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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Ronald Sklansky**  
*Clearinghouse Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

### CLEARINGHOUSE RULE 09-037

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]**

#### 2. Form, Style and Placement in Administrative Code

a. The agency should include a note following s. ATCP 91.01 (4) that describes the procedure for obtaining a copy of the NIST standards. [See s. 2.09, Manual.]

b. In s. ATCP 91.03, the agency may wish to list the affected commodities in alphabetical order for ease of finding, as the sequence is now based on the NIST Handbook order of items.

#### 5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In the rule preface, a period should be inserted at the end of the second paragraph and, on page 4, at the end of the phrase “Railroad car tare weights.”

b. The rule is not clear as to how it will apply in areas where there is an applicable statute. The placement of a note following select sections stating “See s. \_\_\_\_, Stats.” is not self-explanatory. A clear statement indicating the intended application would be helpful.

c. In the “Rule Background” section of the analysis prepared by the agency, the following statement is made: “Within statutory limits, this rule modifies current DATCP rules (ATCP 91) to make them more consistent with NIST.” A more complete description of the reasons for not making the rule “consistent with” NIST rather than “more consistent with” NIST would be helpful to clarify the application of the rule.

d. As amended, s. ATCP 91.02 (1) is not clear. For example, what is the intended meaning of “common fractional unit” or “decimal fractional unit”? Could a sale under this section be for “one-half pound”? Or, are these phrases recognized terms of art?

e. Section ATCP 91.03 (1) (e) provides that certain frozen desserts must be sold by liquid measure unless they are packaged at the time of retail sale, in which case they shall be sold by weight. The note to the rule cites s. 98.12, Stats. This statute includes an additional exception to the general rule in the case of frozen desserts sold in quantities of less than one-half liquid pint. Why is the statutory exception not included in s. ATCP 91.03 (1) (e)?

f. Does reference in the rule to “sales” include only retail sales, or does it also include wholesale sales and sales at other levels?

g. Given the broad scope of the rule, the agency may wish to include an initial applicability section to allow for compliance with the rule requirements.