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CERTIFICATE

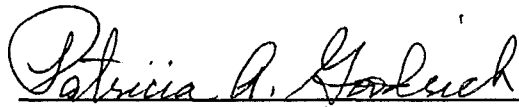
STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

I, Patricia A. Goodrich, Secretary of the Department of Health and Social Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to restaurants were duly approved and adopted by this Department on November 28, 1989.

I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 28th day of November, 1989.

SEAL:



Patricia A. Goodrich, Secretary
Department of Health and Social Services

Order of the
Department of Health and Social Services
Repealing, Amending and Creating Rules

To repeal HSS 196.13(3)(d), 196.14(1), (7) and (10); to renumber HSS 196.04(1) and 196.14 (2) to (6), (8), (9), (11) and (12); to amend HSS 196.03(2), (9), (15) and (19), 196.07(1)(b)2, 196.08(8), 196.09(2)(a), 196.11(2)(a) and (e), 196.14(1)(a) and (b), (3) and (8)(g), as renumbered, 196.15(2)(f), (3)(b) and (8)(c), 196.16(3), (5)(b) and (6)(a) and 196.17(1)(c); to repeal and recreate HSS 196.03(22) (intro.) and (c) to (e), 196.13(3)(a) to (c) and (4)(a) and 196.15(6); and to create HSS 196.03(11m), (11r), (22f), (23m) and (26m), 196.04(1)(b) and 196.14(6) and (9), relating to restaurants.

Analysis Prepared by the Department of Health and Social Services

The Department's rules for restaurants, ch. HSS 196, were generally revised effective July 1, 1985, mainly to reformat them so that ch. HSS 196 is organized like the U.S. Food and Drug Administration's 1976 Food Service Sanitation Manual. This order corrects and clarifies the rules and modifies them based on experience in implementing the revised rules and on recognition of changes in industry practices.

The modifications in rules for restaurants made by this order affect incidental food service operations (these are defined and are exempted from the permit requirement); the testing of water samples from private wells; handwashing facilities; permission to have potable tempered water rather than

hot water in toilet rooms; location of public toilet rooms in new restaurants (must be inside); lighting; food storage; walk-in refrigeration units; milk and cream dispensing; food contact surfaces of equipment; ventilation hoods over grease-producing cooking equipment; dishwashing; and mobile restaurants, including food pushcarts.

The Department's authority to adopt these rules is found in s. 50.57(1)(d), Stats. The rules interpret ss. 50.50, 50.51, 50.515, 50.55, 50.57, 50.575, 50.59, and 50.70 to 50.71, Stats.

SECTION 1. HSS 196.03(2) and (9) are amended to read:

HSS 196.03(2) "Agent" means the city ~~or~~ , county or village designated by the department to issue permits to and make investigations or inspections of restaurants, including temporary restaurants and mobile restaurants.

(9) "Existing," in reference to a restaurant, means operating with a permit from the department before ~~the effective date of this chapter~~ January 1, 1990.

SECTION 2. HSS 196.03(11m) and (11r) are created to read:

HSS 196.03(11m) "Hot water" means water at a temperature of 110^oF. (43^oC.) or higher.

(11r) "Incidental food service" means meals offered to the general public that are not a primary activity of the establishment licensed by the department of agriculture, trade and consumer protection under ch. Ag 97, comprise no more than 25% of gross annual food sales and do not entail full service food preparation. Incidental food service includes:

(a) Sale of a beverage with a bakery item for carry-out only.

(b) Individually-wrapped, hermetically-sealed single food servings obtained from an approved source located off premises, with preparation limited to heating and serving with single service utensils.

(c) Self-service prewrapped sandwiches for carry-out prepared in an on-premises delicatessen licensed by the department of agriculture, trade and consumer protection under ch. Ag 97.

SECTION 3. HSS 196.03(15) and (19) are amended to read:

HSS 196.03(15) "New," in reference to a restaurant, means operating with a permit from the department for the first time on or after ~~the effective date of this chapter~~ January 1, 1990.

