



State of Wisconsin  
Department of Health and Family Services

Scott McCallum, Governor  
Phyllis J. Dubé, Secretary

April 9, 2002

The Honorable Richard Skindrud  
Chairperson  
Assembly Committee on Tourism and Recreation  
Room 18 West, State Capitol  
P.O. Box 8953  
Madison, WI 53708-8953

The Honorable Judith Robson  
Chairperson  
Senate Committee on Health and Aging  
Room 15 South, State Capitol  
P.O. Box 7882  
Madison, WI 53707-7882

Dear Representative Skindrud and Senator Robson:

The Department is hereby submitting germane modifications to Clearinghouse Rule 01-16, relating to permit fees for the operation of public swimming pools, recreational and educational camps, campgrounds, hotels and motels, tourist rooming houses, restaurants, bed and breakfast establishments, and food and beverage vending operations and commissaries.

These germane modifications reflect changes to s. HFS 175.05(3)(a), relating to the annual permit fee for recreational and educational camps; s. HFS 178.05(1m)(a)2., relating to the annual permit fee for campgrounds with 200 or more sites; ss. HFS 195.04(1m)(a)2., and HFS 195.04(1m)(d), relating to the annual permit fee and pre-inspection fee for hotels or motels with 200 or more rooms; s. HFS 196.04(2)(b), relating to the proposed annual permit fee for restaurants in the simple permit category; and HFS 197.04(1m)(d), relating to the pre-inspection fee for bed and breakfast establishments. The proposed rulemaking order is attached.

Sincerely,

A handwritten signature in black ink, appearing to read 'Phyllis J. Dubé'.

Phyllis J. Dubé  
Secretary

Attachment

Wisconsin.gov

PROPOSED ORDER OF THE  
DEPARTMENT OF HEALTH AND FAMILY SERVICES  
REPEALING, AMENDING, AND CREATING RULES

To repeal HFS 172.04(1m)(d), 178.05(1m)(d), 195.04(1m)(e), 197.04(1m)(e); to amend HFS 172.04(1m)(a), 175.05(3)(a), 178.05(1m)(a)2., 195.04(1m)(a)2., 195.04(1m)(d)1. and 2., and 197.04(1m)(a) and (d); to repeal and recreate HFS 196.04(2)(b) to (e) and 198.04(1) and (1m), and to create HFS 196.04(2)(f), 196.04(2m)(a) and (b) and Note, relating to permit fees for the operation of public swimming pools, recreational and educational camps, campgrounds, hotels and motels, tourist rooming houses, restaurants, bed and breakfast establishments and food and beverage vending operations and commissaries.

Analysis Prepared by the Department of Health and Family Services

The department and agent local health departments regulate all campgrounds, recreational and educational camps, the operation of swimming pools that serve the public, restaurants, hotels and motels, tourist rooming houses, bed and breakfast establishments and food vending operations in the state under the authority of ss. 254.47 and 254.61 to 254.88, Stats., to ensure that these facilities comply with the department's health, sanitation and safety standards set out in administrative rules. The department's rules for these facilities are found in chs. HFS 172, 175, 178, 195, 196, 197 and 198 of the Wisconsin Administrative Code. None of the facilities may operate without having a permit issued by the department or an agent local health department. A permit is evidence that the facility complies with the department's rules. Under the department's rules, facilities are charged permit and related fees. Fee revenue supports the department's expenses in providing statutorily-required regulatory oversight of these entities.

This rulemaking order amends the department's rules for operation of these facilities to increase permit fees an average of 30% for all program areas and to increase the pre-inspection fee for new hotels and motels, tourist rooming houses, restaurants and bed and breakfast establishments.

The fee increase will enable the department to fully staff existing position regulatory program vacancies, allowing the department to increase its frequency of routine inspections, its ability to promptly respond to public complaints, and to undertake necessary enforcement action.

This order does not affect facilities regulated by local health departments granted agent status under s. 254.69(2), Stats. Permit fees for those facilities are established by local health departments pursuant to s. 254.69(2)(d), Stats.

The department's authority to repeal, amend, repeal and recreate, and create these rules is found in ss. 254.47(4) and 254.68, Stats. The rules interpret ss. 254.47 and 254.68, Stats.

