

## Chapter ATCP 88

### EGGS

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**History:** Chapter Ag 90 as it existed on June 30, 1974 was repealed and a new chapter Ag 90 created effective July 1, 1974; Chapter Ag 90 was renumbered ch.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 Chapter ATCP 88 as it existed on October 31, 1996 was repealed and a new chapter ATCP 88 was created effective November 1, 1996. Chapter ATCP 88 as it existed on April 30, 2015 was repealed and a new chapter ATCP 88 was created effective May 1, 2015.

#### Subchapter I — General Provisions

##### ATCP 88.01 Definitions. In this chapter:

(1) “Ambient temperature” means the temperature of the air surrounding eggs or packages of eggs.

(2) “Balut” means a fertile egg which is incubated for a period of time shorter than is necessary for hatching.

(3) “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.

(4) “Check” means an egg that has a broken shell or crack in the shell but has intact shell membranes and no leaking of contents.

(5) “Community-supported agriculture business” means a farm with which individuals contract to regularly receive two or more different agricultural products, which may include eggs, originating from the farm.

(6) “Consumer” means an individual purchasing eggs which will be consumed by the individual, the individual’s family, or the individual’s non-paying guests.

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

(8) “Dirty” 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.

(9) “Egg” means the shell egg of the domestic chicken, *Gallus gallus domesticus*; turkey, duck, goose, guinea, or other avian species whose eggs are consumed by humans.

(10) “Egg handler” means a person who washes, grades, sizes, candles, packages, stores, handles, or otherwise prepares eggs for sale, but does not include a person who handles nest-run eggs and otherwise prepares nest-run eggs for sale.

(11) “Egg producer” means a person who sells eggs only laid by birds owned by that person.

(12) “Egg sales route” means one or more residences inhabited by consumers who regularly buy eggs from an egg producer traveling to the residences.

(13) “Farmers’ market” means a common facility where two or more farmers or growers gather on a regular basis to sell raw agricultural commodities, eggs, and processed foods which they produce, directly to consumers.

(14) “Federal egg grading act” means the agricultural marketing act of 1946, as amended (7 USC 1621 et seq.), and U.S. standards, grades, and weight classes for shell eggs issued under the act.

(15) “Federal egg products inspection act” means the egg products inspection act of 1970 (21 USC 1031-1056), and regulations issued under the act in 7 CFR part 57 and 9 CFR part 590.

(16) “Federal egg safety rule” means regulations in 21 CFR 16.5 (a) (5) and 21 CFR part 118, and enforced by the U.S. food and drug administration.

(17) “Incubator reject” means an egg that has been subjected to incubation and has been removed from incubation during the hatching operations as infertile or otherwise unhatchable.

(18) “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, unless such egg is classified as a balut.

(L) Adulteration as defined under s. 97.02, Stats.

(19) “Leaker” means an egg that has a crack or break in the shell and shell membranes, to the extent that the egg contents are exposed or are exuding or free to exude through the shell.

(20) “Loss” means an egg that is unfit for human food because it is smashed or broken so that its contents are leaking; or is overheated, frozen, or contaminated.

(21) “Nest-run” means eggs that do not receive more than minimal washing, and are not graded or candled before sale.

(22) “Official egg products plant” means a place of business, regulated by the U.S. department of agriculture under the federal egg products inspection act, that manufactures egg products, including breaking eggs or filtering, mixing, blending, pasteurizing, stabilizing, cooling, freezing, drying, or packaging egg products.

(23) “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.

(24) “Packing” means placing eggs into a package or shipping container.

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

(26) “Restricted egg” means any egg that is a check, dirty, incubator reject, inedible, leaker, or loss.

(27) “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.

(28) “Storage” means the holding of eggs before sale for longer than 24 hours.

(29) “U.S. Consumer Grade B” means eggs which are, on the basis of a sample obtained in accordance with 7 CFR 56.4, at least 90 percent grade B quality or better, of which not more than 10 percent are checks and not more than 0.50 percent (at origin) or 1 percent (at destination) are leakers, dirties, or loss (due to meat or blood spots) in any combination, except that such loss may not exceed 0.30 percent. Other types of loss are not permitted.

(30) “U.S. standards, grades, and weight classes for shell eggs” means standards maintained by the agricultural marketing service of the U.S. department of agriculture and published in *U.S. Standards, Grades, and Weight Classes for Shell Eggs* (AMS 56), July 20, 2000.

(31) “Warehouse” has the meaning given in s. 97.27 (1) (b), Stats.

**History:** CR 14-037: cr. Register April 2015 No. 712, eff. 5-1-15; correction in (6) made under s. 35.17, Stats., Register April 2015 No. 712; numbering corrections in (17), (18), (29), (30) made under s. 13.92 (4) (b) 1., Stats., Register April 2015 No. 712.

**ATCP 88.02 Licensing and Registration.** (1) **FOOD PROCESSING PLANT LICENSE REQUIRED.** Except as provided under sub. (2), no egg handler may conduct egg handling activities, including sales of eggs to a licensed egg handler, retail food establishment, food processing plant, or community-supported agriculture business, without a valid license issued by the department for a food processing plant under s. 97.29, Stats. The license holder shall meet all requirements of s. ATCP 70.03.

