

JUN 08 2001



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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 REPORT TO AGENCY**

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 01-057**

AN ORDER to renumber ATCP 81.23 (5) (b) to (d); to amend ATCP 81.23 (5) (title), 81.70 (3), Table 15 and 81.71 (3); to repeal and recreate ATCP 81.23 (5) (a); and to create ATCP 81.01 (10m) and 81.23 (5) (b) (intro.) and (5m), relating to cheese grading.

Submitted by **DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION**

05-15-01 RECEIVED BY LEGISLATIVE COUNCIL.

05-31-01 REPORT SENT TO AGENCY.

RS:RJC:jal

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached      YES       NO



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 01-057

#### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]**

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

a. Both the current rule and the proposed rule use the term "eye." However, it does not appear that that term is defined anywhere in ch. ATCP 81. Providing a definition of the term "eye" may enhance a reader's understanding of the rule.

b. In s. ATCP 81.23 (5) (a), the phrase "Except as provided in (5m)," should be inserted at the beginning of the first sentence.

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

a. In the plain language analysis of the rule, the second bullet under the heading "Swiss Cheese Grading Procedure" should, it appears, contain the phrase "Under the proposed rule" at the beginning of the second sentence. In addition, in the second sentence, the first use of the word "been" should be deleted.

b. The definitions in SECTION 1 of the rule for the terms "large eyed," "one sided," and "small eyed" should be hyphenated.

c. In s. ATCP 81.23 (5m) (d), the term "cheese owner" is used several times. It is not entirely clear from the context of the rule who the "cheese owner" is. It may be helpful to clarify the rule in this regard. Finally, the last sentence of this paragraph can be deleted if the

phrase "or the cheese owner's authorized representative," is inserted after the phrase "cheese owner," in the first sentence.

**PROPOSED 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 proposes the  
2 following order to renumber ATCP 81.23(5)(b) to (d); to amend ATCP 81.23(5)(title), 81.70(3),  
3 Table 15 and 81.71(3); to repeal and recreate ATCP 81.23(5)(a); and to create ATCP  
4 81.01(10m), 81.23(5)(b)(intro.) and 81.23(5m); relating to cheese grading.
- 

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

Statutory Authority: ss. 93.07(1), 97.09(4) and 97.177(1) and (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 the grading, packaging and labeling of Swiss (also known as emmentaler) cheese. The current rules are contained in ch. ATCP 81, Wis. Adm. Code.

**Swiss Cheese Grading Terms**

Under current rules, a cheese grader evaluates Swiss cheese based on eye, texture and other cheese characteristics. The current rule spells out grade standards for eye and texture characteristics in table format, using customary (but undefined) industry terms to identify various physical traits. This rule defines those terms, consistent with industry custom.

**Swiss Cheese Grading Procedure**

Under current rules, a grader must grade cheese by withdrawing and evaluating sample "plugs" of cheese using an implement known as a "trier." This rule spells out a slightly different procedure for Swiss cheese. Under this rule:

- A cheese grader must determine Swiss cheese *flavor* and *body* characteristics by withdrawing and evaluating "plugs" of cheese. This rule spells out the procedure for withdrawing and evaluating Swiss cheese "plugs" using a trier.

1 (h) "Frog mouth" means that eyes are lenticular or spindle-shaped.

2 (i) "Irregular" means that eyes are not properly formed as round or slightly oval openings,  
3 but are not accurately described by other terms under this subsection.

4 (j) "Large eyed" means that a majority of eyes are more than  $\frac{13}{16}$  inch in diameter. "Large  
5 eyed" includes all the following:

6 1. "Slight large eyed" means that a majority of eyes are more than  $\frac{13}{16}$  inch but less than  
7 one inch in diameter.

8 2. "Definite large eyed" means that a majority of eyes are more than one inch in diameter.

9 (k) "Nesty" means that, in localized areas, there are too many small eyes.

10 (l) "One sided" means that eyes are reasonably developed on one side of the cheese and  
11 underdeveloped on the other.

12 (m) "Overset" means that there are too many eyes.

13 (n) "Picks" means that there are small irregular or ragged openings in the body of the  
14 cheese.

15 (o) "Relatively uniform eye size" means that the majority of eyes are within the size  
16 range specified in s. ATCP 81.70(3), and that the difference in diameter between the smallest and  
17 largest of that majority of eyes is not more than  $\frac{1}{4}$  inch.

18 (p) "Rough" means that eyes do not have smooth, even walls.

19 (q) "Shell" means that eyes have wall surfaces that look like rough-shelled nuts.

20 (r) "Small eyed" means that a majority of eyes are less than  $\frac{3}{8}$  inch in diameter. "Small  
21 eyed" includes all the following:

22 1. "Slight small eyed" means that a majority of eyes are less than  $\frac{3}{8}$  inch but more than  $\frac{1}{8}$   
23 inch in diameter.

1 largest flat surface area on the cheese sample. The grader shall withdraw and evaluate a full trier  
2 plug of cheese, except that a grader may withdraw and evaluate a less-than-full trier plug if the  
3 cheese is not deep enough to permit withdrawal of a full trier plug.

4 (b) Except as provided in par. (c) or (d), a grader shall determine texture, color and eye  
5 characteristics by evaluating a cheese wheel or block selected at random from the vat lot. The  
6 grader shall divide the cheese wheel or block approximately in half, and shall evaluate the 2  
7 exposed cut surfaces.

8 (c) If cheese from a vat lot has been cut into sizes smaller than a wheel or block, a grader  
9 may determine texture, color and eye characteristics by evaluating already exposed cut surfaces  
10 without making additional cuts.