SECTION 1. HFS 172.04(1m)(a) is amended to read:

HFS 172.04(1m)(a) *Annual permit fee.* Beginning July 1, ~~1998~~ 2002, the operator of a public swimming pool shall pay an annual permit fee of \$~~130~~150 to the department.

SECTION 2. HFS 172.04(1m)(d) is repealed.

SECTION 3. HFS 175.05(3)(a) is amended to read:

HFS 175.05(3)(a) *Annual permit fee*. ~~The Beginning July 1, 2002,~~ the operator of a camp shall pay an annual permit fee of ~~\$77200~~ to the department by July 1.

SECTION 4. HFS 178.05(1m)(a)2., is amended to read:

HFS 178.05(1m)(a)2. Beginning July 1, ~~1998~~ 2002, the annual permit fee shall be as follows:

- a. For a campground with 1-25 sites, \$106;
- b. For a campground with 26–50 sites, ~~\$130~~ 147;
- c. For a campground with 51–100 sites, ~~\$153; and~~ 175;
- d. For a campground with ~~over 100~~ 101-199 sites, ~~\$471~~ 195; and
- e. For a campground with 200 or more sites, \$225.

SECTION 5. HFS 178.05(1m)(d) is repealed.

SECTION 6. HFS 195.04(1m)(a)2. is amended to read:

HFS 195.04(1m)(a)2. Beginning July 1, ~~1998~~ 2002, the annual permit fee shall be as follows:

- a. For a hotel or motel with 5 to 30 rooms, \$124;
- b. For a hotel or motel with 31 to 99 rooms, ~~\$165~~ 190;
- c. For a hotel or motel with ~~100 or more~~ to 199 rooms, ~~\$212 and~~ 250;
- cm. For a hotel or motel with 200 or more rooms, \$300; and
- d. For a tourist rooming house, ~~\$59~~ 85.

SECTION 7. HFS 195.04(1m)(d)1. is amended to read:

HFS 195.04(1m)(d) *Preinspection fee*. 1. 'Hotel and motel'. The operator of a hotel or motel shall pay to the department a preinspection fee. The preinspection fee shall be as follows:

- a. For a hotel or motel with 5 to 30 rooms, \$125;
- b. For a hotel or motel with 31 to 99 rooms, \$200; and
- c. For a hotel or motel with ~~100 or more~~ to 199 rooms, ~~\$275; and~~
- d. For a hotel or motel with 200 or more rooms, \$350.

SECTION 8. HFS 195.04(1m)(e) is repealed.

SECTION 9. HFS 196.04(2)(b) to (e) is repealed and recreated to read:

HFS 196.04(2)(b) *Annual permit fee.* The operator of a restaurant that serves meals prepared from raw, canned, dried, packaged or frozen foods shall pay an annual permit fee to the department. Except as provided in subds. 4. to 6., the annual permit fee shall be based on the permit category assigned to the restaurant under par. (d). Beginning July 1, 2002, the restaurant permit fee structure is as follows:

1. For a restaurant in the simple permit category, an annual permit fee of \$148 and, in addition, \$80 per area for any physically separate food holding, serving or preparation area.
2. For a restaurant in the moderate permit category, an annual permit fee of \$210 and, in addition, \$80 per area for any physically separate food holding, serving or preparation area.
3. For a restaurant in the complex permit category, an annual permit fee of \$290 and, in addition, \$80 per area for any physically separate food holding, serving or preparation area.
4. For a restaurant that serves only individually wrapped, hermetically sealed single food servings supplied by a licensed processor, an annual permit fee of \$75.
5. For a temporary restaurant, an annual permit fee of \$100.
6. For a mobile restaurant base with no food preparation, an annual permit fee of \$95.

(c) *Preinspection fee.* The operator of a restaurant shall pay to the department a preinspection fee before issuance of the initial permit or when there is a change of operator except when the new operator is an immediate family member. The preinspection fee shall be based on the permit category assigned under par. (d). Beginning July 1, 2002, preinspection fees are as follows:

1. For a restaurant in the simple permit category, the preinspection fee shall be \$150.
2. For a restaurant in the moderate permit category, the preinspection fee shall be \$250.
3. For a restaurant in the complex permit category, the preinspection fee shall be \$350.

(d) *Restaurant permit category assignment.* 1. A restaurant permit category shall be determined by the evaluation of the complexity of the restaurant based on the criteria specified in Table HFS 196.04.