(2) **LICENSE EXEMPTIONS.** A food processing plant license is not required under s. 97.29, Stats., or this section, for:

(a) An egg producer collecting, packing, and storing eggs from a flock of not more than 150 laying birds and who only sells the eggs directly to consumers at the premises where the eggs were laid, a farmers’ market, or on an egg sales route. The

eggs may or may not be washed, candled, and graded, and shall be labeled as ungraded and uninspected, and packages containing the eggs shall have the seller’s name, address, pack date, and a “sell-by” date not more than 30 days after the pack date on them.

(b) An egg producer collecting, packaging, and storing nest-run eggs from a flock of laying birds owned by the producer and who is registered with the department under sub. (4), and who sells the nest-run eggs to an egg handler. The producer shall not sell obviously restricted eggs.

(3) **FOOD WAREHOUSE LICENSE REQUIRED.** No egg producer or egg handler may receive eggs from another egg producer or egg handler and store the eggs for more than 24 hours before selling them without a valid license issued by the department for a food warehouse under s. 97.27, Stats.

(4) **REGISTRATION.** An egg producer, exempt from food processing plant licensing requirements under sub. (2) (b), shall register with the department before selling eggs. Registration may occur in any license year ending March 31, and the registration expires at the end of the license year. Registration shall be in writing on a form provided by the department or online at <http://datcp.wi.gov>. There shall be no fee to register.

(5) **RETAIL FOOD ESTABLISHMENT LICENSE.** Except for egg producers selling eggs directly to consumers at the egg producer’s premises or as part of a community-supported agriculture business operated by the egg producer, no egg producer may sell eggs directly to consumers, including sales at a farmers’ market or on an egg sales route, without a valid license issued by the department for a retail food establishment under s. 97.30, Stats. The license holder shall meet all requirements of s. ATCP 75.03.

**History:** CR 14-037: cr. Register April 2015 No. 712, eff. 5-1-15.

#### **ATCP 88.04 Federal registrations and records.**

(1) **REGISTRATION REQUIRED.** (a) An egg producer, licensed or registered with the department, shall also be registered with the U.S. food and drug administration, if required under 21 CFR 118.11 of the federal egg safety rule.

(b) An egg producer or egg handler who grades and packs eggs for the ultimate consumer, and is licensed with the department, shall also be registered with the U.S. department of agriculture, if required under 7 CFR 57.690 of the federal egg products inspection act.

(2) **REGISTRATION RECORDS.** (a) Egg handlers who receive eggs from producers who own 3,000 or more laying birds shall maintain records verifying that those producers have registered with the U.S. food and drug administration as required by the federal egg safety rule.

(b) An egg handler who sells eggs from a flock of 3,000 or more laying birds directly to the consumer shall register with the U.S. department of agriculture as required by the federal egg products inspection act.

**History:** CR 14-037: cr. Register April 2015 No. 712, eff. 5-1-15; correction in (1) (b) made under s. 13.92 (4) (b) 7., Stats., Register April 2015 No. 712.

### **Subchapter II — Egg Facilities**

#### **ATCP 88.06 Egg handling and storage facilities.**

(1) **CONSTRUCTION AND MAINTENANCE; GENERAL.** Buildings and facilities used in the operation of an egg handling facility shall be of sound construction, and shall be capable of being maintained in a clean and sanitary condition. The interior and exterior portions of an egg handling facility, and the premises on which the egg handling facility is located, shall be kept free of unhealthful or unsanitary conditions, and shall be main-

tained in compliance with this chapter. The premises surrounding an egg handling facility shall be well drained and shall be kept in a clean and orderly condition. The premises shall be kept free of accumulations of trash, garbage, and other potential health nuisances.

**(2) FLOORS, WALLS, AND CEILINGS.** Floors, walls, and ceilings in an egg handling facility shall be kept clean and in good repair. Floors, walls, and ceilings in egg handling areas, toilet rooms, and areas used for the cleaning or storage of equipment or utensils shall be constructed of smooth, impervious, and easily cleanable materials. This does not prohibit the use of easily cleanable anti-slip floors. Walls and ceilings in egg handling areas shall be light colored. The junctions of walls and floors in egg handling areas shall be coved to facilitate cleaning. Floors which are waterflushed for cleaning, or on which water or fluid wastes are discharged, shall have an adequate number of floor drains and be adequately sloped to ensure proper drainage to the floor drains.

**(3) DOORS AND WINDOWS.** Doors, windows, skylights, transoms, and other openings to the outside shall be tight-fitting, free of breaks, and effectively screened or protected against the entry of rodents, insects, birds, and other animals. External doors, other than overhead doors in delivery areas, shall be self-closing. External doors shall be kept closed when not in use.

**(4) LIGHTING.** (a) Lighting in every area of an egg handling facility, whether natural or artificial, shall be sufficient for the purpose for which the area is used.

(b) Artificial lights in egg handling areas shall be equipped with protective shields or shatter resistant bulbs.

(c) The lighting of the interior of an egg handling facility shall be adequate to disclose dirty eggs or packing materials and egg or packing material defects that may affect the safety, sanitation, or quality of eggs. Egg handling areas shall be illuminated to the following levels measured 3 feet above the floor:

1. Not less than 20 foot candles (215 lux) in egg handling areas, equipment and utensil cleaning areas, handwashing areas, and toilet areas.

2. Not less than 10 foot candles (108 lux) in egg storage areas.

**(5) VENTILATION, HEATING AND COOLING.** (a) An egg handling facility, including egg handling areas, locker rooms, toilet rooms, employee break rooms, and garbage or rubbish storage areas, shall be adequately ventilated, heated, and cooled as needed to meet the applicable temperature requirements in s. [ATCP 88.18](#).