11 (d) At the request of the <sup>or the cheese owner's auth rep</sup> cheese owner, a grader may determine the texture, color and eye  
12 characteristics of a vat lot by withdrawing and evaluating at least one plug of cheese selected at  
13 random from that vat lot, rather than by evaluating cut surfaces under par. (b) or (c). The grader  
14 shall withdraw and evaluate the plug according to par. (a). The grader shall disclose, on the  
15 grade certification or inspection report, that the grader used this grading. ~~The authorized~~  
16 representative of a cheese owner may request this grading method on behalf of the cheese owner. X

17 SECTION 7. ATCP 81.70(3) and Table 15 are amended to read:

18 ATCP 81.70(3) EYE AND TEXTURE CHARACTERISTICS. Wisconsin grade A or Wisconsin  
19 state brand Swiss or emmentaler cheese shall be properly set and possess well developed, round  
20 or slightly oval eyes. The eyes shall be relatively uniform in size and uniformly distributed. The  
21 majority of the eyes shall be  $\frac{9}{16}$  to  $\frac{3}{8}$  to  $\frac{13}{16}$  inch in diameter. The cheese may have very slight dull,  
22 rough and shell eye characteristics. The texture of the cheese may contain very slight checks

1 SECTION 8. ATCP 81.71(3) is amended to read:

2 ATCP 81.71(3) EYE AND TEXTURE CHARACTERISTICS. Wisconsin grade B Swiss or  
3 emmentaler cheese shall have well-developed, round or slightly oval shaped eyes. The majority  
4 of the eyes shall be  $\frac{3}{8}$  to  $\frac{13}{16}$  inch in diameter. The cheese may also have various undesirable  
5 eye and texture characteristics to a very slight or slight degree for the applicable trait. Eye and  
6 texture standards are shown in the grade B column of Table 15 under s. ATCP 81.70(3).

7 **SECTION 9. EFFECTIVE DATE.** The rules contained in this order shall take effect on  
8 the first day of the month following publication in the Wisconsin administrative register, as  
9 provided under s. 227.22(2)(intro.), Stats.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE,  
TRADE, AND CONSUMER PROTECTION

By \_\_\_\_\_  
James E. Harsdorf  
Secretary





State of Wisconsin  
Scott McCallum, Governor

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

May 15, 2001

Wisconsin Legislative Council  
Rules Clearinghouse  
1 East Main Street, Room 401  
Madison, WI 53702

Re: Wisconsin Administrative Code chapter ATCP 81; Relating to the grading, packaging and labeling of Swiss cheese.

Dear Sir/Madam:

In compliance with Wis. Stat. § 227.15, the Department of Agriculture, Trade and Consumer Protection is referring the above rule for review by the Rules Clearinghouse. The proposed rule has been approved for public hearing by the Board of Agriculture, Trade and Consumer Protection, but no hearings will be held until the Rules Clearinghouse review is complete. The proposed rule and accompanying fiscal estimate are attached.

The authority and rationale for the proposed rule are set forth in the rule and accompanying analysis by the department. If you have any questions concerning the proposed rule, you may contact Debbie Mazanec, Division of Food Safety at (608) 224-4712. You may also contact Attorney Karl Marquardt at 224-5031.

Sincerely,

Roxy Capelle  
Paralegal  
Office of Legal Counsel

cc: Debbie Mazanec- Division of Food Safety  
Karl Marquardt - Office of Legal Counsel  
File



State of Wisconsin  
Scott McCallum, Governor

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**Department of Agriculture, Trade and Consumer Protection**

James E. Harsdorf, Secretary

**NOTICE OF PROPOSED RULE SUBMITTED TO  
WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE**

The Wisconsin Department of Agriculture, Trade and Consumer Protection has referred a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

The proposed rule affects Wis. Admin. Code chapter ATCP 81, relating to the grading, packaging and labeling of Swiss cheese. The department will hold public hearings on this rule after the Wisconsin Legislative Council Rules Clearinghouse completes its review.

The department's Food Safety Division is primarily responsible for this rule. If you have questions, you may contact Debbie Mazanec at 608-224-4712.

Dated this 5<sup>th</sup> day of May, 2001.

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James K. Matson, Chief Counsel  
Department of Agriculture, Trade and Consumer Protection

*Notice Delivered To:*

*Revisor of Statutes  
Department of Administration*

**PROPOSED 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 proposes the  
2 following order to renumber ATCP 81.23(5)(b) to (d); to amend ATCP 81.23(5)(title), 81.70(3),  
3 Table 15 and 81.71(3); to repeal and recreate ATCP 81.23(5)(a); and to create ATCP  
4 81.01(10m), 81.23(5)(b)(intro.) and 81.23(5m); relating to cheese grading.
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**Analysis Prepared by the Department of  
Agriculture, Trade and Consumer Protection**

Statutory Authority: ss. 93.07(1), 97.09(4) and 97.177(1) and (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 the grading, packaging and labeling of Swiss (also known as emmentaler) cheese. The current rules are contained in ch. ATCP 81, Wis. Adm. Code.

**Swiss Cheese Grading Terms**

Under current rules, a cheese grader evaluates Swiss cheese based on eye, texture and other cheese characteristics. The current rule spells out grade standards for eye and texture characteristics in table format, using customary (but undefined) industry terms to identify various physical traits. This rule defines those terms, consistent with industry custom.

**Swiss Cheese Grading Procedure**

Under current rules, a grader must grade cheese by withdrawing and evaluating sample "plugs" of cheese using an implement known as a "trier." This rule spells out a slightly different procedure for Swiss cheese. Under this rule:

- A cheese grader must determine Swiss cheese *flavor* and *body* characteristics by withdrawing and evaluating "plugs" of cheese. This rule spells out the procedure for withdrawing and evaluating Swiss cheese "plugs" using a trier.

under the rule.

5

- A grader must normally determine *texture, color and eye characteristics* by dividing a wheel or block of cheese in half and examining the exposed cut surfaces. If Swiss cheese has been already been cut into smaller pieces, the grader may examine the cut surfaces without making additional cuts. A grader may evaluate “plugs” of cheese, rather than cut pieces, if the cheese owner requests that procedure.

### Wisconsin Grade Standards; Eye and Texture Characteristics

This rule changes current grade standards for Wisconsin grade A and Wisconsin state brand Swiss cheese. Under current rules, eyes must be uniformly distributed and a majority of the eyes must be  $\frac{9}{16}$  to  $\frac{13}{16}$  inch in diameter. Under this rule, eyes must be uniformly distributed and relatively uniform in size. A majority of the eyes must be  $\frac{3}{8}$  to  $\frac{13}{16}$  inch in diameter.

