shall be expressed in terms of the guaranteed number of available
14 still image exposures included in the package. The net quantity
15 declaration may also state the length and width measurements of
16 the individual exposures, expressed in millimeters or inches.

17 2. For unexposed bulk or movie film, the net quantity shall
18 be expressed in terms of the guaranteed length of film, in meters
19 or feet, that is available for exposure.

20 3. For unexposed electronic recording media, the net
21 quantity shall be expressed in terms of the guaranteed length of
22 available recording time. The net quantity declaration shall
23 disclose, in connection with the available recording time, the
24 applicable recording speeds, playing speeds and machine settings
25 as necessary. The declaration may also state the linear measure
26 of the recording medium.

1 (b) Exposed, recorded or processed media. 1. For exposed
2 or processed still image media, the net quantity shall be
3 expressed in terms of the number of still images included in the
4 package. The net quantity declaration may also state the length
5 and width measurements of the individual exposures, expressed in
6 millimeters or inches.

7 2. For exposed or processed film or recording media, other
8 than still image media, the net quantity shall be expressed in
9 terms of the entertainment time included in the package.

10 Entertainment time means the time beginning with the first frame
11 of sound or picture, whichever comes first after any countdown
12 sequence, and ending with the last frame of credits, the last
13 frame of the phrase "the end," or the end of sound, whichever
14 occurs last.

15 (19) TINT-BASED PAINT. The net quantity declaration on
16 containers of tint base paint shall specify the net quantity
17 prior to the addition of colorant at retail, except that a
18 declared net quantity of one quart or one gallon may include
19 colorant selected by the purchaser and added at retail if all of
20 the following conditions are met:

21 (a) The system employed by the responsible manufacturer,
22 packer or distributor ensures that the retail purchaser always
23 obtains a quart or a gallon after colorant is added.

24 (b) The net quantity declaration on the principal display
25 panel includes a statement indicating that the tint base paint is
26 not to be sold without the addition of colorant.

1 (c) The container label states, in fluid ounces, the net
2 quantity of tint base paint included in the container prior to
3 the addition of colorant at retail.

4 (20) MOTOR OIL IN CANS. If motor oil is packaged in cans,
5 the Society of Automotive Engineers (SAE) viscosity number need
6 not appear on the principal display panel, provided that all of
7 the following conditions are met:

8 (a) The principal display panel appears on the body of the
9 motor oil can.

10 (b) The SAE viscosity number appears on the can lid and is
11 expressed in letters and numerals in type size of at least 6 mm
12 or 1/4 inch.

13 **ATCP 90.09 VARIATIONS FROM DECLARED NET QUANTITY. (1)**

14 **INDIVIDUAL PACKAGE.** (a) Except as provided under par. (b), no
15 person may sell any commodity in a package containing a net
16 quantity of that commodity which is less than the net quantity
17 declared on the package label.

18 (b) A shortage in an individual package does not violate
19 par. (a) if both of the following apply:

20 1. The shortage is a result of unavoidable variations in
21 quantity that occur despite good packaging and distribution
22 practices.

23 2. The shortage is not an unreasonable shortage.

24 (c) If a shortage is found in a package that is part of an
25 enforcement sample that violates sub. (3)(a), it is rebuttably
26 presumed that the shortage in that individual package does not

1 qualify for exemption under par. (b).

2 (d) A seller who violates par. (a) is subject to
3 enforcement action under s. 98.26(1)(c), Stats.

4 (2) ENFORCEMENT SAMPLE. (a) The department or a municipal
5 sealer may test an enforcement sample collected from any
6 inspection lot under par. (b). An enforcement sample shall
7 consist of at least the minimum number of packages specified in
8 table 2, based on the size of the inspection lot.

9 (b) An inspection lot may consist of any group of
10 identically labeled packages found at the same manufacturing,
11 wholesale or retail premises. An inspection lot may include
12 packages from different manufacturing or production lots, and
13 from different wholesale shipments or deliveries. The department
14 or a municipal sealer shall determine the scope of an inspection
15 lot before collecting an enforcement sample from that inspection
16 lot under par. (a).

17 (c) For purposes of par. (b), packages are identically
18 labeled if they are of the same size and if they bear the same
19 declaration of product identity under s. ATCP 90.02, the same
20 declaration of responsibility under s. ATCP 90.03, and the same
21 declaration of net quantity under s. ATCP 90.04, regardless of
22 any other differences in label content or format.
23

TABLE 2: Enforcement Samples

Number of packages in inspection lot	Number of packages in enforcement sample	Unreasonable Shortages*
30 or less	All	0
31 to 800	30	1
801 to 2,000	50	2
2,001 to 5,000	80	3
5,001 to 15,000	125	5
15,001 or more	200	7

* See sub. (4) (a).

(3) ENFORCEMENT SAMPLE TESTS SHORT; ORDER PROHIBITING SALE OF INSPECTION LOT. (a) In any enforcement sample under sub. (2)(a), the average net quantity per package may not be less than the net quantity declared on the package label.

(b) If an enforcement sample violates par. (a), the department or a municipal sealer may issue an order prohibiting the sale of the entire inspection lot from which that enforcement sample was collected.

(4) UNREASONABLE SHORTAGES; ORDER PROHIBITING SALE. (a) If, in any enforcement sample under sub. (2)(a), the number of unreasonable shortages in individual packages exceeds the number specified in table 2 for an enforcement sample of that size, the department or a municipal sealer may issue an order prohibiting the sale of the entire inspection lot from which that enforcement sample is collected.

1 (b) The department or a municipal sealer may prohibit the
2 sale of any individual package having an unreasonable shortage,
3 regardless of whether that package is part of an enforcement
4 sample under sub. (2)(a).

5 **ATCP 90.10 NUTRITIONAL LABELING OF FOOD.** (1) Except for
6 meat and poultry products under sub. (2), food sold or
7 distributed for sale in this state shall be labeled in compliance
8 with applicable rules adopted by the United States food and drug
9 administration under 21 CFR 101, 102, 104, 105 and 130.

10 (2) Meat and poultry products sold or distributed for sale
11 in this state shall be labeled in compliance with applicable
12 rules adopted by the United States department of agriculture
13 under 9 CFR 317.300 to 317.400, 320.1, 381.175, and 381.400 to
14 381.500.

15 NOTE: This section is adopted under s. 97.09(4), Stats.
16 See also s. 97.09(1), Stats., related to food
17 definitions and standards of identity,
18 composition, quality and fill of container.
19

20 **SECTION 3. EFFECTIVE DATES; INITIAL APPLICABILITY.** (1)
21 Except as provided under sub. (2), the rules contained in this
22 order take effect on the first day of the month following
23 publication in the Wisconsin administrative register, as provided
24 under s. 227.22(2)(intro.), Stats.

25 (2) Section 90.10 takes effect on the first day of the
26 month following publication, or on the effective date of the
27 federal rule incorporated by reference, whichever occurs later.
28

1 (3) The rules contained in this order apply to commodities
2 packaged after the effective date of the rules.

3
4 Dated this 24th day of January, 1994.

6 STATE OF WISCONSIN
7 DEPARTMENT OF AGRICULTURE,
8 TRADE AND CONSUMER PROTECTION

9
10 By *Alan T. Tracy*
11 Alan T. Tracy, Secretary
12