(19) "Potentially hazardous food" means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. "Potentially hazardous food" does not include ~~clean, whole uncracked, and odor-free shell eggs or~~ foods which have a pH level of 4.6 or below or a water activity (a_w) value of 0.85 or less.

SECTION 4. HSS 196.03(22) (intro.) and (c) to (e) are repealed and recreated to read:

HSS 196.03(22)(intro.) "Restaurant" means any building, room or place where meals are prepared, served or sold to transients or the general public, and all places used in connection with the building, room or place and includes any public or private school lunchroom for which food service is provided by contract. "Restaurant" does not include:

(c) Any public or private school lunchroom for which food service is directly provided by the school;

(d) Any food service provided solely for needy persons;

(e) Bed and breakfast establishments; or

SECTION 5. HSS 196.03(22)(f) is created to read:

HSS 196.03(22)(f) A private individual selling food from a movable or temporary stand at a public farm sale;

SECTION 6. HSS 196.03 (23m) and (26m) are created to read:

HSS 196.03 (23m) "School lunchroom" means the room or rooms where meals are served to students, faculty or staff of a school and their guests. In this subsection, "school" means any of the following:

(a) A public school as described in s. 115.01(1), Stats.;

(b) A private school as described in s. 115.001 (3r), Stats.;

(c) A vocational, technical or adult education school; or

(d) A college or university.

(26m) "Tempered water" means water ranging in temperature from 85°F. (29°C.) to less than 110°F. (43°C.).

SECTION 7. HSS 196.04(1) is renumbered HSS 196.04(1)(a).

SECTION 8. HSS 196.04(1)(b) is created to read:

HSS 196.04(1)(b) Incidental food services are exempt from the permit requirement under par. (a).

SECTION 9. HSS 196.07(1)(b)2 is amended to read:

HSS 196.07(1)(b)2 Containers may be stored on easily cleanable dollies, racks or pallets, if this equipment is easily movable.

SECTION 10. HSS 196.08(8) is amended to read:

HSS 196.08(8) PRODUCT THERMOMETERS. Metal ~~steam type~~ stem-type numerically scaled indicating thermometers, accurate to $\pm 2^{\circ}\text{F. (1}^{\circ}\text{C.)}$, shall be provided and used to ensure that the proper internal cooking, holding, or refrigeration temperature is attained and maintained for all potentially hazardous foods, except that, as indicated under s. HSS 196.07(2)(a) and (3), for refrigerated storage or hot storage, recording thermometers, accurate to $\pm 2^{\circ}\text{F. (1}^{\circ}\text{C.)}$, may be used in lieu of indicating thermometers.

SECTION 11. HSS 196.09(2)(a) is amended to read:

HSS 196.09(2) MILK AND CREAM DISPENSING. (a) Milk and milk products ~~for drinking purposes~~ shall be provided to the consumer in ~~an~~ unopened, commercially filled ~~package~~ packages not exceeding 1 pint in capacity, or poured from a commercially filled container that can be effectively resealed by means of a snap, screw top or other means approved by the department, or drawn from a commercially filled container stored in a mechanically refrigerated bulk milk dispenser.

SECTION 12. HSS 196.11(2)(a) and (e) are amended to read:

HSS 196.11(2)(a) ~~Any~~ All equipment or utensil and utensils for use in restaurants ~~which meets~~ shall meet the standards of the national sanitation foundation or ~~is~~ be approved by the U.S. public health service ~~may be used or~~ the department.

Note: The National Sanitation Foundation's food service equipment standards may be consulted in the offices of the Bureau of Environmental Health, or in the offices of the Secretary of State or the Revisor of Statutes. Copies may be obtained from the National Sanitation Foundation, NSF Building, P.O. Box 1468, Ann Arbor, Michigan 48106.

(e) Food-contact surfaces shall be easily cleanable, smooth, and free of breaks, open seams, cracks, chips, pits and similar imperfections, and free of difficult-to-clean internal corners and crevices. Cast iron may be used as a food-contact surface only if the surface is heated, such as in grills, griddle tops and skillets. Threads shall be designed to facilitate cleaning. Food contact surfaces of equipment and parts of the equipment or areas near the equipment from which food residues and splash may fall or drip onto food or onto food contact surfaces shall be kept in good repair so as to be easily maintained in a clean and sanitary condition.