This rule establishes an eye size requirement for Wisconsin grade B Swiss cheese that is identical to that for Wisconsin grade A Swiss cheese. Under this rule, the majority of eyes must be  $\frac{3}{8}$  to  $\frac{13}{16}$  inch in diameter.

2

1 SECTION 1. ATCP 81.01(10m) is created to read:

2 ATCP 81.01 (10m) “Eye and texture characteristics” includes the following traits, for  
3 purposes of Swiss cheese grading under this chapter:

4 (a) “Afterset” means that there are small eyes caused by secondary fermentation.

5 (b) “Blind” means that no eyes are formed.

6 (c) “Cabbage” means that there are so many eyes in most of the cheese that the eyes crowd  
7 each other and leave only a paper-thin layer of cheese between eyes, causing the cheese to have a  
8 cabbage appearance and very irregular eyes.

9 (d) “Checks” means that there are small, short cracks within the body of the cheese.

10 (e) “Collapsed” means that eyes are improperly formed, so that they appear flattened or  
11 buckled rather than round or slightly oval.

12 (f) “Dead” means that eyes have completely lost their glossy or velvety appearance.

13 (g) “Dull” means that eyes have lost some of their bright shiny luster.

1 (h) "Frog mouth" means that eyes are lenticular or spindle-shaped.

2 (i) "Irregular" means that eyes are not properly formed as round or slightly oval openings,  
3 but are not accurately described by other terms under this subsection.

4 (j) "Large eyed" means that a majority of eyes are more than  $\frac{13}{16}$  inch in diameter. "Large  
5 eyed" includes all the following: X

6 1. "Slight large eyed" means that a majority of eyes are more than  $\frac{13}{16}$  inch but less than  
7 one inch in diameter.

8 2. "Definite large eyed" means that a majority of eyes are more than one inch in diameter.

9 (k) "Nesty" means that, in localized areas, there are too many small eyes.

10 (l) "One sided" means that eyes are reasonably developed on one side of the cheese and  
11 underdeveloped on the other. Y

12 (m) "Overset" means that there are too many eyes.

13 (n) "Picks" means that there are small irregular or ragged openings in the body of the  
14 cheese.

15 (o) "Relatively uniform eye size" means that the majority of eyes are within the size  
16 range specified in s. ATCP 81.70(3), and that the difference in diameter between the smallest and  
17 largest of that majority of eyes is not more than  $\frac{1}{4}$  inch.

18 (p) "Rough" means that eyes do not have smooth, even walls.

19 (q) "Shell" means that eyes have wall surfaces that look like rough-shelled nuts.

20 (r) "Small eyed" means that a majority of eyes are less than  $\frac{3}{8}$  inch in diameter. "Small  
21 eyed" includes all the following: X

22 1. "Slight small eyed" means that a majority of eyes are less than  $\frac{3}{8}$  inch but more than  $\frac{1}{8}$   
23 inch in diameter.

1 2. "Definite small eyed" means that a majority of eyes are less than 1/8 inch in diameter.

2 (s) "Splits" means that the body of the cheese contains sizable cracks, usually in parallel  
3 layers and usually clean cut.

4 (t) "Streuble" means that there are too many small eyes just under the surface of the cheese.

5 (u) "Underset" means that there are too few eyes in the cheese. ? Low many? 70?

6 (v) "Uneven" means eyes are reasonably developed in some areas and underdeveloped in  
7 others.

8 SECTION 2. ATCP 81.23(5)(title) is amended to read:

9 ATCP 81.23(5)(title) GRADING PROCEDURE; GENERAL.

10 SECTION 3. ATCP 81.23(5)(a) is repealed and recreated to read:

11 ATCP 81.23(5)(a) To grade cheese from any vat lot, a grader shall withdraw and  
12 evaluate at least one plug from a cheese sample selected at random from that vat lot. The grader  
13 shall withdraw each plug with a cheese trier that complies with par. (b).

14 >SECTION 4. ATCP 81.23(5)(b)(intro.) is created to read:

15 (b) A cheese trier shall comply with the following requirements, as applicable:

16 SECTION 5. ATCP 81.23 (5)(b) to (d) are renumbered ATCP (5)(b)1. to 3.

17 SECTION 6. ATCP 81.23(5m) is created to read:

18 ATCP 81.23(5m) SWISS CHEESE GRADING PROCEDURE. To grade Swiss or emmentaler  
19 cheese from any vat lot, a grader shall use the following procedure in place of the procedure

20 under sub. (5):

21 (a) The grader shall determine flavor and body characteristics by withdrawing and  
22 evaluating at least one plug from a cheese sample selected at random from the vat lot. The  
23 grader shall withdraw the plug with a trier, inserting the trier at the approximate center of the

1 largest flat surface area on the cheese sample. The grader shall withdraw and evaluate a full trier  
2 plug of cheese, except that a grader may withdraw and evaluate a less-than-full trier plug if the  
3 cheese is not deep enough to permit withdrawal of a full trier plug.

4 (b) Except as provided in par. (c) or (d), a grader shall determine texture, color and eye  
5 characteristics by evaluating a cheese wheel or block selected at random from the vat lot. The  
6 grader shall divide the cheese wheel or block approximately in half, and shall evaluate the 2  
7 exposed cut surfaces.

8 (c) If cheese from a vat lot has been cut into sizes smaller than a wheel or block, a grader  
9 may determine texture, color and eye characteristics by evaluating already exposed cut surfaces  
10 without making additional cuts.