2. Except as provided in subd. 5., a restaurant whose point value equals zero, shall be included in the simple permit category.

3. Except as provided in subd. 5., a restaurant whose point value is at least one but not greater than 4 shall be included in the moderate permit category.

4. A restaurant whose point value equals 5 or greater shall be included in the complex permit category.

5. A restaurant that has been ordered closed by a state or local health department or that has caused a foodborne outbreak within the previous licensing year shall be included in the complex category.

Note: Cause of foodborne outbreaks are determined using standard epidemiological practices.

**TABLE HFS 196.04  
Determination of Restaurant Permit Category**

COMPLEXITY FACTORS	Point(s)
Food is not prepared until an order is placed.	0
No more than 2 food items are held hot for one meal period or for a maximum of 4 hours, whichever is less.	0
Food preparation is limited to mixing together prepackaged products that do not need to be cooked further except for aesthetic reasons (such as frozen soup concentrate with milk), or to condiment preparation (such as slicing pickles and onions).	0
The potential for cross-contaminating food is low.	0
The restaurant contains a self-service salad or food bar.	1
The restaurant handles raw poultry, meat, or seafood.	1
The seating capacity of the restaurant or operation is 50 or more.	1
Food is served through a drive-through window for food pickup.	1
Delivery of ready-to-eat products to the homes or workplaces of customers comprises at least 25% of food sales volume.	1
Potentially hazardous foods are cooled or reheated.	1
Food is prepared in one location and then transported to be served in another location.	1
The restaurant contains or uses banquet facilities.	1
Food is served that requires preparation that is beyond the definition of "limited" as defined above. Activities such as chopping, dicing, slicing, boiling, cooling, blanching, reheating occur in order for that product to be served.	1

(e) *Penalty fee.* Beginning July 1, 1998, if the annual permit fee is not paid within the first 15 days of the permit period, the department shall require the operator of the restaurant to pay a penalty fee of \$75, in addition to the annual permit fee, for renewal of the permit.

SECTION 10. HFS 196.04(2)(f) is created to read:

HFS 196.04(2)(f) *Fee for duplicate permit.* The department shall charge a restaurant operator \$10 for a duplicate permit.

SECTION 11. HFS 196.04(2m) is created to read:

HFS 196.04(2m) RECONSIDERATION OF PERMIT CATEGORY ASSIGNMENTS. (a) The operator of a restaurant may request reconsideration of the restaurant permit category assignment made under sub. (2)(d).

(b) A request made under par. (a) shall be made to the department within 30 days of the category assignment.

**Note:** To request reconsideration of permit category assignment call the Bureau of Environmental Health at 608-266-2835 or send your written request to the Bureau of Environmental Health, P.O. Box 2659, Madison, WI 53701-2659.

SECTION 12. HFS 197.04(1m)(a) and (d) are amended to read:

HFS 197.04(1m)(a) *Permit fee.* Beginning July 1, ~~1998~~2002, the operator of a bed and breakfast establishment shall pay a ~~biennial~~annual permit fee of ~~\$406~~65 to the department.

HFS 197.04(1m)(d) *Preinspection fee.* Beginning July 1, ~~1998~~2002, the operator of a bed and breakfast establishment shall pay to the department a preinspection fee of \$125 before issuance of the initial permit.

SECTION 13. HFS 197.04(1m)(e) is repealed.

SECTION 14. HFS 198.04(1) and (1m) are repealed and recreated to read:

**198.04 Permit to operate. (1) APPLICATION.** No person may conduct, maintain, manage or operate one or more vending machines or a vending machine commissary who has not been issued a permit by the department. Application for a permit shall be made on a form furnished by the department. An application for a permit submitted to the department shall be accompanied by the fees required under sub. (1m)(a) to (d), as applicable.

**(1m) DEPARTMENT FEES.** (a) *Annual permit fee for the operator of a vending machine.* The operator of a vending machine shall pay an annual permit fee to the department. The annual permit fee shall be as follows:

1. For the vending machine operator, \$100 beginning July 1, 2002; and
2. For each vending machine, \$6.

(b) *Annual permit fee for the operator of a vending machine commissary.* The operator of a vending machine commissary shall pay an annual permit fee to the department. Beginning July 1, 2002, annual permit fees are as follows:

1. For a vending machine commissary where food is prepared, an annual permit fee of \$175.
2. For a vending machine commissary where food, transport equipment and vending supplies are only stored, an annual permit fee of \$85.

