

Labeling Requirements

Enforcement Action

Effective Date: December 18, 1995

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Background

In 1966, the Federal Fair Packaging and Labeling Act was adopted. The Weights and Measures enforcement community helped develop this act, and has been responsible for product labeling enforcement ever since. A previous state Weights and Measures enforcement policy on Chapter AG 53 Wis. Administrative Code dated 7/10/74 became outdated due to new federal labeling rules that went into effect in 1993 and 1994, and code numbering.

 [Wis. Stats. 97.03](#)
 [ATCP 90](#)
 [CRF Title 21](#)
Fair Packaging and Labeling Act
Replaces: AG 53 Labeling Enforcement 7/10/74

Policy

The following guidelines for enforcement of labeling requirements shall be applied:

(1) Major Labeling Violations:

- (a) ATCP 90.02 - Lacking declaration of product identity.
- (b) ATCP 90.03 - Lacking declaration of responsibility.
- (c) ATCP 90.04 - Lacking declaration of net quantity.

Enforcement Action

When major violations are detected, those products may be removed from sale until corrected. However, when determining the appropriate enforcement action, consideration should be given to the severity of the violation, intent, the potential harm to consumers, and any prior compliance history. The minimum action taken should be the issuance of a written warning to the responsible party, requiring corrective action within a reasonable time period.

(2) Minor Labeling Violations, including:

- (a) ATCP 90.07(2) - The net quantity declaration is not in lower 30% of the principal display panel.
- (b) ATCP 90.07(4) - The net quantity declaration does not contrast with background.
- (c) ATCP 90.07(5) - Separation of the quantity declaration from other printed information of less than minimum type size.
- (d) ATCP 90.07(6)&(7) - The quantity declaration fails to meet the minimum requirements for type size.
- (e) Wis. Stats. § 98.07(2) - The quantity declaration is qualified by terms such as full pound, large quart, etc.

Enforcement Action

In-Store Labeling - When minor labeling violations are detected, the information and education option should be exercised with appropriate store personnel. The retailer may then be allowed to achieve immediate compliance through proper re-labeling or by displaying short-term signage until the proper labels may be obtained. If the information and education option has been previously exercised for the same violation, the inspector may consider issuance of a written warning.

Outside labeling - The appropriate store personnel should be informed of the violations. A warning letter should be issued to the outside firm, requiring corrective action within a reasonable time period.

*Products discovered to have minor labeling violations would normally not be ordered off-sale. However, if the violation is not immediately corrected, or the violator has a prior history of non-compliance, the inspector may consider ordering the product off-sale, followed by a warning letter to the responsible business. Non-compliance should be noted on any applicable forms and a copy provided to the business.