11 (d) At the request of the <sup>or the cheese owner's auth rep.</sup> cheese owner, a grader may determine the texture, color and eye  
12 characteristics of a vat lot by withdrawing and evaluating at least one plug of cheese selected at  
13 random from that vat lot, rather than by evaluating cut surfaces under par. (b) or (c). The grader  
14 shall withdraw and evaluate the plug according to par. (a). The grader shall disclose, on the  
15 grade certification or inspection report, that the grader used this grading. ~~The authorized~~  
16 representative of a cheese owner may request this grading method on behalf of the cheese owner. X

17 SECTION 7. ATCP 81.70(3) and Table 15 are amended to read:

18 ATCP 81.70(3) EYE AND TEXTURE CHARACTERISTICS. Wisconsin grade A or Wisconsin  
19 state brand Swiss or emmentaler cheese shall be properly set and possess well developed, round  
20 or slightly oval eyes. The eyes shall be relatively uniform in size and uniformly distributed. The  
21 majority of the eyes shall be  $\frac{9}{16}$  to  $\frac{13}{16}$  inch in diameter. The cheese may have very slight dull,  
22 rough and shell eye characteristics. The texture of the cheese may contain very slight checks

- 1 and, picks, and streuble. Eye and texture standards are shown in the grade A column of Table
- 2 15.

TABLE 15. SWISS (EMMENTALER) CHEESE

GRADING STANDARDS FOR EYE AND TEXTURE CHARACTERISTICS				
IDENTIFIED EYE AND TEXTURE CHARACTERISTIC IN CHEESE BEING GRADED	GRADE A	GRADE B	GRADE C	GRADE D
AFTERSSET			S	D
CABBAGE			S	D
CHECKS	VS	S	D	D
COLLAPSED			S	D
DEAD		VS	D	D
DULL	VS	S	D	D
FROG MOUTH		S	D	D
GASSY			S	D
IRREGULAR			S	D
LARGE EYED			S	D
NESTY		VS	D	D
ONE SIDED		S	D	P
OVERSET		S	D	D
PICKS	VS	S	D	D
ROUGH	VS	S	D	P
SHELL	VS	S	D	D
SMALL EYED		VS	S	D
SPLITS			S	D
STREUBLE	VS	S	D	D
UNDERSET		S	D	D
UNEVEN		S	D	D

VS = very slight; S = slight; D = definite; P = pronounced.



1 SECTION 8. ATCP 81.71(3) is amended to read:

2 ATCP 81.71(3) EYE AND TEXTURE CHARACTERISTICS. Wisconsin grade B Swiss or  
3 emmentaler cheese shall have well-developed, round or slightly oval shaped eyes. The majority  
4 of the eyes shall be  $\frac{3}{8}$  to  $\frac{13}{16}$  inch in diameter. The cheese may also have various undesirable  
5 eye and texture characteristics to a very slight or slight degree for the applicable trait. Eye and  
6 texture standards are shown in the grade B column of Table 15 under s. ATCP 81.70(3).

7 **SECTION 9. EFFECTIVE DATE.** The rules contained in this order shall take effect on  
8 the first day of the month following publication in the Wisconsin administrative register, as  
9 provided under s. 227.22(2)(intro.), Stats.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE,  
TRADE, AND CONSUMER PROTECTION

By \_\_\_\_\_  
James E. Harsdorf  
Secretary

**Fiscal Estimate — 2001 Session**

- Original       Updated  
 Corrected       Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number ATCP 81

Subject  
 Cheese Grading, Packaging and Labeling

**Fiscal Effect**

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- Increase Existing Appropriation       Increase Existing Revenues  
 Decrease Existing Appropriation       Decrease Existing Revenues  
 Create New Appropriation

Increase Costs — May be possible to absorb within agency's budget.  
 Yes       No

Decrease Costs

Local:  No Local Government Costs

- |  |   |
|--|---|
| 1. <input type="checkbox"/> Increase Costs<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 3. <input type="checkbox"/> Increase Revenues<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory |
| 2. <input type="checkbox"/> Decrease Costs<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 4. <input type="checkbox"/> Decrease Revenues<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory |

5. Types of Local Governmental Units Affected:  
 Towns       Villages       Cities  
 Counties       Others  
 School Districts       WTCS Districts

**Fund Sources Affected**

- GPR       FED       PRO       PRS       SEG       SEG-S

Affected Chapter 20 Appropriations  
 20.115(1) (gb)

**Assumptions Used in Arriving at Fiscal Estimate**

Rules related to cheese grading, packaging and labeling are contained in Chapter ATCP 81, Wis. Adm. Code. Subchapter VII specifies the Wisconsin grade standards for Swiss or Emmentaler cheese. These standards include requirements for particular eye and texture characteristics of the cheese, including eye size. Current standards require that the majority of eyes (or holes) be 9/16 to 13/16 inch in diameter in order for the cheese to be labeled or sold as Wisconsin grade A or state brand Swiss (emmentaler) cheese.

This rule updates the Wisconsin grade standard for Swiss (emmentaler) cheese so that the Wisconsin cheese industry may embrace new cheese manufacturing and packaging technology and meet customer expectations. This rule update will permit smaller eyes in Swiss or emmentaler cheese than the current standard allows by expanding the lower end of the range. This change will facilitate cutting operations with high-speed slicing equipment and help provide a more consistent quantity by weight of cheese in consumer packages. This rule change will also bring the Wisconsin grade standards into conformance with United States Department of Agriculture grade standards for Swiss cheese with regard to eye size, and allow the Wisconsin cheese industry to remain competitive on a nationwide basis.

This rule also defines current and new terms in Subchapter I to help clarify grade standard characteristics with respect to eye and texture characteristics of Swiss cheese. In Subchapter II, cheese grading procedures are modified to allow for better examination of eye and texture characteristics and evaluation of the cheese with respect to the proposed changes in the grade standard.

Currently, there are three multiple product graders employed by the department. No additional staff will be required to enforce these regulations. These amendments will not impose added costs on local government.

One-time costs of approximately \$3640 will be incurred by the department for rule development.

**Long-Range Fiscal Implications**

None anticipated.