(b) Ventilation shall be adequate to keep the egg handling facility free of excessive heat, condensation, vapors, obnoxious odors, smoke, and fumes.

(c) Heating, cooling, and ventilating systems, including ducts and pipes over egg handling areas, shall be designed or located to prevent conditions whereby drips or condensate may contaminate eggs or egg packages. Intake fans shall be equipped with filters that are readily removable for cleaning and replacement, and shall be kept clean. Ventilation ducts and intake or exhaust fans shall be kept clean and in good repair and shall be screened or louvered to exclude dust and insects.

**(6) TOILET FACILITIES.** (a) A sufficient number of sanitary toilets to accommodate all employees, in accordance with applicable state and local regulations, shall be provided in convenient locations.

(b) Toilet rooms shall be completely enclosed, well-lighted, and equipped with tight-fitting doors. Toilet rooms and fixtures

shall be easily cleanable, and shall be kept clean and in good repair. Toilet rooms contiguous with egg handling facilities shall be equipped with self-closing doors, separately vented to the outside, equipped with an exhaust fan capable of creating a negative pressure within the toilet facility, and shall not open directly into an egg handling area.

(c) Handwashing facilities shall be located in or adjacent to every toilet room. Handwashing facilities serving toilet rooms shall include hot and cold running water, soap in a soap dispenser, and a sanitary single-service means of drying the hands. A sign directing employees to wash their hands shall be prominently posted in every toilet room used by employees. Handwashing facilities serving toilet rooms shall comply with all of the following requirements if they are installed after November 1, 2009, or if they are located in an egg handling facility that is initially licensed or licensed to a new operator after November 1, 2009:

1. The facility shall be served by hot and cold running water provided through a mixing valve or combination faucet, or by tempered potable water.

2. Faucets shall be of a type which are not hand-operated. If a self-closing, slow-closing, or metering faucet is used, that faucet shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet.

(d) An easily cleanable covered trash receptacle and an adequate supply of toilet tissue shall be available in every toilet room at all times.

**(7) CLEANING FACILITIES.** (a) If equipment, utensils, or egg packages are wet-cleaned or sanitized manually, the egg handling facility shall be equipped with wash and rinse sinks which are suitable for all manual cleaning and sanitizing operations. Sinks shall be conveniently located and adequate in number. Each sink shall be constructed of stainless steel or of one or more other materials approved by the department. Each sink shall have at least 2 compartments.

(b) Every sink compartment shall be large enough to accommodate the immersion of at least 50% of the largest item to be cleaned or sanitized in the sink. Every sink compartment shall be served by hot and cold running water, and shall be cleaned before each use.

(c) Drain boards shall be provided in connection with every sink. Drain boards shall be large enough to accommodate soiled equipment and utensils before washing, and clean equipment and utensils after the drain boards are cleaned and sanitized. Drain boards shall be located and constructed so that they do not interfere with washing and sanitizing operations. This paragraph does not prohibit the use of easily movable dish tables as drain boards if the dish tables comply with this paragraph.

(d) Brushes and cleaning tools shall be kept clean and in good repair. Wiping cloths used to clean equipment and utensils shall be cleaned, sanitized, and dried daily, and shall be stored in an approved sanitizing solution between uses during the processing day. Sanitizing solutions for wiping cloths shall be changed at least daily. Wiping cloths used to clean egg contact surfaces of equipment and utensils shall not be used for any other purpose. Single service disposable towels may be used in place of reusable cloths if they are discarded after use.

(e) If a mechanical system is used to clean or sanitize equipment, utensils, or egg containers, the mechanical system shall be designed, installed, and maintained so that it is fully effective for the purpose used.

**(8) PLUMBING SYSTEM AND SEWAGE DISPOSAL.** Sewage and waste materials from an egg handling facility shall be removed

in a sanitary manner, in compliance with applicable state and local regulations. All plumbing, plumbing fixtures, and equipment shall be designed, installed, and maintained to prevent backflow, backsiphonage, and cross-connections.

**Note:** Plumbing and plumbing fixtures are subject to the requirements of chs. SPS 381 to 387, enforced by the department of safety and professional services.

(9) **GARBAGE AND REFUSE DISPOSAL.** (a) Garbage and refuse shall not be allowed to accumulate in or around an egg handling facility. Garbage and refuse shall be removed as often as necessary to maintain the premises in a clean and sanitary condition.

(b) A separate room or a designated area for the accumulation of garbage and refuse must be provided in facilities which do not have a system for the daily removal or destruction of garbage and refuse. Garbage and refuse storage areas shall be constructed and maintained so that they do not attract or harbor insects, rodents, or other animals.

(c) Garbage and refuse shall be held in durable, leak-proof, easily cleanable, and pest-resistant containers. Containers used to hold inedible waste egg products or materials soiled with eggs shall be kept covered with tight-fitting lids, and shall be cleaned when necessary to prevent unsanitary conditions.

(d) Garbage and refuse shall not be burned on the premises, except in compliance with state and local laws. Garbage and refuse shall not be burned on the premises if burning may contaminate eggs.

(10) **CONTROL OF PESTS.** (a) Effective measures shall be taken to control insects, rodents, and other pests in an egg handling facility. Pesticides and other hazardous substances shall not be stored or used in a manner which may contaminate eggs, or which may constitute a hazard to employees or the public. Pesticides shall not be stored, handled, or used in a manner inconsistent with label directions, or in a negligent manner.

