

## Chapter ATCP 88

### EGG GRADING, HANDLING AND LABELING

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**History:** Chapter Ag 90 as it existed on June 30, 1974 was repealed and a new chapter Ag 90 created effective July 1, 1974; Chapter Ag 90 was renumbered ch. ATCP 88 under s. 13.93 (2m) (b) 1., Stats., Register, April, 1993, No. 448. **Chapter ATCP 88 as it existed on October 31, 1996 was repealed and a new chapter ATCP 88 was created effective November 1, 1996.**

**ATCP 88.01 Definitions. (1)** “Candling” means carefully examining, in a dark place, the interior and exterior of a whole egg that is placed in front of a strong light source.

**(2)** “Department” means the state of Wisconsin department of agriculture, trade and consumer protection.

**(3)** “Dirty egg” means an egg, with an unbroken shell, that has either of the following:

- (a) Dirt or foreign material adhering to the shell’s surface.
- (b) Prominent or moderate stains covering more than 1/32 of the shell surface area if localized, or 1/16 of the shell surface area if scattered.

**(4)** “Egg” means the shell egg of the domestic chicken, *G. gallus, domesticus*.

**(5)** “Federal act” means the agricultural marketing act of 1946, as amended (7 USC 1621 et seq.), the egg products inspection act of 1970 (21 USC 1031–1056), and regulations issued under either act.

**(6)** “Inedible egg” means an egg in which any of the following is present:

- (a) Black rot.
- (b) Yellow rot.
- (c) White rot.
- (d) Mixed rot, also known as addled egg.
- (e) Sour egg.
- (f) Green egg white.
- (g) Stuck yolk.
- (h) Mold.
- (i) Mustiness.
- (j) A blood ring observable upon candling.
- (k) An embryo chick at or beyond the blood ring stage.
- (L) Adulteration under s. 97.02, Stats.

**(7)** “Package” has the meaning given in s. ATCP 90.01(16).

**Note:** A “package” of eggs is the retail package in which the eggs are sold to a consumer. A “package” is different from a shipping container.

**(8)** “Person” means an individual, corporation, partnership, limited liability company, cooperative, association or other business entity.

**(9)** “Process” means to grade, size, candle, package or otherwise prepare eggs for sale.

**(10)** “Shipping container” means any box, case, rack or other container used to distribute packages of eggs, or bulk or loose eggs, to a seller or institutional purchaser of eggs.

**History:** Cr. Register, October, 1996, No. 490, eff. 11–1–96.

**ATCP 88.02 Egg processing, handling and storage. (1) GENERAL.** Except as provided in this chapter:

(a) A person who processes eggs in this state shall comply with applicable requirements under chs. ATCP 70 and 75.

(b) A person who operates a warehouse used for the storage of eggs shall comply with applicable requirements under ch. ATCP 71.

(c) A person who sells eggs at retail shall comply with applicable requirements under ch. ATCP 75.

**(2) EGG PROCESSING FACILITIES.** (a) Egg grading rooms shall be kept reasonably clean during grading operations and shall be thoroughly cleaned at the end of each day’s operations.

(b) Egg candling areas shall be dark enough to permit accurate determinations of egg quality.

(c) Egg candling lights shall be strong enough to disclose dirty eggs and to permit accurate determinations of egg quality.

(d) If automated grading equipment is used to detect blood inside of eggs or cracked shells or “checks,” the equipment shall be calibrated and adjusted for sensitivity so that the processed eggs comply with applicable grade standards.

(e) Lighting in egg packing areas shall be adequate to disclose dirty packing materials and packing material defects that may affect the safety or quality of eggs.

(f) Equipment used to weigh eggs shall be kept reasonably clean and shall be routinely calibrated for accuracy.

(g) Dogs, cats and other domestic animals shall be kept out of egg processing and storage areas.

**(3) EGG STORAGE FACILITIES.** (a) Egg storage facilities shall be capable of maintaining eggs at temperatures required under s. ATCP 88.04, regardless of reasonably foreseeable external temperatures.