SECTION 13. HSS 196.13(3)(a) to (c) are repealed and recreated to read:

HSS 196.13(3) MANUAL CLEANING AND SANITIZING. (a) Except as provided in par. (b), a 4-compartment sink for pre-washing, washing, rinsing and sanitizing utensils and equipment, with adequate drain boards at each end, is required at all new installations and at the time of replacing sinks at existing restaurants.

(b) A 3-compartment sink with adequate drain boards at each end and a single-compartment sink located adjacent to the soiled utensil drain board for pre-washing may be substituted for the 4-compartment sink required under par. (a). The single-compartment sink as well as the first compartment of the 4-compartment sink may be used for liquid waste disposal, counter cloth washing and as an employe handwashing facility if the utensil washing area is in the food preparation area. In lieu of the additional sink for pre-washing, a well-type garbage disposal with overhead spray wash is acceptable for pre-washing purposes only.

(c) In addition to glasswashing facilities in establishments having a class B license under s. 125.51 (3), Stats., that have other than limited food service, utensil washing sinks as specified in this section shall be provided when deemed necessary by the department to facilitate effective washing and sanitizing of all utensils. If multi-use utensils are restricted to tongs, spatulas, cutting or spreading knives, serving spoons, and approved heating units where pre-packaged cooked food is heated and stored in the original container, additional utensil washing sinks are not required.

SECTION 14. HSS 196.13(3)(d) is repealed.

SECTION 15. HSS 196.13(4)(a) is repealed and recreated to read:

HSS 196.13(4) MECHANICAL CLEANING AND SANITIZING. (a) Cleaning and sanitizing may be done by a spray-type or immersion dishwashing machine or by any other type of machine or device approved by the department if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils. This machine or device shall be properly installed, maintained in good repair

and operated in accordance with the manufacturer's instructions. Utensils and equipment placed in the machine or device shall be exposed to all dishwashing cycles. If there is an automatic detergent dispenser, wetting agent dispenser or liquid sanitizer injector, it shall be properly installed and maintained. For pre-washing purposes, there shall be either a single-compartment sink located adjacent to the soiled utensil drain board or a well-type garbage disposal with overhead spray. The additional sink may also be used for disposal of liquid wastes, washing of counter cloths and as an employe handwashing facility if the utensil washing area is in the food preparation area. The well-type garbage disposal with overhead spray wash shall be used only for pre-washing purposes.

SECTION 16. HSS 196.14(1) is repealed.

SECTION 17. HSS 196.14(2) to (6) are renumbered HSS 196.14(1) to (5), and HSS 196.14(1) and (3), as renumbered, are amended to read:

HSS 196.14(1) PRIVATELY OWNED WELLS. A privately owned well is permitted as a source of water ~~when a public water facility is not available to the premises~~. The well shall be located on the premises and shall be constructed and the pump installed in accordance with ch. NR 112, rules of the department of natural resources governing well drilling and pump installation. All drinking water shall comply with the applicable water quality standards in ch. NR 109. The operator shall submit a water sample taken from the plumbing distribution system annually to a certified laboratory for bacteriological analysis, and a copy of the report giving the results of the analysis shall be made available to the department or its agent upon request. The operator of a

seasonal restaurant shall submit a water sample for analysis prior to opening for the season. Establishments served by more than one well shall submit a sample from each well annually. Whenever bacteriologically safe water cannot be obtained consistently from a well constructed in apparent compliance with ch. NR 112, as evidenced by laboratory reports, the well shall be reconstructed or a new well constructed in accordance with the requirements of the department of natural resources. If reconstruction or new construction is determined to be impractical or is found to be ineffective, the use of the well shall be discontinued and water shall be transported on a temporary basis from a source and in a manner approved by the department.

Note: Water sample bottles may be obtained by writing to the State Laboratory of Hygiene, 465 Henry Mall, Madison, WI 53706, or by calling 1-800-362-3020. Use of privately owned certified laboratories is also acceptable to satisfy the requirement.