(c) *Preinspection fee.* Beginning July 1, 2002, the application for an initial permit to operate a vending machine commissary, shall be accompanied by a preinspection fee of \$150.

(d) *Penalty fee.* Beginning July 1, 1998, if the annual permit fee is not paid within the first 15 days of the permit period, the operator of the vending machine or vending machine commissary shall pay the department a penalty fee of \$75, in addition to the annual permit fee, for renewal of the permit.

(e) *Fee for duplicate permit.* 1. The department shall charge the operator of a vending machine \$2 for a duplicate permit for the vending machine.

2. The department shall charge the operator of a vending machine \$10 for a duplicate vending machine operator permit.

3. The department shall charge the operator of a vending machine commissary \$10 for a duplicate permit.

The rules included 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)(intro.), Stats.

Wisconsin Department of Health and  
Family Services

Dated:

By: \_\_\_\_\_  
Phyllis Dubé  
Secretary

SEAL:



State of Wisconsin  
**Department of Health and Family Services**

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Scott McCallum, Governor  
Phyllis J. Dubé, Secretary

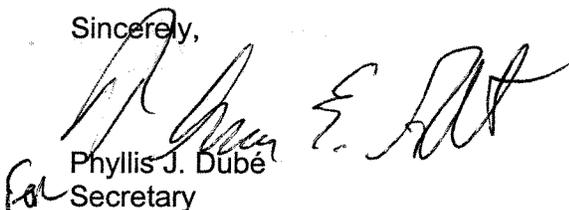
March 28, 2002

The Honorable Richard Skindrud, Chairperson  
Assembly Committee on Tourism and Recreation  
Room 18 West, State Capitol  
P.O. Box 8953  
Madison, Wisconsin 53708-8953

Dear Representative Skindrud:

In response to your Committee's March 28, 2002 request to modify Clearinghouse rule 01-16, the department has modified the rulemaking order, relating to permit fees for the operation of public swimming pools, recreational and educational camps, campgrounds, hotels and motels, tourist rooming houses, restaurants, bed and breakfast establishments and food and beverage vending operations and commissaries. A copy of the proposed order is attached.

Sincerely,

  
Phyllis J. Dubé  
Secretary

- c. Senator Judy Robson, Chairperson  
Committee on Human Services and Aging

PROPOSED ORDER OF THE  
DEPARTMENT OF HEALTH AND FAMILY SERVICES  
REPEALING, AMENDING, AND CREATING RULES

To repeal HFS 172.04(1m)(d), 178.05(1m)(d), 195.04(1m)(e), 197.04(1m)(e); to amend HFS 172.04(1m)(a), 175.05(3)(a), 178.05(1m)(a)2., 195.04(1m)(a)2., 195.04(1m)(d)1. and 2., and 197.04(1m)(a) and (d); to repeal and recreate HFS 196.04(2)(b) to (e) and 198.04(1) and (1m), and to create HFS 196.04(2)(f), 196.04(2m)(a) and (b) and Note, relating to permit fees for the operation of public swimming pools, recreational and educational camps, campgrounds, hotels and motels, tourist rooming houses, restaurants, bed and breakfast establishments and food and beverage vending operations and commissaries.

Analysis Prepared by the Department of Health and Family Services

The department and agent local health departments regulate all campgrounds, recreational and educational camps, the operation of swimming pools that serve the public, restaurants, hotels and motels, tourist rooming houses, bed and breakfast establishments and food vending operations in the state under the authority of ss. 254.47 and 254.61 to 254.88, Stats., to ensure that these facilities comply with the department's health, sanitation and safety standards set out in administrative rules. The department's rules for these facilities are found in chs. HFS 172, 175, 178, 195, 196, 197 and 198 of the Wisconsin Administrative Code. None of the facilities may operate without having a permit issued by the department or an agent local health department. A permit is evidence that the facility complies with the department's rules. Under the department's rules, facilities are charged permit and related fees. Fee revenue supports the department's expenses in providing statutorily-required regulatory oversight of these entities.

