

Clearinghouse Rule 98-182

STATE OF WISCONSIN

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Clearinghouse Rule

DEPARTMENT OF AGRICULTURE,
TRADE & CONSUMER PROTECTION

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No. 98-182

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Docket No. 98-R-14

CERTIFICATION:

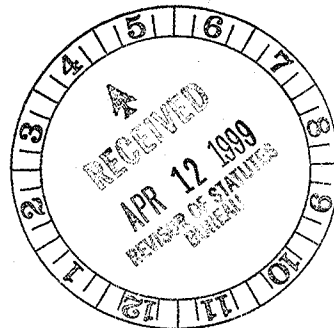
I, Ben Brancel, Secretary of the State of Wisconsin, Department of Agriculture, Trade and Consumer Protection, and custodian of the department's official records, hereby certify that the attached rulemaking order relating to grade standards for Colby and Monterey (Jack) cheese was signed and adopted by the department on April 12, 1999.

I further certify that I have compared the attached copy to the original on file in the department, and that the attached copy is a complete and accurate copy of the original.

Signed and sealed this 12th day of April, 1999.

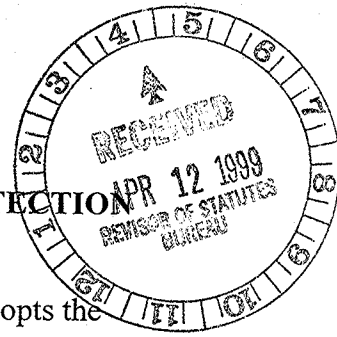
STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By Ben Brancel
Ben Brancel, Secretary



6-1-99

**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 adopts the
2 following order to amend ATCP 81.50 (2), 81.51 (2), and 81.52 (2), relating to grade standards
3 for colby and monterey (jack) cheese.

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

Statutory Authority: ss. 97.09 (1) and 97.177 (1), (2) and (4) , Stats.

Statutes Interpreted: ss. 97.09 and 97.177, Stats.

This rule modifies current rules under ch. ATCP 81, Wis. Adm. Code, related to grade standards for body and texture characteristics of colby and monterey (jack) cheese.

The current standards require the presence of mechanical openings or an “open” body in order for the cheese to be labeled or sold as Wisconsin certified premium grade AA or Wisconsin grade A (Wisconsin state brand).

This rule repeals current grade standards that require mechanical openings in colby and monterey (jack) cheese. Under this rule, the cheese may have either mechanical openings or a closed body.

When mechanical openings are present, their size and distribution are two of many factors which determine the specific grade category assigned to the cheese. Wisconsin certified premium grade AA requires that mechanical openings be “evenly distributed” and “small.” Wisconsin grade A (Wisconsin state brand) requires that mechanical openings be “evenly distributed,” without the added emphasis on “small.” Wisconsin grade B has no requirement for mechanical openings to be “evenly distributed.”

1 **SECTION 1.** ATCP 81.50 (2) is amended to read:

2 ATCP 81.50 (2) BODY AND TEXTURE CHARACTERISTICS. Wisconsin certified premium
3 grade AA colby and monterey (jack) cheese shall be reasonably firm ~~and shall have numerous~~

4 ~~small mechanical openings evenly distributed throughout the cheese.~~ The cheese may have

5 evenly distributed small mechanical openings or a closed body. The cheese may not contain any

1 sweet holes, yeast holes, or other gas holes. The cheese may be definitely curdy or partially
2 broken down if it is more than 3 weeks old. Body and texture standards are shown in the grade
3 AA column of Table 6.