(b) All domestic animals shall be kept out of egg handling areas.

**History:** CR 14-037: cr. Register April 2015 No. 712, eff. 5-1-15; correction in (9) (c) made under s. 35.17, Stats., Register April 2015 No. 712.

**ATCP 88.08 Egg handling rooms.** (1) **EGG WASHING AND EGG GRADING ROOMS.** (a) Egg washing and grading rooms shall be kept clean during washing, candling, grading, and packaging operations and shall be thoroughly cleaned at the end of each day's operations.

(b) Areas in which manual candling is done shall be dark enough to permit accurate determinations of egg quality.

(2) **EGG STORAGE ROOMS.** (a) Egg storage areas shall be capable of maintaining eggs at ambient temperatures required under s. ATCP 88.18, regardless of reasonably foreseeable external temperatures.

(b) Every egg storage area shall be equipped with one or more accurate temperature measuring devices to monitor compliance with temperature standards under s. ATCP 88.18. The ambient temperature shall be monitored in one or more representative locations of the egg storage facility.

(c) An egg storage area shall be kept clean at all times. Storage areas, equipment and utensils, and stored eggs shall be arranged so that all parts of the egg storage area can be effectively cleaned and inspected.

(d) Eggs shall be stored such that the packaged eggs are protected from moisture, dust, and other contamination, and such that cleaning of the storage area, including the floor, is not impeded.

**History:** CR 14-037: cr. Register April 2015 No. 712, eff. 5-1-15.

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**ATCP 88.10 Operations water.** (1) Operations water shall be obtained from a source that complies with ch. NR 811 or 812.

(2) Operations water shall be available in consistently adequate quantity, and shall comply with the health related drinking water standards in ch. NR 809.

(3) If an egg handling facility operator obtains operations water from a privately owned water system, the operator shall sample that water at least once annually. The operator shall have each sample tested by a laboratory certified under ch. ATCP 77, for compliance with the microbiological standards under s. NR 809.30.

(4) An egg handling facility operator shall keep on file, for at least one year, the results of all microbiological and other tests conducted on operations water sampled at the egg handling facility.

**History:** CR 14-037: cr. Register April 2015 No. 712, eff. 5-1-15; corrections in (1) to (3) made under s. 13.92 (4) (b) 7., Stats., Register April 2015 No. 712.

### Subchapter III — Equipment and Utensils

#### ATCP 88.12 Equipment and utensil requirements.

(1) **CONSTRUCTION AND MAINTENANCE; GENERAL.** (a) *Sanitary design, accessibility, and cleanability.* Equipment and utensils shall be of sanitary design and construction. Equipment and utensils shall be readily accessible for cleaning and inspection and shall be constructed so that items can be easily cleaned. Equipment and utensils shall be kept clean and in good repair.

(b) *Egg contact surfaces.* Egg contact surfaces of equipment and utensils shall be constructed of stainless steel or of one or more other materials which are smooth, impervious, nontoxic, non-corrodible, nonabsorbent, and durable under normal use conditions. Egg contact surfaces shall be easily cleanable, and shall be free of breaks, open seams, cracks, or similar defects. Egg contact surfaces shall not impart any odor, color, taste, or adulterating substance to food. Egg contact surfaces shall be readily accessible for manual cleaning.

(c) *Single-service articles.* Single-service articles shall be stored in the original containers in which they were received, or in other closed containers which will protect them from contamination before use. Single-service articles shall not be reused.

(2) **ADEQUACY AND ACCURACY OF MEASURING DEVICES, INSTRUMENTS, AND CONTROLS.** Every cold storage compartment used to store or hold eggs shall be equipped with a thermometer or other device which accurately indicates the ambient temperature in the compartment. Instruments and controls used for measuring, regulating, and recording air or wash water temperatures, humidity, or wash water pH shall be adequate for the intended use.

(3) **LUBRICATION.** Equipment shall be designed and constructed so that gear and bearing lubricants do not come in contact with eggs or egg contact surfaces. Only food grade lubricants may be used in equipment if incidental egg contact may occur.

(4) **LOCATION AND INSTALLATION OF EQUIPMENT.** Equipment which cannot be easily moved shall be installed in a manner which prevents liquid or debris from accumulating under or around the equipment. Equipment shall be installed so that there is adequate clearance on all sides for cleaning and maintenance. This does not apply to that portion of a tank or container which is designed and installed to protrude into or through the wall or ceiling of an egg handling facility. Air intake vents for egg storage containers shall be located in handling areas or shall be properly filtered.

**(5) EQUIPMENT FOR CANDLING, GRADING, AND WEIGHING EGGS.** (a) Egg candling lights shall be strong enough to disclose dirty eggs and to permit accurate determinations of egg quality.

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

(c) Equipment used to weigh eggs shall be calibrated at least annually for accuracy.

**History:** CR 14-037: cr. Register April 2015 No. 712, eff. 5-1-15; (1) (a) title created under s. 13.92 (4) (b) 2., Stats., and correction in (1) (c), (5) (b) made under s. 35.17, Stats., Register April 2015 No. 712.

**ATCP 88.14 Cleaning and sanitizing equipment and utensils.** **(1) CLEANING AND SANITIZING EQUIPMENT AND UTENSILS; GENERAL.** Except as provided in sub. (3):

(a) All egg contact surfaces of equipment and utensils shall be cleaned and sanitized after each day's use, or more frequently if necessary.