This rulemaking order amends the department's rules for operation of these facilities to increase permit fees an average of 30% for all program areas and to increase the pre-inspection fee for new hotels and motels, tourist rooming houses, restaurants and bed and breakfast establishments.

The fee increase will enable the department to fully staff existing position regulatory program vacancies, allowing the department to increase its frequency of routine inspections, its ability to promptly respond to public complaints, and to undertake necessary enforcement action.

This order does not affect facilities regulated by local health departments granted agent status under s. 254.69(2), Stats. Permit fees for those facilities are established by local health departments pursuant to s. 254.69(2)(d), Stats.

The department's authority to repeal, amend, repeal and recreate, and create these rules is found in ss. 254.47(4) and 254.68, Stats. The rules interpret ss. 254.47 and 254.68, Stats.

SECTION 1. HFS 172.04(1m)(a) is amended to read:

HFS 172.04(1m)(a) *Annual permit fee.* Beginning July 1, ~~1998~~2002, the operator of a public swimming pool shall pay an annual permit fee of ~~\$130~~150 to the department.

SECTION 2. HFS 172.04(1m)(d) is repealed.

SECTION 3. HFS 175.05(3)(a) is amended to read:

HFS 175.05(3)(a) *Annual permit fee*. ~~The Beginning July 1, 2002,~~ the operator of a camp shall pay an annual permit fee of ~~\$77~~250 to the department ~~by July 4.~~

SECTION 4. HFS 178.05(1m)(a)2., is amended to read:

HFS 178.05(1m)(a)2. Beginning July 1, ~~1998~~2002, the annual permit fee shall be as follows:

- a. For a campground with 1-25 sites, \$106;
- b. For a campground with 26–50 sites, ~~\$430~~147;
- c. For a campground with 51–100 sites, ~~\$153~~and 175;
- d. For a campground with ~~over 100~~101-199 sites, ~~\$171~~195; and
- e. For a campground with 200 or more sites, \$300.

SECTION 5. HFS 178.05(1m)(d) is repealed.

SECTION 6. HFS 195.04(1m)(a)2. is amended to read:

HFS 195.04(1m)(a)2. Beginning July 1, ~~1998~~2002, the annual permit fee shall be as follows:

- a. For a hotel or motel with 5 to 30 rooms, \$124;
- b. For a hotel or motel with 31 to 99 rooms, ~~\$165~~ 190;
- c. For a hotel or motel with 100 ~~or more~~ to 199 rooms, ~~\$212~~and 250;
- cm. For a hotel or motel with 200 or more rooms, \$375; and
- d. For a tourist rooming house, ~~\$59~~85.

SECTION 7. HFS 195.04(1m)(d)1. and 2. is amended to read:

HFS 195.04(1m)(d) *Preinspection fee*. 1. 'Hotel and motel'. The operator of a hotel or motel shall pay to the department a preinspection fee. The preinspection fee shall be as follows:

- a. For a hotel or motel with 5 to 30 rooms, ~~\$125~~160;
- b. For a hotel or motel with 31 to 99 rooms, ~~\$200~~250; and
- c. For a hotel or motel with 100 ~~or more~~ to 199 rooms, ~~\$275~~340; and
- d. For a hotel or motel with 200 or more rooms, \$700.

2. 'Tourist rooming house'. The operator of a tourist rooming house shall pay to the department a preinspection fee of ~~\$125~~150.

SECTION 8. HFS 195.04(1m)(e) is repealed.

SECTION 9. HFS 196.04(2)(b) to (e) is repealed and recreated to read:

HFS 196.04(2)(b) *Annual permit fee.* The operator of a restaurant that serves meals prepared from raw, canned, dried, packaged or frozen foods shall pay an annual permit fee to the department. Except as provided in subds. 4. to 6., the annual permit fee shall be based on the permit category assigned to the restaurant under par. (d). Beginning July 1, 2002, the restaurant permit fee structure is as follows:

1. For a restaurant in the simple permit category, an annual permit fee of \$150 and, in addition, \$80 per area for any physically separate food holding, serving or preparation area.
2. For a restaurant in the moderate permit category, an annual permit fee of \$210 and, in addition, \$80 per area for any physically separate food holding, serving or preparation area.
3. For a restaurant in the complex permit category, an annual permit fee of \$290 and, in addition, \$80 per area for any physically separate food holding, serving or preparation area.
4. For a restaurant that serves only individually wrapped, hermetically sealed single food servings supplied by a licensed processor, an annual permit fee of \$75.
5. For a temporary restaurant, an annual permit fee of \$100.
6. For a mobile restaurant base with no food preparation, an annual permit fee of \$95.