Prepared By: Terri L. Wenger	Telephone No. (608) 224-4714	Agency DATCP
Authorized Signature <i>Barbara Knapp</i>	Telephone No. (608) 224-4746	Date (mm/dd/ccyy) 04/20/2001



State of Wisconsin  
Scott McCallum, Governor

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

## PUBLIC NOTICE

### FINAL DRAFT RULE TO LEGISLATURE

The Department of Agriculture, Trade and Consumer Protection announces that it is submitting the following rule for legislative committee review, pursuant to s. 227.19, Stats.:

CLEARINGHOUSE RULE #: 01-057  
SUBJECT: Swiss Cheese Grading  
ADM. CODE REFERENCE: ATCP 81  
DATCP DOCKET #: 01-R-02

Dated this 4<sup>th</sup> day of February, 2002.

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: February 4, 2002

TO: The Honorable Fred Risser  
President, Wisconsin State Senate  
Room 220 South, State Capitol  
P.O. Box 7882  
Madison 53707-7882

The Honorable Scott R. Jensen  
Speaker, Wisconsin State Assembly  
Room 211 West, State Capitol  
P.O. Box 8952  
Madison 53708-8952

FROM: ✓ James E. Harsdorf, Secretary *James E. Harsdorf*  
Department of Agriculture, Trade and Consumer Protection

SUBJECT: **Swiss Cheese Grading; Final Draft Rule**  
***(Clearinghouse Rule #01-057)***

The Department of Agriculture, Trade and Consumer Protection is transmitting this rule for legislative committee review, as provided in s. 227.19(2) and (3), Stats. The department will publish a notice of this referral in the Wisconsin Administrative Register, as provided in s. 227.19(2), Stats.

### Background

DATCP has adopted grade standards for cheese manufactured and sold in Wisconsin. Graded cheese must conform to state grade standards for the labeled grade. Grade standards set benchmarks for cheese quality

Wisconsin is the only state with its own grade standards for Swiss (emmentaler) cheese. The U.S. Department of Agriculture (USDA) has established federal standards for Swiss (emmentaler) cheese. In response to requests from the Wisconsin Dairy Products Association and the Wisconsin Cheesemakers Association, USDA modified the U.S. grade standards for Swiss cheese, effective February 22, 2001.

This rule changes Wisconsin standards for Swiss cheese eye size, so that the Wisconsin standard for eye size matches the new federal standard. The new standard permits, but

does not require, smaller eye sizes. This will help the Wisconsin cheese industry remain competitive on a national basis.

This change will accommodate changes in cheese manufacturing and packaging technology. Under the current Wisconsin standard, Swiss cheese may not be labeled Wisconsin grade A or Wisconsin state brand unless a majority of the eyes are  $\frac{9}{16}$  to  $\frac{13}{16}$  inch in diameter. Packers and cut/wrap repackers prefer smaller eyes. Smaller eyes make it easier to use high-speed slicing equipment to produce cheese "shingles" without tearing. Smaller eyes also make it easier for the cutter to control package weight and minimize trim waste.

Smaller eye sizes are generally acceptable to consumers. But some delicatessen operators prefer larger eye sizes because of specialized consumer preferences. This rule will give Wisconsin cheesemakers more flexibility to produce Swiss cheese with larger or smaller holes, depending on what their customers demand.

## Rule Contents

### Swiss Cheese Grading Terms

Under current rules, a cheese grader evaluates Swiss cheese based on eye, texture and other cheese characteristics. The current rule spells out grade standards in table format, using customary (but undefined) industry terms to identify cheese characteristics. This rule defines those terms, consistent with industry custom.

### Swiss Cheese Grading Procedure

Under current rules, a grader must grade cheese by withdrawing and evaluating sample "plugs" of cheese using an implement known as a "trier." This rule spells out a slightly different procedure for Swiss cheese. Under this rule:

- A cheese grader must determine Swiss cheese *flavor* and *body* characteristics by withdrawing and evaluating "plugs" of cheese. This rule spells out the procedure for withdrawing and evaluating Swiss cheese "plugs" using a trier.
- A grader must normally determine *texture*, *color* and *eye* characteristics by dividing a wheel or block of cheese in half and examining the exposed cut surfaces. If Swiss cheese has been already been cut into smaller pieces, the grader may examine the cut surfaces without making additional cuts. A grader may evaluate "plugs" of cheese, rather than cut pieces, if the cheese owner requests that procedure.

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### **Wisconsin Grade Standards; Eye and Texture Characteristics**

This rule changes current grade standards for Wisconsin grade A and Wisconsin state brand Swiss cheese. Under current rules, eyes must be uniformly distributed and a majority of the eyes must be  $\frac{9}{16}$  to  $\frac{13}{16}$  inch in diameter. Under this rule, eyes must be uniformly distributed and relatively uniform in size. A majority of the eyes must be  $\frac{3}{8}$  to  $\frac{13}{16}$  inch in diameter.

This rule establishes an eye size requirement for Wisconsin grade B Swiss cheese that is identical to that for Wisconsin grade A Swiss cheese. Under this rule, the majority of eyes must be  $\frac{3}{8}$  to  $\frac{13}{16}$  inch in diameter.

### **Hearings**

The department held public hearings on June 14, 2001 in Appleton and June 15, 2001 in Dodgeville. The hearing record remained open until June 30, 2001 for additional written comments.

The department received oral and written testimony from Brad Legreid, representing the Wisconsin Dairy Products Association, at the hearing in Appleton, and John Umhoefer, representing the Wisconsin Cheese Makers Association, at the hearing in Dodgeville. Five other persons registered for informational purposes only at the Dodgeville hearing. John Manske provided written testimony on behalf of the Wisconsin Federation of Cooperatives at a later time. Hearing participants expressed overall support for the proposed rule.

The cheese industry expressed appreciation for the department's efforts to follow USDA's lead in revising the grade standards for Swiss cheese, and strongly supported the change in the acceptable eye size range for grade A Swiss cheese. The proposed definition for "relatively uniform eye size" and the requirement that eyes must be "relatively uniform in size" for grade A Swiss cheese received mixed commentary. The Wisconsin Dairy Products Association supported these revisions and expressed a strong desire for similarity between state and federal standards. The WDPA did not think it would be appropriate for Wisconsin to adopt grade standards that differ from the USDA standards. However, the Wisconsin Cheese Makers Association and the Wisconsin Federation of Cooperatives opposed the proposed revisions related to "relatively uniform eye size".