(b) Sanitizers and methods used to sanitize equipment shall comply with s. ATCP 70.11.

(c) The department may approve alternative cleaning and sanitizing procedures under sub. (2).

**(2) ALTERNATIVE CLEANING AND SANITIZING PROCEDURES.** (a) An egg handler may request the department to approve alternative cleaning and sanitizing procedures under this section. The department shall approve alternative cleaning and sanitizing procedures if the department determines that those alternative procedures will effectively prevent egg contamination and ensure the microbiological safety of the eggs.

(b) The egg handler shall submit a written request to use alternative cleaning and sanitizing procedures as allowed under this subsection. The request shall include all of the following, and any other information required by the department:

1. A clear and complete description of the affected egg handling equipment, including any continuously-operated equipment. The description shall identify sanitary design features that are relevant to the proposed cleaning and sanitizing procedures.

2. The types of eggs handled with the affected equipment, and the temperatures to which the eggs will be exposed during handling.

3. A clear and complete description of the alternative cleaning and sanitizing procedure, including cleaning and sanitizing equipment, frequency, methods, materials, and relevant process parameters such as time and temperature. The description shall include a flow diagram of the cleaning and sanitizing procedure.

4. A written statement, by the egg handler, that the alternative cleaning and sanitizing procedure has been evaluated and determined to be effective in preventing egg contamination and ensuring the microbiological safety of the eggs. The written statement shall be based on a written plan under subd. 5.

5. A written plan, prepared by qualified personnel, to ensure that the alternative cleaning and sanitizing procedure will be effective in preventing egg contamination and ensuring the microbiological safety of eggs. The written plan shall identify and assess foreseeable hazards, identify critical control points, identify parameter limits associated with the critical control points which must be met to ensure safety, and identify monitoring procedures and controls to ensure that the procedure is effective.

(c) The department shall grant or deny a request under par. (a), in writing, within 60 days after it receives a complete request, except that the department may give written notice extending the action deadline for reasons stated in the notice.

(d) The department may qualify or limit its approval under par. (c), as it deems appropriate. The department may withdraw its approval for cause, including information that casts doubt on the efficacy or implementation of the approved procedure.

(e) An egg handler that implements an alternative cleaning and sanitizing procedure approved under this subsection shall do all of the following:

1. Control and monitor the procedure to ensure that it is implemented as approved, and is effective in preventing egg contamination and ensuring the microbiological safety of the eggs.

2. Promptly notify the department of any material deviation from the approved procedure, and any information that casts doubt on the efficacy of the procedure.

3. Collect and retain data and records to document, on a continuing basis, the implementation and efficacy of the approved procedure. The operator shall retain the data and records for at least 90 days, and shall make them available upon request for inspection and copying by the department.

**(3) STORAGE OF CLEAN EQUIPMENT AND UTENSILS.** Equipment and utensils, unless stored in an approved sanitizing solution, shall be stored so as to drain dry. Equipment and utensils shall be protected from contamination prior to use.

**History:** CR 14-037: cr. Register April 2015 No. 712, eff. 5-1-15.

#### Subchapter IV — Egg Handling Operations

**ATCP 88.16 Personnel standards.** **(1) CLEANLINESS.** Persons engaged in egg handling shall maintain a high degree of personal cleanliness, and shall observe good hygienic practices during all working periods. Persons engaged in egg handling shall wash their hands before beginning work and upon returning to work after using toilet facilities, eating, smoking, or engaging in other activities which may contaminate the hands. Persons engaged in egg handling shall keep their fingernails clean and neatly trimmed.

**(2) CLOTHING AND JEWELRY.** Persons in egg handling areas shall wear clean, washable outer garments. Persons working in egg handling areas shall remove all jewelry from their hands and fingers before having any direct manual contact with eggs or egg contact surfaces. Jewelry shall not be worn in a manner which creates a risk of egg contamination. This subsection does not apply to plain band wedding rings.

**(3) EMPLOYEE HEALTH.** No person who, by medical examination or supervisory observation, has, or is reasonably suspected of having, any of the following conditions may work in an egg handling plant in any capacity that may result in the contamination of eggs, or in the contamination of equipment or utensils used to process or handle eggs:

(a) A communicable disease.

(b) Any symptom of an acute gastrointestinal illness.

(c) A discharging or open wound, sore, or lesion on the hands, arms, or other exposed portions of the body.

**(4) CONSUMPTION OF FOOD OR BEVERAGES, AND USE OF TOBACCO.** No person may consume food or beverages or use tobacco in any egg handling area, or in any area where egg processing equipment or utensils are cleaned or stored. Employees may not consume food or beverages or use tobacco except in designated areas which are separated from egg handling areas.

This subsection does not prohibit a sanitary drinking water fountain in an egg handling area.

**History:** CR 14-037: cr. Register April 2015 No. 712, eff. 5-1-15.

**ATCP 88.18 Temperature standards. (1) TEMPERATURE BEFORE PACKING.** Eggs that are held by an egg handler before packing for more than 36 hours after they are laid shall be kept at an ambient temperature of 45° Fahrenheit (7° Celsius) or less. Eggs that have been refrigerated may be held at room temperature, for up to 36 hours immediately before washing, to decrease the risk of thermal checks caused by washing cold eggs with warm water.