(c) *Preinspection fee.* The operator of a restaurant shall pay to the department a preinspection fee before issuance of the initial permit or when there is a change of operator except when the new operator is an immediate family member. The preinspection fee shall be based on the permit category assigned under par. (d). Beginning July 1, 2002, preinspection fees are as follows:

1. For a restaurant in the simple permit category, the preinspection fee shall be \$150.
2. For a restaurant in the moderate permit category, the preinspection fee shall be \$250.
3. For a restaurant in the complex permit category, the preinspection fee shall be \$350.

(d) *Restaurant permit category assignment.* 1. A restaurant permit category shall be determined by the evaluation of the complexity of the restaurant based on the criteria specified in Table HFS 196.04.

2. Except as provided in subd. 5., a restaurant whose point value equals zero, shall be included in the simple permit category.

3. Except as provided in subd. 5., a restaurant whose point value is at least one but not greater than 4 shall be included in the moderate permit category.

4. A restaurant whose point value equals 5 or greater shall be included in the complex permit category.

5. A restaurant that has been ordered closed by a state or local health department or that has caused a foodborne outbreak within the previous licensing year shall be included in the complex category.

Note: Cause of foodborne outbreaks are determined using standard epidemiological practices.

**TABLE HFS 196.04  
Determination of Restaurant Permit Category**

COMPLEXITY FACTORS	Point(s)
Food is not prepared until an order is placed.	0
No more than 2 food items are held hot for one meal period or for a maximum of 4 hours, whichever is less.	0
Food preparation is limited to mixing together prepackaged products that do not need to be cooked further except for aesthetic reasons (such as frozen soup concentrate with milk), or to condiment preparation (such as slicing pickles and onions).	0
The potential for cross-contaminating food is low.	0
The restaurant contains a self-service salad or food bar.	1
The restaurant handles raw poultry, meat, or seafood.	1
The seating capacity of the restaurant or operation is 50 or more.	1
Food is served through a drive-through window for food pickup.	1
Delivery of ready-to-eat products to the homes or workplaces of customers comprises at least 25% of food sales volume.	1
Potentially hazardous foods are cooled or reheated.	1
Food is prepared in one location and then transported to be served in another location.	1
The restaurant contains or uses banquet facilities.	1
Food is served that requires preparation that is beyond the definition of "limited" as defined above. Activities such as chopping, dicing, slicing, boiling, cooling, blanching, reheating occur in order for that product to be served.	1

(e) *Penalty fee.* Beginning July 1, 1998, if the annual permit fee is not paid within the first 15 days of the permit period, the department shall require the operator of the restaurant to pay a penalty fee of \$75, in addition to the annual permit fee, for renewal of the permit.

SECTION 10. HFS 196.04(2)(f) is created to read:

HFS 196.04(2)(f) *Fee for duplicate permit.* The department shall charge a restaurant operator \$10 for a duplicate permit.

SECTION 11. HFS 196.04(2m) is created to read:

HFS 196.04(2m) RECONSIDERATION OF PERMIT CATEGORY ASSIGNMENTS. (a) The operator of a restaurant may request reconsideration of the restaurant permit category assignment made under sub. (2)(d).

(b) A request made under par. (a) shall be made to the department within 30 days of the category assignment.

**Note:** To request reconsideration of permit category assignment call the Bureau of Environmental Health at 608-266-2835 or send your written request to the Bureau of Environmental Health, P.O. Box 2659, Madison, WI 53701-2659.

SECTION 12. HFS 197.04(1m)(a) and (d) are amended to read:

HFS 197.04(1m)(a) *Permit fee.* Beginning July 1, ~~1998~~2002, the operator of a bed and breakfast establishment shall pay a ~~biennial~~annual permit fee of ~~\$106~~65 to the department.

HFS 197.04(1m)(d) *Preinspection fee.* Beginning July 1, ~~1998~~2002, the operator of a bed and breakfast establishment shall pay to the department a preinspection fee of ~~\$125~~150 before issuance of the initial permit.

SECTION 13. HFS 197.04(1m)(e) is repealed.