(b) Every egg storage facility shall be equipped with one or more accurate temperature measuring devices to monitor compliance with temperature standards under s. ATCP 88.04. The air temperature shall be monitored in representative locations of the egg storage facility.

**(4) EGG CLEANING OPERATIONS.** (a) Shell egg cleaning equipment shall be kept in good repair. Equipment shall be cleaned after each day’s use and more frequently if necessary. Compounds used to clean or sanitize eggs shall be compounds listed in the current “List of Proprietary Substances and Non-food Compounds” published semiannually by the United States department of agriculture.

**Note:** The “List of Proprietary Substances and Nonfood Compounds,” published semiannually by the United States department of agriculture, is on file with the department and may be obtained from the United States department of agriculture, agricultural marketing service, poultry division, grading branch, 100 stockyards road, room 209, South St. Paul, MN 55075.

(b) Water used to clean shell eggs shall be at least 20° F. warmer than the eggs, and shall not be colder than 90° F. Eggs may not be left standing or soaking in cleaning water.

(c) Eggs shall be removed from all scanning, washing, rinsing and other processing areas during employee rest periods if they would otherwise be exposed to excessive heat build-up during those periods.

(d) Washed eggs shall be reasonably dry before they are placed in packages or shipping containers.

**(5) SHELL EGG PROTECTION.** If an oil is used to protect shell eggs, that oil shall be listed in the current “List of Proprietary

Substances and Nonfood Compounds” published semiannually by the United States department of agriculture. A shell egg protection oil treatment, if any, shall be performed in a manner that prevents egg contamination and preserves egg quality.

**Note:** The “List of Proprietary Substances and Nonfood Compounds,” published semiannually by the United States department of agriculture, is on file with the department and may be obtained from the United States department of agriculture, agricultural marketing service, poultry division, grading branch, 100 stockyards road, room 209, South St. Paul, MN 55075.

**(6) EGG HANDLING AND PACKING.** (a) Eggs shall be handled and packed to minimize the likelihood that condensation will accumulate on the eggs.

(b) Eggs shall be packed so that a substantial majority of the packed eggs are placed in the package or shipping container with the small end down.

(c) Egg packages and shipping containers shall be all of the following:

1. Clean and in good condition.
2. Free of mold, mustiness and off-odors.
3. Sufficiently strong and durable to protect eggs from damage during normal distribution.

**History:** Cr. Register, October, 1996, No. 490, eff. 11-1-96.

**ATCP 88.04 Temperature standards.** **(1) TEMPERATURE PRIOR TO PROCESSING AND PACKING.** Eggs that are held prior to processing and packing for more than 24 hours after they are laid shall be kept at an average ambient temperature of 60° F. (16° C.) or below.

**Note:** It is recommended that eggs be processed and packed as soon as practicable and within 5 days after they are laid.

**(2) TEMPERATURE AFTER PROCESSING AND PACKING.** Eggs which have been processed and packed shall be kept at an average ambient temperature of 45° F. (7° C.) or below at all times, including while they are being transported.

**Note:** Mechanical refrigeration is recommended for eggs that are in transport for more than 4 hours.

**(3) SALE OF FROZEN EGGS PROHIBITED.** No person may sell or offer for sale any eggs that have been frozen.

**History:** Cr. Register, October, 1996, No. 490, eff. 11-1-96.

**ATCP 88.06 Grade, size and quality standards.** **(1) EGG GRADES.** (a) Except as provided under par. (b), eggs sold or distributed in this state shall be labeled as grade AA, A or B, and shall conform to the United States grade standards specified for those grades under the federal act.

- (b) Paragraph (a) does not apply to any of the following:
1. Ungraded eggs clearly labeled as such.
  2. Eggs conforming to other grades or classifications permitted under the federal act, and clearly labeled as such.
  3. Eggs that are exempt from grading under the federal act.

**(2) EGG SIZES.** (a) Except as provided under par. (b), eggs sold or distributed in this state shall be labeled as Jumbo, Extra Large, Large, Medium, Small or Peewee, and shall conform to the United States size standards specified for those sizes under the federal act.