**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 PACKING.** Eggs which have been packed by an egg handler shall be kept at an ambient temperature of 45° Fahrenheit (7° Celsius) or less at all times, including while they are being transported.

**(3) TEMPERATURE DURING TRANSPORT.** During transport to a retail food establishment and upon receipt at a retail food establishment eggs shall be held at an ambient air temperature of 45° Fahrenheit (7° Celsius) or less.

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

**(4) TEMPERATURE STANDARDS FOR RETAIL SALE.** Eggs held for retail sale shall be held at an ambient temperature of 41° Fahrenheit (5° Celsius) or less.

**(5) TEMPERATURE STANDARDS FOR BALUTS.** Baluts must be refrigerated upon removal from incubation and maintained at a temperature of 41° Fahrenheit (5° Celsius) or less while transported, stored, or held for retail sale.

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

**History:** CR 14-037: cr. Register April 2015 No. 712, eff. 5-1-15; correction in (5) made under s. 35.17, Stats., Register April 2015 No. 712.

**ATCP 88.20 Egg cleaning and storage operations.**

**(1)** Eggs shall be cleaned to remove debris and stains.

**(2)** Dirty eggs may be dry cleaned with an egg brush or rubbed with a sanding sponge and sand paper.

**(3)** Compounds used to clean or sanitize eggs shall be either generally recognized as safe under 21 CFR parts 182 and 184, and used in accordance with good manufacturing practices under 21 CFR 182.1; approved by the U.S. food and drug administration as a food additive under 21 CFR parts 172 – 174, and 180, and used in accordance with the conditions of this approval; approved by the U.S. food and drug administration as a sanitizer under 21 CFR 178.1010, used at concentrations speci-

**(2) CHICKEN EGG SIZES.** Except for chicken eggs clearly labeled as “ungraded” as required under s. ATCP 88.34 (1) (b), chicken eggs sold or distributed in this state by an egg handler licensed under s. ATCP 88.02 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 egg grading act and U.S. standards, grades, and weight classes for shell eggs and shown in the table below.

Size or weight class	Minimum net weight per dozen (ounces)	Minimum net weight per 30 dozen (pounds)	Minimum net weight for individual eggs at rate per dozen (ounces)
Jumbo	30	56	29
Extra large	27	50.5	26
Large	24	45	23
Medium	21	39.5	20
Small	18	34	17
Peewee	15	28	---

**Note:** United States grades and sizes are fully described in “United States Standards, Grades, and Weight Classes for Shell Eggs” (AMS 56), July 20, 2000, published by the Agricultural Marketing Service of the United States Department of Agriculture. A copy of the standards may be accessed online at: <http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELDEV3004376>

**History:** CR 14-037: cr. Register April 2015 No. 712, eff. 5-1-15.

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fied therein, and registered for this use with the U.S. environmental protection agency; or otherwise approved by the department.

**(4)** Ultraviolet light may be used to sanitize eggs in accordance with 21 CFR 179.39.

**(5)** Water used to clean shell eggs shall be:

(a) At least 20° Fahrenheit warmer than the eggs, and not colder than 90° Fahrenheit.

(b) Changed to maintain sanitary conditions at least every 4 hours, by either continuous water exchange or by completely emptying and refilling the wash tank, and at the end of each shift by emptying and refilling the wash tank.

**(6)** Eggs shall not be left standing or soaking in cleaning water.

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

**(8)** Dirty eggs that cannot be cleaned shall be discarded as restricted eggs.

**(9)** An egg handling facility operator shall handle and store eggs:

(a) In a safe and sanitary manner, and under sanitary conditions, to protect the safety and wholesomeness of the eggs.

(b) In a neat and orderly manner, so that the eggs are readily accessible for inspection and movement, and so that the egg storage area can be readily inspected and cleaned. The amount of eggs stored in an egg storage area shall not exceed the reasonable capacity of that area.

**History:** CR 14-037: cr. Register April 2015 No. 712, eff. 5-1-15.

**ATCP 88.22 Candling; candling requirements.** A candling light or automated grading equipment is required for determining the interior and exterior quality of eggs. Egg candling lights and candling light areas shall meet the requirements of s. ATCP 88.12 (5) (a) to (c). A candling light must be used to verify the performance of automated grading equipment.

**History:** CR 14-037: cr. Register April 2015 No. 712, eff. 5-1-15; corrections made under s. 13.92 (4) (b) 2., 7., Stats., Register April 2015 No. 712.

**ATCP 88.24 Grading standards for chicken eggs.**

**(1) GRADING STANDARDS FOR CHICKEN EGGS.** Except for chicken eggs clearly labeled as “ungraded” as required under s. ATCP 88.34 (1) (b), chicken eggs sold or distributed in this state by an egg handler licensed under s. ATCP 88.02 shall be labeled as grade AA, A, or B, and shall conform to the U. S. grade standards specified for those grades under the federal egg grading act and the U.S. standards, grades, and weight classes for shell eggs.

**ATCP 88.26 Minimum tolerance standards. (1)** LIMITATIONS ON SALE AND DISTRIBUTION. No person may sell or distribute for sale as human food any eggs that fail to meet tolerance standards for U.S. Consumer Grade B eggs under U.S. standards, grades, and weight classes for shell eggs, regardless of whether the eggs are labeled as graded or ungraded eggs. No individual case of Grade B quality eggs may contain a percentage of grade B quality eggs that is more than 10 percentage points greater than the minimum permitted for the lot average. This section does not apply to eggs which are clearly labeled as “ungraded” as required under s. ATCP 88.34 (1) (b) and which the egg producer sells directly to a consumer on the premises where the eggs are produced or as part of a community-supported agriculture business.