### **Changes from the Hearing Draft**

In considering these comments, the department decided that maintaining consistency with the federal standards is the most appropriate course of action. Therefore, the department made no substantive changes to the proposed rule.

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## **Response to Clearinghouse Comments**

The department made minor technical and editorial changes suggested by the Legislative Council Rules Clearinghouse (LCRC). The department rejected the LCRC recommendation to add a definition for "eye," however, because this term is commonly understood not only by the industry but by consumers of Swiss cheese as well.

### **Small Business Analysis**

This rule accommodates customer preferences and changes in cheese technology. It will not impose any direct costs on small businesses. It will not require any additional reporting, record keeping, knowledge or professional skills. It will allow Wisconsin's dairy industry to remain competitive on a nationwide basis, and will benefit businesses of all sizes. A small business analysis ("final regulatory flexibility analysis") is attached.

### **Fiscal Estimate**

The department will incur a one-time cost of approximately \$3500 for rule development. This rule will have no long-range fiscal impact on the department, nor will there be any cost to local governments. A complete fiscal estimate is attached.

**PROPOSED 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 proposes the  
2 following order to renumber ATCP 81.23(5)(b) to (d); to amend ATCP 81.23(5)(title), 81.70(3),  
3 Table 15 and 81.71(3); to repeal and recreate ATCP 81.23(5)(a); and to create ATCP  
4 81.01(10m), 81.23(5)(b)(intro.) and 81.23(5m); relating to cheese grading.
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**Analysis Prepared by the Department of  
Agriculture, Trade and Consumer Protection**

Statutory Authority: ss. 93.07(1), 97.09(4) and 97.177(1) and (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 the grading, packaging and labeling of Swiss (also known as emmentaler) cheese. The current rules are contained in ch. ATCP 81, Wis. Adm. Code.

**Swiss Cheese Grading Terms**

Under current rules, a cheese grader evaluates Swiss cheese based on eye, texture and other cheese characteristics. The current rule spells out grade standards for eye and texture characteristics in table format, using customary (but undefined) industry terms to identify various physical traits. This rule defines those terms, consistent with industry custom.

**Swiss Cheese Grading Procedure**

Under current rules, a grader must grade cheese by withdrawing and evaluating sample "plugs" of cheese using an implement known as a "trier." This rule spells out a slightly different procedure for Swiss cheese. Under this rule:

- A cheese grader must determine Swiss cheese *flavor* and *body* characteristics by withdrawing and evaluating "plugs" of cheese. This rule spells out the procedure for withdrawing and evaluating Swiss cheese "plugs" using a trier.



- A grader must normally determine *texture, color* and *eye* characteristics by dividing a wheel or block of cheese in half and examining the exposed cut surfaces. If Swiss cheese has been already been cut into smaller pieces, the grader may examine the cut surfaces without making additional cuts. A grader may evaluate “plugs” of cheese, rather than cut pieces, if the cheese owner requests that procedure.

### **Wisconsin Grade Standards; Eye and Texture Characteristics**

This rule changes current grade standards for Wisconsin grade A and Wisconsin state brand Swiss cheese. Under current rules, eyes must be uniformly distributed and a majority of the eyes must be  $\frac{9}{16}$  to  $\frac{13}{16}$  inch in diameter. Under this rule, eyes must be uniformly distributed and relatively uniform in size. A majority of the eyes must be  $\frac{3}{8}$  to  $\frac{13}{16}$  inch in diameter.

This rule establishes an eye size requirement for Wisconsin grade B Swiss cheese that is identical to that for Wisconsin grade A Swiss cheese. Under this rule, the majority of eyes must be  $\frac{3}{8}$  to  $\frac{13}{16}$  inch in diameter.

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1           SECTION 1. ATCP 81.01(10m) is created to read:

2           ATCP 81.01 (10m) “Eye and texture characteristics” includes the following traits, for  
3 purposes of Swiss cheese grading under this chapter:

4           (a) “Afterset” means that there are small eyes caused by secondary fermentation.

5           (b) “Blind” means that no eyes are formed.

6           (c) “Cabbage” means that there are so many eyes in most of the cheese that the eyes crowd  
7 each other and leave only a paper-thin layer of cheese between eyes, causing the cheese to have a  
8 cabbage appearance and very irregular eyes.

9           (d) “Checks” means that there are small, short cracks within the body of the cheese.

10          (e) “Collapsed” means that eyes are improperly formed, so that they appear flattened or  
11 buckled rather than round or slightly oval.

12          (f) “Dead” means that eyes have completely lost their glossy or velvety appearance.

13          (g) “Dull” means that eyes have lost some of their bright shiny luster.

1 (h) "Frog mouth" means that eyes are lenticular or spindle-shaped.

2 (i) "Irregular" means that eyes are not properly formed as round or slightly oval openings,  
3 but are not accurately described by other terms under this subsection.

4 (j) "Large eyed" means that a majority of eyes are more than  $\frac{13}{16}$  inch in diameter. "Large  
5 eyed" includes all the following:

6 1. "Slight large eyed" means that a majority of eyes are more than  $\frac{13}{16}$  inch but less than  
7 one inch in diameter.

8 2. "Definite large eyed" means that a majority of eyes are more than one inch in diameter.

9 (k) "Nesty" means that, in localized areas, there are too many small eyes.

10 (l) "One sided" means that eyes are reasonably developed on one side of the cheese and  
11 underdeveloped on the other.

12 (m) "Overset" means that there are too many eyes.

13 (n) "Picks" means that there are small irregular or ragged openings in the body of the  
14 cheese.

15 (o) "Relatively uniform eye size" means that the majority of eyes are within the size  
16 range specified in s. ATCP 81.70(3), and that the difference in diameter between the smallest and  
17 largest of that majority of eyes is not more than  $\frac{1}{4}$  inch.

18 (p) "Rough" means that eyes do not have smooth, even walls.