- (b) Paragraph (a) does not apply to any of the following:
1. Ungraded eggs clearly labeled as such.
  2. Eggs conforming to other sizes or classifications permitted under the federal act, and clearly labeled as such.
  3. Eggs that are exempt from size labeling under the federal act.

**Note:** United States consumer grades and sizes are described in “United States Standards, Grades, and Weight Classes for Shell Eggs” under title 7, code of federal regulations part 56, subpart C. A copy is on file with the department, the secretary of state and the revisor of statutes. A copy may be purchased from the United States department of agriculture, agricultural marketing service, poultry division, grading branch, room 209, 100 stockyards road, South St. Paul, MN 55075.

**(3) MINIMUM STANDARDS.** (a) Except as provided under par. (b) or, no person may sell or distribute for sale as human food any eggs that fail to meet United States minimum standards for grade

B eggs, regardless of whether the eggs are labeled as graded or ungraded eggs.

(b) Paragraph (a) does not apply to either of the following:

1. Eggs which the egg producer sells directly to a household consumer on the premises where the eggs are produced.
2. Eggs which are exempt from grade B standards under the federal act.

**(4) INEDIBLE EGGS.** Inedible eggs may not be sold or distributed for sale as human food and shall be disposed of as provided under the federal act.

**History:** Cr. Register, October, 1996, No. 490, eff. 11-1-96.

**ATCP 88.08 Egg labeling.** **(1) EGG PACKAGES.** Except as provided under sub. (3)(a), a package of eggs shall be labeled with all of the following:

(a) Information required under ch. ATCP 90, including all of the following:

1. A declaration of product identity under s. ATCP 90.02.
2. A declaration of responsibility under s. ATCP 90.03. If the responsible person identified on the package is not the egg packer, the package shall also include the packer identification number or shell egg handler registration number assigned by the United States department of agriculture, or the packer identification number assigned by the state in which the packing operation is located. A United States department of agriculture (USDA) packer number shall be preceded by the letter “P”. A state packer number shall be preceded by a 2-letter abbreviation which identifies the state.
3. A declaration of net quantity under ss. ATCP 90.04 and 90.08(16)(c).
4. Nutrition labeling under s. ATCP 90.10.

(b) The grade and size of the eggs, if required under s. ATCP 88.06. The grade and size shall be printed on the principal display panel in letters not less than 3/16 inch high. If the eggs are not graded, the word “UNGRADED” shall be printed in letters at least 1/4 inch high on the principal display panel. Ungraded eggs may be sold from bulk containers if a sign or placard adjacent to the bulk display identifies the eggs as ungraded eggs.

(c) The statement “KEEP REFRIGERATED” or an equivalent statement indicating that the eggs must be refrigerated. The statement shall be printed on the principal display panel in letters not less than 3/16 inch high.

(d) The date on which the eggs were packed. The date of packing may be indicated by an abbreviation consisting of one of the following:

1. The first three letters of the month and the calendar date.
2. The numerically consecutive day of the year, also known as the Julian calendar date.

(e) One of the following dates, in addition to the packing date under par. (d):

1. An expiration date or “sell by” date after which the eggs may not be offered for sale or sold at retail. The expiration date may not be more than 30 days from the packing date, including the day on which the eggs were packed. The expiration date or “sell by” date shall be designated by at least the first three letters of the month and the date within that month. The date shall be accompanied by a phrase or abbreviation such as “sell by” or “EXP” which clearly identifies it as an expiration date or “sell by” date.

2. A “use by” date consisting of at least the first 3 letters of the month, and the date within that month. The date shall be accompanied by a phrase such as “use by,” “best if used by” or “use before,” which indicates that the consumer should use the eggs before that date.