**History:** CR 14-037: cr. Register April 2015 No. 712, eff. 5-1-15.

**ATCP 88.28 Restricted eggs. (1)** PROHIBITION AGAINST SALE OF RESTRICTED EGGS. (a) Except as provided in par. (b), no person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation any restricted eggs, and no egg handler shall possess any restricted eggs or use any restricted eggs in the preparation of human food.

(b) Egg producers collecting eggs from a flock of more than 3,000 laying birds shall only sell, transport, possess, or use restricted eggs in compliance with 7 CFR 57.100 of the federal egg products inspection act. Egg producers collecting eggs from a flock of 3,000 or fewer laying birds shall:

1. Sell no more edible restricted eggs than the amount allowed by the tolerances in the official standards for U.S. Consumer Grade B shell eggs.

2. Sell checks and dirties only on the premises where the eggs are produced directly to consumers for use by the consumer and the consumer’s non-paying guests.

**(2)** DISPOSITION OF RESTRICTED EGGS. Egg producers collecting eggs from a flock of more than 3,000 hens shall dispose of restricted eggs in compliance with 7 CFR 57.720 and maintain records as required in 7 CFR 57.200 of the federal egg products inspection act. Egg producers collecting eggs from a flock of 3,000 or fewer hens shall dispose of restricted eggs by:

(a) Shipping checks and dirties directly or indirectly to an official egg products plant for processing.

(b) Crushing and placing loss and inedible eggs in a container containing a sufficient amount of approved denaturant or decharacterizing substance, as approved the department. The denatured and decharacterized product shall be labeled “Restricted eggs. Not to be used as human food.”

**(3)** DISPOSITION OF PACKED EGGS EXCEEDING RESTRICTED EGG TOLERANCES. Eggs which are placed in a package for the ultimate consumer and which have been found to exceed the tolerance for restricted eggs permitted in the official standards for U.S. Consumer Grade B eggs under U.S. standards, grades, and weight classes for shell eggs shall be identified as required in ss. 7 CFR 57.800 and 57.860 and shall be:

(a) Shipped directly or indirectly to an official egg products processing plant for proper segregation and processing; or

(b) Regraded so that they comply with the official standards; or

(c) Designated for animal food after being denatured and decharacterized and labeled “Restricted eggs. Not to be used as human food.”

**History:** CR 14-037: cr. Register April 2015 No. 712, eff. 5-1-15.

**ATCP 88.30 Shell egg protection; egg shell oil.** If oil is used to protect shell eggs, the oil shall meet the require-

ments of 21 CFR 172.878 and 21 CFR 178.3620(a). Oil having any off odor, or that is obviously contaminated, shall not be used to protect shell eggs. Any shell egg protection oil treatment shall be performed in a manner that prevents egg contamination and preserves egg quality. Eggs with excess moisture on the shell shall not be treated with oil to protect the shell.

**History:** CR 14-037: cr. Register April 2015 No. 712, eff. 5-1-15; correction made under s. 13.92 (4) (b) 2., Stats., Register April 2015 No. 712.

## Subchapter V — Packing and Labeling

**ATCP 88.32 Egg packing. (1)** EGG PACKING TO MAINTAIN QUALITY. Eggs shall be handled and packed to minimize the likelihood that condensation will accumulate on the eggs, and so that a majority of the packed eggs are placed in the package or shipping container with the small end down.

**(2)** EGG PACKAGE REQUIREMENTS. Egg packages and shipping containers shall be all of the following:

(a) Clean and in good condition.

(b) Free of mold, mustiness, and off-odors.

(c) Sufficiently strong and durable to protect eggs from damage during normal distribution.

(d) Packing of eggs in used egg cartons shall only be done using clean cartons on which all markings that do not pertain to the eggs being sold, including brand name, USDA shield, date of pack, expiration date, use-by date, quality, and size are obliterated.

**History:** CR 14-037: cr. Register April 2015 No. 712, eff. 5-1-15.

**ATCP 88.34 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 person who packed the eggs, the package shall also include the packer identification number or shell egg handler registration number assigned by the U. S. department of agriculture, or the packer identification number assigned by the state in which the packing operation is located. A U.S. 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 and 21 CFR 101.9.

(b) The grade and size of the eggs, if required under s. ATCP 88.24. 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.

**Note:** Only eggs graded under USDA’s Agricultural Marketing Services’ voluntary egg-quality grading program are eligible to be packaged in cartons bearing the USDA grade shield or labeled as “USDA” Grade AA, A, or B. Additional information about USDA’s egg grading services may be acquired from the following address: National Supervisor Shell Eggs, USDA-AMS Livestock, Poultry, and Seed Program, Poultry Grading Division, 1400 Independence Avenue, SW, Stop 0258, Washington, D.C. 20250. Telephone: (202) 720-3271.

(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 statement “SAFE HANDLING INSTRUCTIONS:” in bold type size followed by the statement “To prevent illness from bacteria: keep eggs refrigerated, cook eggs until yolks are firm, and cook foods containing eggs thoroughly.” The statement shall be printed in type size no smaller than 1/16 inch and shall appear in a hairline box. The statement shall appear on the principal display panel, the information panel, or the inside lid of the egg carton.