19 (q) "Shell" means that eyes have wall surfaces that look like rough-shelled nuts.

20 (r) "Small eyed" means that a majority of eyes are less than  $\frac{3}{8}$  inch in diameter. "Small  
21 eyed" includes all the following:

22 1. "Slight small eyed" means that a majority of eyes are less than  $\frac{3}{8}$  inch but more than  $\frac{1}{8}$   
23 inch in diameter.

1           2. "Definite small eyed" means that a majority of eyes are less than 1/8 inch in diameter.

2           (s) "Splits" means that the body of the cheese contains sizable cracks, usually in parallel  
3 layers and usually clean cut.

4           (t) "Streuble" means that there are too many small eyes just under the surface of the cheese.

5           (u) "Underset" means that there are too few eyes in the cheese.

6           (v) "Uneven" means eyes are reasonably developed in some areas and underdeveloped in  
7 others.

8           **SECTION 2.** ATCP 81.23(5)(title) is amended to read:

9           ATCP 81.23(5)(title) GRADING PROCEDURE; GENERAL.

10          **SECTION 3.** ATCP 81.23(5)(a) is repealed and recreated to read:

11          ATCP 81.23(5)(a) To grade cheese from any vat lot, a grader shall withdraw and  
12 evaluate at least one plug from a cheese sample selected at random from that vat lot. The grader  
13 shall withdraw each plug with a cheese trier that complies with par. (b).

14          **SECTION 4.** ATCP 81.23(5)(b)(intro.) is created to read:

15          (b) A cheese trier shall comply with the following requirements, as applicable:

16          **SECTION 5.** ATCP 81.23 (5)(b) to (d) are renumbered ATCP (5)(b)1. to 3.

17          **SECTION 6.** ATCP 81.23(5m) is created to read:

18          ATCP 81.23(5m) SWISS CHEESE GRADING PROCEDURE. To grade Swiss or emmentaler  
19 cheese from any vat lot, a grader shall use the following procedure in place of the procedure  
20 under sub. (5):

21          (a) The grader shall determine flavor and body characteristics by withdrawing and  
22 evaluating at least one plug from a cheese sample selected at random from the vat lot. The  
23 grader shall withdraw the plug with a trier, inserting the trier at the approximate center of the

1 largest flat surface area on the cheese sample. The grader shall withdraw and evaluate a full trier  
2 plug of cheese, except that a grader may withdraw and evaluate a less-than-full trier plug if the  
3 cheese is not deep enough to permit withdrawal of a full trier plug.

4 (b) Except as provided in par. (c) or (d), a grader shall determine texture, color and eye  
5 characteristics by evaluating a cheese wheel or block selected at random from the vat lot. The  
6 grader shall divide the cheese wheel or block approximately in half, and shall evaluate the 2  
7 exposed cut surfaces.

8 (c) If cheese from a vat lot has been cut into sizes smaller than a wheel or block, a grader  
9 may determine texture, color and eye characteristics by evaluating already exposed cut surfaces  
10 without making additional cuts.

11 (d) At the request of the cheese owner, a grader may determine the texture, color and eye  
12 characteristics of a vat lot by withdrawing and evaluating at least one plug of cheese selected at  
13 random from that vat lot, rather than by evaluating cut surfaces under par. (b) or (c). The grader  
14 shall withdraw and evaluate the plug according to par. (a). The grader shall disclose, on the  
15 grade certification or inspection report, that the grader used this grading. The authorized  
16 representative of a cheese owner may request this grading method on behalf of the cheese owner.

17 **SECTION 7. ATCP 81.70(3) and Table 15 are amended to read:**

18 **ATCP 81.70(3) EYE AND TEXTURE CHARACTERISTICS.** Wisconsin grade A or Wisconsin  
19 state brand Swiss or emmentaler cheese shall be properly set and possess well developed, round  
20 or slightly oval eyes. The eyes shall be relatively uniform in size and uniformly distributed. The  
21 majority of the eyes shall be  $\frac{9}{16}$   $\frac{3}{8}$  to  $\frac{13}{16}$  inch in diameter. The cheese may have very slight  
22 dull, rough and shell eye characteristics. The texture of the cheese may contain very slight

- 1 checks and, picks, and streuble. Eye and texture standards are shown in the grade A column of
- 2 Table 15.

TABLE 15. SWISS (EMMENTALER) CHEESE

GRADING STANDARDS FOR EYE AND TEXTURE CHARACTERISTICS				
IDENTIFIED EYE AND TEXTURE CHARACTERISTIC IN CHEESE BEING GRADED	GRADE A	GRADE B	GRADE C	GRADE D
AFTERSSET			S	D
CABBAGE			S	D
CHECKS	VS	S	D	D
COLLAPSED			S	D
DEAD		VS	D	D
DULL	VS	S	D	D
FROG MOUTH		S	D	D
GASSY			S	D
IRREGULAR			S	D
LARGE EYED			S	D
NESTY		VS	D	D
ONE SIDED		S	D	P
OVERSET		S	D	D
PICKS	VS	S	D	D
ROUGH	VS	S	D	P
SHELL	VS	S	D	D
SMALL EYED		VS	S	D
SPLITS			S	D
STREUBLE	VS	S	D	D
UNDERSET		S	D	D
UNEVEN		S	D	D

VS = very slight; S = slight; D = definite; P = pronounced.

1           **SECTION 8.** ATCP 81.71(3) is amended to read:

2           ATCP 81.71(3) EYE AND TEXTURE CHARACTERISTICS. Wisconsin grade B Swiss or  
3           emmentaler cheese shall have well-developed, round or slightly oval shaped eyes. The majority  
4           of the eyes shall be  $\frac{3}{8}$  to  $\frac{13}{16}$  inch in diameter. The cheese may also have various undesirable  
5           eye and texture characteristics to a very slight or slight degree for the applicable trait. Eye and  
6           texture standards are shown in the grade B column of Table 15 under s. ATCP 81.70(3).