(3) WATER UNDER PRESSURE. Hot and cold potable water under pressure shall be available at all sink compartments in rooms in which food is prepared or utensils are washed and at all lavatories in all employe and public toilet rooms, except that potable tempered water rather than hot water may be provided at handwashing facilities in employe and public toilet rooms.

SECTION 18. HSS 196.14(6) is created to read:

HSS 196.14(6) PLUMBING-GENERAL. (a) All plumbing and plumbing fixtures shall be designed, located, constructed, installed and maintained to conform to the requirements of chs. ILHR 82 to 86.

(b) All plumbing, plumbing fixtures, appliances and devices shall be designed, located, installed and maintained in such a way as to prevent backflow, backsiphonage and cross-connections.

SECTION 19. HSS 196.14(7) is repealed.

SECTION 20. HSS 196.14(8) and (9) are renumbered HSS 196.14(7) and (8), and HSS 196.14(8)(g), as renumbered, is amended to read:

HSS 196.14 (8)(g) Public toilet rooms at new or substantially remodeled restaurants shall be located contiguous to the dining or serving areas and be readily available to the patrons from within the restaurant. Outside entrances to toilet rooms are not permitted, except that restaurants having only outside seating may use toilet facilities with outside entrances if the toilet facilities are readily accessible to patrons and employes.

SECTION 21. HSS 196.14(9) is created to read:

HSS 196.14(9) HANDWASHING FACILITIES. (a) Handwashing facilities shall be located in all toilet rooms.

(b) Where a self-closing or metering faucet is used, the faucet shall be designed to provide a flow of water for at least 15 seconds without the need to reactivate it.

(c) Sinks used for food preparation or for washing equipment or utensils may not be used for handwashing.

(d) Employee handwashing facilities shall be separate from utensil washing facilities, except that the pre-wash sink may be used as an employee handwashing facility if the utensil washing facilities are located in the food preparation area. A mixing valve or combination faucet shall be provided on all employee handwashing facilities designed and used exclusively for

handwashing. No self-closing, slow-closing or metering faucet may be used on a prewash sink at which handwashing is allowed.

(e)1. Except as provided in subd. 2., in existing restaurants employe handwashing facilities shall be located in or immediately adjacent to the food preparation area, if possible.

2. In new restaurants and at the time of change in the operator of an existing restaurant, employe handwashing facilities shall be located in all food preparation areas.

(f) Soap and single-service towels for drying hands shall be provided at employe handwashing facilities. Common towels are prohibited. Approved electric hand dryers may be used as limited by s. ILHR 52.60(3).

(g) Soap and an effective means for drying hands shall be provided in all public toilet rooms. Common towels are prohibited. Approved electric hand dryers may be used as limited by s. ILHR 52.60(3).

(h) Handwashing facilities, soap dispensers, hand drying devices and all other fixtures related to handwashing shall be kept clean and in good repair.

SECTION 22. HSS 196.14(10) is repealed.

SECTION 23. HSS 196.14(11) and (12) are renumbered HSS 196.14(10) and (11).

SECTION 24. HSS 196.15(2)(f) and (3)(b) are amended to read:

HSS 196.15(2)(f). Floor junctures. An impervious coved base of materials approved by the department shall exist at the juncture of the floor and wall in food preparation and utensil washing areas at all new and remodeled installations.

(3)(b) Construction. The walls and ceilings of walk-in ~~refrigerating~~ refrigeration units, food preparation and storage areas, equipment-washing and utensil-washing areas, toilet rooms and vestibules shall be light-colored, smooth, nonabsorbent and easily cleanable. Concrete or pumice blocks used for interior wall construction in these locales shall be finished and sealed to provide an easily cleanable surface. No wood or other porous material may be used for the interior surface of a walk-in refrigeration unit used for food storage.

SECTION 25. HSS 196.15(6) is repealed and recreated to read:

HSS 196.15(6) LIGHTING. Permanently fixed artificial light sources shall be installed in the restaurant to provide illumination as required under s. IND 19.07(5).