(e) 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.

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

1. An expiration date or “sell by” date after which the eggs may not be offered for sale or sold at retail. The period from the packing date until the expiration date may not exceed 30 days, including the packing date. 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 “EXP” or “sell by” 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. The period from the packing date until the “use by” date shall not exceed 45 days, including the packing date.

(2) EGG 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 did not pack the eggs, 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 packed the eggs, the packer’s identification number or shell egg handler registration number, pursuant to 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 88.24.
- (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 period from the packing date to the expiration date or “sell by” date may not exceed 30 days, including the packing date. 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. The period from the packing date to the “use by” date shall not exceed 45 days, including the packing date.

(3) EGGS SOLD OR SHIPPED BY PRODUCER TO AN EGG HANDLER, EXEMPTION. (a) Subsections (1) and (2) do not apply to eggs which are being shipped from an egg producer to an egg handler who packs the eggs.

(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 SOLD OR SHIPPED BY PRODUCER DIRECTLY TO CONSUMERS. Packages containing eggs which the producer sells directly to household consumers on the premises where the eggs are laid or as part of a community-supported agriculture business shall be labeled with the following:

- (a) The egg producer’s name and address.
- (b) The date on which the egg producer packed the eggs into the carton.
- (c) A “sell by” date that falls no more than 30 days after the date on which the eggs were packed into the carton.
- (d) A statement indicating that the eggs in the package are ungraded and uninspected.

(5) 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) (f) 1. or (2) (g) 1. If otherwise used as human food, the eggs shall meet at least the standard for U.S. Consumer Grade B eggs under U.S. standards, grades, and weight classes for shell eggs.

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

(6) ORGANIC EGGS. No egg may be displayed or sold in a package labeled “organic” unless the practices employed in egg production and handling are in compliance with the national organic program regulations in 7 CFR part 250, or any rules promulgated by the department under s. 97.09 (5), Stats.

**History:** CR 14-037: cr. Register April 2015 No. 712, eff. 5-1-15; correction in (1) (a) made under s. 13.92 (4) (b) 7., Stats., Register April 2015 No. 712.

**ATCP 88.36 Labeling of baluts.** Each container of baluts shall be clearly and conspicuously labeled to inform the consumer that the product is a “balut” or an “incubated fertile egg” or such other term or phrase that is informative and not false or misleading. The label should clearly indicate that the container of baluts should be stored at a temperature 41°F or less.

**History:** CR 14-037: cr. Register April 2015 No. 712, eff. 5-1-15.

**ATCP 88.38 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 “sell by” or “use by” dates of the eggs.

**Note:** Terms such as “super jumbo” or “super one dozen,” are examples of misrepresentations under sub. (1).

(2) Make any unauthorized nutrient content or health claims that do not comply with the requirements of 21 CFR part 101.

(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) Offer for sale or sell eggs laid by a species other than chicken, without clearly indicating the species of bird that laid the eggs.

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

**History:** CR 14-037: cr. Register April 2015 No. 712, eff. 5-1-15.

### Subchapter VI — Recordkeeping, Recall Planning, and Enforcement

**ATCP 88.40 Dealers buying eggs from producers; receipts.** (1) An egg producer who sells eggs to any person for resale shall keep a written record of the sale.

(2) Records for eggs sold by grade or size shall include all of the following:

(a) The grades and sizes of the eggs sold by the producer, including the number of dozen and price per dozen sold in each grade and size category. Grades and sizes shall be determined according to s. ATCP 88.24.

(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.

(3) A person required to give a receipt, pursuant to 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.

**History:** CR 14-037: cr. Register April 2015 No. 712, eff. 5-1-15.

**ATCP 88.42 Recall plan.** (1) PLAN REQUIRED. An egg handler shall have a written plan for identifying and recalling eggs processed at that egg handling facility, should a recall be-

come necessary. The egg handler shall update the plan as necessary, and shall make it available to the department for inspection and copying upon request.

(2) PLAN CONTENTS. A plan pursuant to sub. (1), shall do all of the following:

(a) Identify key individuals or positions that are responsible for planning, approving, and implementing recalls on behalf of the egg handler.

(b) Identify key individuals or entities to be contacted or consulted in connection with a recall.

(c) Include procedures for the routine identification, dating, and tracking of egg lots, so that in a recall the affected lots can be identified and distinguished from unaffected lots.

(d) Include procedures to enable routine identification, dating, and tracking of egg shipments from the egg handling facility. Tracking shall identify shipment recipients and contents, cross-referenced to lots, so that in a recall recipients of affected lots can be contacted.

(e) Include procedures for determining the nature and scope of a recall, including affected egg lots, shipments, and shipment recipients.

(f) Include procedures for identifying and communicating with affected persons, including suppliers, egg shipment recipients, down-line buyers, consumers, government agencies, and others.

(g) Identify potential target audiences for recall information, including consumers, distributors, and government agencies.

(h) Identify potential methods for communicating with target audiences under par. (g).

(i) Identify key information, including the identity of the affected eggs, the reason for the recall, and suggested actions to be taken by affected persons, which may be necessary to communicate in a recall.

**History:** CR 14-037: cr. Register April 2015 No. 712, eff. 5-1-15.

**ATCP 88.44 Enforcement.** A person who violates this chapter may be prosecuted under ss. 93.21 and 97.72, Stats.

**History:** CR 14-037: cr. Register April 2015 No. 712, eff. 5-1-15.