4 **SECTION 2.** ATCP 81.51 (2) is amended to read:

5 ATCP 81.51 (2) BODY AND TEXTURE CHARACTERISTICS. Wisconsin grade A and
6 Wisconsin state brand colby and monterey (jack) cheese shall be reasonably firm. ~~The cheese~~
7 ~~shall have numerous~~ The cheese may have evenly distributed mechanical openings or a closed
8 body. When present, mechanical openings ~~but they~~ may not be large or connected to other
9 openings. The cheese shall be free from sweet holes, yeast holes, or other gas holes. The cheese
10 shall be definitely curdy or partially broken down if it is more than 3 weeks old. Body and
11 texture standards are shown in the grade A column of Table 6 under s. ATCP 81.50 (2).

12 **SECTION 3.** ATCP 81.52 (2) is amended to read:

13 ATCP 81.52 (2) BODY AND TEXTURE CHARACTERISTICS. Wisconsin grade B colby and
14 monterey (jack) cheese may be loosely knit and open. The cheese may have mechanical
15 openings or a closed body. There may be a limited amount of sweet holes, scattered yeast holes
16 and other scattered gas holes, but pinny gas holes are not permitted. Body and texture standards
17 are shown in the grade B column of Table 6 under s. ATCP 81.50 (2).

18 **SECTION 4. EFFECTIVE DATE.** The rules contained in this order shall take effect

19 on the first day of the month following publication in the Wisconsin administrative register, as
20 provided under s. 227.22(2)(intro.), Stats.

Dated this 12 day of April, 1999.

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

By Ben Brancel
Ben Brancel, Secretary



State of Wisconsin
Tommy G. Thompson, Governor

Department of Agriculture, Trade and Consumer Protection

Ben Brancel, Secretary



DATE: April 12, 1999

TO: Gary Poulson - Revisor of Statutes Office
131 West Wilson Street, Suite 800

FROM: Ben Brancel, Secretary *Ben Brancel*

SUBJECT: Clearinghouse Rule No. 98-182, Chapter ATCP 81, Relating to
Grade Standards for Colby and Monterey (Jack) Cheese

The Department of Agriculture, Trade and Consumer Protection hereby submits the following information for filing the above rule.

Final Regulatory Flexibility Analysis

This rule modifies current rules under ch. ATCP 81, Wis. Adm. Code, related to grade standards for body and texture characteristics of colby and monterey (jack) cheese. This rule would implement, on a "permanent" basis, the revised grade standards which the department established by emergency rule on August 8, 1998.

Under current DATCP rules, colby and monterey (jack) cheese must have numerous mechanical openings in order to be labeled or sold as Wisconsin certified premium grade AA or Wisconsin grade A (Wisconsin state brand).

The recently adopted emergency rule temporarily eliminated rule provisions requiring mechanical openings in colby and monterey (jack) cheese. Under the emergency rule, colby and monterey (jack) cheese may have either mechanical openings or a closed body. When mechanical openings are present, their size and distribution are two of many factors which determine the specific grade category assigned to the cheese. This rule makes the same changes on a permanent basis.

This rule will not impose any direct costs on small businesses. The amendments do not require any additional reporting or recordkeeping. In addition, no other new procedures are required. No additional knowledge or professional skills are needed to meet the requirements of these amendments.

High volume manufacturers (typically larger businesses) using newer technology, equipment and packaging have experienced difficulties in manufacturing cheese to meet the current grade requirements for mechanical openings. Small cheese factories and packaging operations using more traditional technology, equipment and packaging could more easily achieve the open body

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characteristics currently required for Wisconsin certified premium grade AA and Wisconsin grade A (Wisconsin state brand). As a consequence of the rule change and the elimination of the requirement for mechanical openings, these small businesses may now experience increased competition in the marketplace in the sale of Wisconsin graded cheese which may now have an open or closed body. However, an apparent majority of the cheese industry believes that small cheese processors will be able to maintain or grow a niche market for open-bodied colby and monterey (jack) cheese in the retail deli case.

Comments from Legislative Committees

On March 5, 1999, the department transmitted the above rule for legislative committee review. The rule was assigned to the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform on March 10 and the Assembly Committee on Agriculture on March 15. No action was taken during the review period by either committee.