**(2) SHIPPING CONTAINERS.** Except as provided under sub. (3), a shipping container of eggs shall be labeled on one end with all

of the following information, in letters not smaller than ½ inch high:

- (a) A statement identifying the contents of the container.
- (b) The name and address of the responsible person in whose name the eggs are packed and distributed. If the responsible person is not the egg packer, the shipping container shall also include the packer identification number or shell egg handler registration number under sub. (1)(a)2. If the responsible person is the packer, the packer's identification number or shell egg handler registration number under sub. (1)(a)2. may appear in place of the packer's name and address.
- (c) The net quantity of eggs contained in the shipping container.
- (d) The grade and size of the eggs contained in the shipping container, if required under s. ATCP 88.06.
- (e) The statement "KEEP REFRIGERATED" or an equivalent statement indicating that the eggs must be refrigerated.
- (f) The date on which the eggs were packed.
- (g) One of the following dates, in addition to the packing date under par. (f):

1. An expiration date or "sell by date" after which the eggs may not be sold or offered for retail sale. The expiration date or "sell by" date may not be more than 30 days from the packing date, including the day on which the eggs were packed. The expiration date shall be designated by at least the first three letters of the month and the date within that month. The date shall be accompanied by a phrase or abbreviation such as "sell by" or "EXP" which clearly identifies it as an expiration date or "sell by" date.

2. A "use by" date consisting of at least the first 3 letters of the month, and the date within that month. The date shall be accompanied by a phrase such as "use by," "best if used by" or "use before," which indicates that the consumer should use the eggs before that date.

**(3) EGGS SOLD OR SHIPPED BY PRODUCER, EXEMPTION.** (a) Subsections (1) and (2) do not apply to either of the following:

- 1. Eggs which are being shipped from the producer to the packer.
- 2. Eggs which the producer sells directly to household consumers on the premises where the eggs are produced.

(b) Subsection (2) does not apply to a shipping container which holds only identical packages of eggs, provided that the packages are identically labeled according to sub. (1) and the label information can be seen through the shipping container.

**(4) EGGS REMOVED FROM RETAIL SALE.** (a) No eggs may be sold as whole eggs at retail after the expiration or "sell by" date specified for those eggs under subs. (1)(e)1. or (2)(g)1. If otherwise used as human food, the eggs shall meet at least grade B egg standards.

(b) Eggs labeled with dates under subs. (1)(e) or (2)(g) shall retain those dates and may not be repackaged or relabeled with any other dates.

**History:** Cr. Register, October, 1996, No. 490, eff. 11-1-96.

**ATCP 88.10 Deceptive practices.** No person may do any of the following in connection with the sale or distribution of eggs:

**(1)** Misrepresent the grade, size, or quality of the eggs, the date on which the eggs were packed, or the sale expiration date of the eggs.

**(2)** Use any term, such as "super jumbo" or "super one dozen," that tends to exaggerate the number or size of eggs.

**(3)** Sell, offer for sale, or distribute eggs in any misbranded package or shipping container.

**(4)** Offer for sale or sell eggs without clearly indicating the grade and size of the eggs or that they are ungraded.

**(5)** Represent that eggs are fresh unless they conform to grade standards specified for grade A or grade AA eggs under the federal act.

**History:** Cr. Register, October, 1996, No. 490, eff. 11-1-96.

**ATCP 88.12 Dealers buying eggs from producers; receipts.** **(1)** No person may buy eggs from a producer for resale, where the price paid to the producer is based on the grade or size of the eggs, unless that person provides that producer with a written receipt showing all of the following:

(a) The grades and sizes of the eggs purchased from the producer, including the number of dozen and price per dozen purchased in each grade and size category. Grades and sizes shall be determined according to s. ATCP 88.06.

(b) The date on which the eggs were graded.

(c) Whether the eggs were graded by or for the person purchasing the eggs from the producer.

**(2)** A person required to give a receipt under sub. (1) shall keep a copy of the receipt for at least one year, and shall make the receipt available to the department for inspection and copying upon request.

**Note:** A person who violates this chapter may be prosecuted under ss. 93.21 and 97.72, Stats.

**History:** Cr. Register, October, 1996, No. 490, eff. 11-1-96.