7           **SECTION 9. EFFECTIVE DATE.** The rules contained in this order shall take effect on  
8           the first day of the month following publication in the Wisconsin administrative register, as  
9           provided under s. 227.22(2)(intro.), Stats.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE,  
TRADE, AND CONSUMER PROTECTION

By \_\_\_\_\_  
James E. Harsdorf  
Secretary

Final Regulatory Flexibility Analysis

Proposed ATCP 81, Wis. Adm. Code

CHEESE GRADING, PACKAGING AND LABELING

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

Under current DATCP rules, the majority of eyes or holes in Swiss (emmentaler) cheese must be 9/16 to 13/16 inch in diameter in order for the cheese to be labeled or sold as Wisconsin grade A or Wisconsin state brand. There are no eye size specifications in the current standards for Wisconsin grade B Swiss (emmentaler) cheese.

The proposed rule brings the Wisconsin grade standards for Swiss (emmentaler) cheese into conformance with recent changes in the federal grade standards adopted by the United States Department of Agriculture. The proposed rule allows smaller eyes by expanding the lower end of the eye size range and requires that the majority of eyes be 3/8 to 13/16 inch in diameter for Wisconsin grade A (Wisconsin state brand). It also requires the eyes to be relatively uniform in size and uniformly distributed. The proposed rule also establishes the same eye size range of 3/8 to 13/16 inch in diameter for Wisconsin grade B.

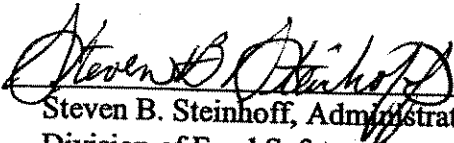
The proposed rule defines current and new terms to help clarify the grade standard characteristics with respect to eye and texture characteristics of Swiss cheese. The proposed rule also modifies grading procedures for Swiss cheese to allow for better examination and evaluation of texture, color, and eye characteristics. For the determination of texture, color, and eye characteristics, the cheese must be divided approximately in half to expose two cut surfaces for examination. Upon request of the owner of the cheese (or the owner's authorized representative), cheese samples for grading purposes may be obtained with the use of a trier in lieu of dividing the cheese in half.

This rule update in the Wisconsin grade standard for Swiss (emmentaler) cheese is necessary to keep pace with changes in manufacturing and packaging technology and meet a variety of customer and consumer preferences. Packagers and cut/wrap operations prefer smaller eyes that facilitate cutting operations with high-speed slicing equipment. Smaller eyes also enable the cutter to better control package weight and minimize trim. Delicatessen operators prefer a larger eye size due to customer preference at the retail level. It is believed that cheese manufacturers currently producing Swiss cheese with an eye size range of 9/16 to 13/16 inch in diameter will maintain or grow their market niche.

The proposed rule will not impose any direct costs on small businesses. These rule changes do not require any additional reporting or recordkeeping. No additional knowledge or professional skills are needed to meet the requirements of these proposed amendments.

Dated this 17<sup>th</sup> day of July, 2001.

State of Wisconsin  
Department of Agriculture,  
Trade and Consumer Protection

By   
Steven B. Steinhoff, Administrator  
Division of Food Safety



### Fiscal Estimate — 2001 Session

Original       Updated  
 Corrected       Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number ATCP 81

Subject  
 Cheese Grading, Packaging and Labeling

**Fiscal Effect**

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Existing Appropriation       Increase Existing Revenues  
 Decrease Existing Appropriation       Decrease Existing Revenues  
 Create New Appropriation

Increase Costs — May be possible to absorb within agency's budget.  
 Yes       No

Decrease Costs

Local:  No Local Government Costs

1.  Increase Costs  
 Permissive       Mandatory

2.  Decrease Costs  
 Permissive       Mandatory

3.  Increase Revenues  
 Permissive       Mandatory

4.  Decrease Revenues  
 Permissive       Mandatory

5. Types of Local Governmental Units Affected:

Towns       Villages       Cities

Counties       Others

School Districts       WTCS Districts

Fund Sources Affected

GPR       FED       PRO       PRS       SEG       SEG-S

Affected Chapter 20 Appropriations  
 20.115(1) (gb)

**Assumptions Used in Arriving at Fiscal Estimate**

Rules related to cheese grading, packaging and labeling are contained in Chapter ATCP 81, Wis. Adm. Code. Subchapter VII specifies the Wisconsin grade standards for Swiss or Emmentaler cheese. These standards include requirements for particular eye and texture characteristics of the cheese, including eye size. Current standards require that the majority of eyes (or holes) be 9/16 to 13/16 inch in diameter in order for the cheese to be labeled or sold as Wisconsin grade A or state brand Swiss (emmentaler) cheese.

This rule updates the Wisconsin grade standard for Swiss (emmentaler) cheese so that the Wisconsin cheese industry may embrace new cheese manufacturing and packaging technology and meet customer expectations. This rule update will permit smaller eyes in Swiss or emmentaler cheese than the current standard allows by expanding the lower end of the range. This change will facilitate cutting operations with high-speed slicing equipment and help provide a more consistent quantity by weight of cheese in consumer packages. This rule change will also bring the Wisconsin grade standards into conformance with United States Department of Agriculture grade standards for Swiss cheese with regard to eye size, and allow the Wisconsin cheese industry to remain competitive on a nationwide basis.

This rule also defines current and new terms in Subchapter I to help clarify grade standard characteristics with respect to eye and texture characteristics of Swiss cheese. In Subchapter II, cheese grading procedures are modified to allow for better examination of eye and texture characteristics and evaluation of the cheese with respect to the proposed changes in the grade standard.

Currently, there are three multiple product graders employed by the department. No additional staff will be required to enforce these regulations. These amendments will not impose added costs on local government.

One-time costs of approximately \$3640 will be incurred by the department for rule development.

**Long-Range Fiscal Implications**

None anticipated.

Prepared By: Terri L. Wenger	Telephone No. (608) 224-4714	Agency DATCP
Authorized Signature <i>Barbara Knapp</i>	Telephone No. (608) 224-4746	Date (mm/dd/ccyy) 04/20/2001