SECTION 26. HSS 196.15(8)(c) is amended to read:

HSS 196.15(8)(c) An adequately sized and approved ventilation hood with ~~grease filters~~ grease-removal devices shall be provided over all grease-producing cooking equipment. Ventilation hoods and devices shall be designed to prevent grease or condensation from collecting on walls and ceilings, and from dripping into food or onto food-contact surfaces. Filters ~~or~~ and other grease extracting equipment shall be kept in good repair and shall be readily removable for cleaning and replacement if not designed to be cleaned in place. Filters shall be cleaned as often as necessary to prevent the accumulation of grease or dust.

SECTION 27. HSS 196.16(3), (5)(b) and (6)(a) are amended to read:

HSS 196.16(3) SERVICE BASE. Every mobile restaurant shall have a service base of operations consisting of an enclosed building of sufficient size to accommodate mobile units for servicing, cleaning, inspecting inspection and maintaining maintenance all vehicles.

(5)(b) Storage tank. 1. Every mobile restaurant shall be equipped with a gravity or pressurized water storage tank. ~~Mobile restaurants~~ A mobile restaurant which prepare that serves beverages or food or ~~heat~~ heats prepared foods shall have a water storage tank with a capacity of at least 10 gallons (38 L) for employe handwashing, except that the water storage tank of a food pushcart shall have a minimum capacity of 5 gallons (19 L). ~~Mobile restaurants~~ A mobile restaurant which prepare that prepares food or beverages on the mobile unit shall have a water storage tank with a capacity of at least 40 gallons (151 L) for utensil washing and sanitizing purposes. Water for the tank shall be obtained from the service base watering point and the vehicle shall return to the service base whenever the amount of water in storage does not equal at least one gallon (4 L). With the approval of the department, limited food service utensils may be returned to the service base for washing and sanitizing.

(6) LIQUID WASTE. (a) Storage tank. ~~Mobile restaurants~~ A mobile restaurant with only handwashing facilities ~~only~~ shall be equipped with a wastewater storage tank ~~having~~ which has a capacity of at least 15 gallons (57 L), but is at least 5 gallons (19 L) larger than the water storage tank, except that a food pushcart shall have a wastewater storage tank which has a minimum capacity of 7.5 gallons (29 L) or is 15 percent larger than the minimum capacity of the water supply tank, whichever is greater. ~~Mobile~~

~~restaurants~~ A mobile restaurant with utensil washing facilities on the unit shall be equipped with a wastewater storage tank ~~having~~ which has a capacity of at least 50 gallons (190 L), but is at least 10 gallons (38 L) larger than the water storage tank. The contents of the tank may be emptied only at the service base, in an approved manner and to an approved sewage disposal system. The tank shall be completely emptied each time the water supply is replenished.

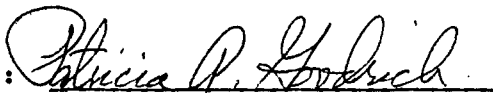
SECTION 28. HSS 196.17(1)(c) is amended to read:

HSS 196.17(1)(c) The permit and any other identification issued by the department or its agent shall be conspicuously displayed in the temporary restaurant.

The repeals and rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227. 22(2), Stats.

Wisconsin Department of Health
and Social Services

DATED: November 28, 1989

By: 
Patricia A. Goodrich
Secretary

SEAL:



State of Wisconsin \

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

OFFICE OF POLICY AND BUDGET

1 WEST WILSON STREET
P.O. BOX 7850
MADISON WISCONSIN 53707-7850

November 28, 1989

Mr. Orlan Prestegard
Revisor of Statutes
7th Floor - 30 on the Square
Madison, WI 53702

Dear Mr. Prestegard:

As provided in s. 227.20, Stats., there is hereby submitted a certified copy of HSS 196, administrative rules relating to restaurants.

These rules are also being submitted to the Secretary of State as required by s. 227.20, Stats.

Sincerely,

A handwritten signature in cursive script that reads "Patricia A. Goodrich".

Patricia A. Goodrich
Secretary

Enclosure