SECTION 14. HFS 198.04(1) and (1m) are repealed and recreated to read:

**198.04 Permit to operate. (1) APPLICATION.** No person may conduct, maintain, manage or operate one or more vending machines or a vending machine commissary who has not been issued a permit by the department. Application for a permit shall be made on a form furnished by the department. An application for a permit submitted to the department shall be accompanied by the fees required under sub. (1m)(a) to (d), as applicable.

**(1m) DEPARTMENT FEES.** (a) *Annual permit fee for the operator of a vending machine.* The operator of a vending machine shall pay an annual permit fee to the department. The annual permit fee shall be as follows:

1. For the vending machine operator, \$100 beginning July 1, 2002; and
2. For each vending machine, \$6.

(b) *Annual permit fee for the operator of a vending machine commissary.* The operator of a vending machine commissary shall pay an annual permit fee to the department. Beginning July 1, 2002, annual permit fees are as follows:

1. For a vending machine commissary where food is prepared, an annual permit fee of \$175.
2. For a vending machine commissary where food, transport equipment and vending supplies are only stored, an annual permit fee of \$85.

(c) *Preinspection fee.* Beginning July 1, 2002, the application for an initial permit to operate a vending machine commissary, shall be accompanied by a preinspection fee of \$150.

(d) *Penalty fee.* Beginning July 1, 1998, if the annual permit fee is not paid within the first 15 days of the permit period, the operator of the vending machine or vending machine commissary shall pay the department a penalty fee of \$75, in addition to the annual permit fee, for renewal of the permit.

(e) *Fee for duplicate permit.* 1. The department shall charge the operator of a vending machine \$2 for a duplicate permit for the vending machine.

2. The department shall charge the operator of a vending machine \$10 for a duplicate vending machine operator permit.

3. The department shall charge the operator of a vending machine commissary \$10 for a duplicate permit.

The rules included 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)(intro.), Stats.

Wisconsin Department of Health and  
Family Services

Dated:

By: \_\_\_\_\_  
Phyllis Dubé  
Secretary

SEAL:



State of Wisconsin  
**Department of Health and Family Services**

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Scott McCallum, Governor  
Phyllis J. Dubé, Secretary

March 27, 2002

The Honorable Richard Skindrud, Chairperson  
Assembly Committee on Tourism and Recreation  
Room 18 West, State Capitol  
P.O. Box 8953  
Madison, Wisconsin 53708-8953

Dear Representative Skindrud:

In response to your Committee's March 21, 2002 request to modify Clearinghouse rule 01-16, the department has modified the rulemaking order, relating to permit fees for the operation of public swimming pools, recreational and educational camps, campgrounds, hotels and motels, tourist rooming houses, restaurants, bed and breakfast establishments and food and beverage vending operations and commissaries. A copy of the proposed order is attached.

Sincerely,

A handwritten signature in cursive script that reads "Phyllis J. Dubé".

Phyllis J. Dubé  
Secretary

- c. Senator Judy Robson, Chairperson  
Committee on Human Services and Aging

PROPOSED ORDER OF THE  
DEPARTMENT OF HEALTH AND FAMILY SERVICES  
REPEALING, AMENDING, AND CREATING RULES

To repeal HFS 172.04(1m)(d), 178.05(1m)(d), 195.04(1m)(e), 197.04(1m)(e); to amend HFS 172.04(1m)(a), 175.05(3)(a), 178.05(1m)(a)2., 195.04(1m)(a)2., 195.04(1m)(d)1. and 2., and 197.04(1m)(a) and (d); to repeal and recreate HFS 196.04(2)(b) to (e) and 198.04(1) and (1m), and to create HFS 196.04(2)(f), 196.04(2m)(a) and (b) and Note, relating to permit fees for the operation of public swimming pools, recreational and educational camps, campgrounds, hotels and motels, tourist rooming houses, restaurants, bed and breakfast establishments and food and beverage vending operations and commissaries.

Analysis Prepared by the Department of Health and Family Services

The department and agent local health departments regulate all campgrounds, recreational and educational camps, the operation of swimming pools that serve the public, restaurants, hotels and motels, tourist rooming houses, bed and breakfast establishments and food vending operations in the state under the authority of ss. 254.47 and 254.61 to 254.88, Stats., to ensure that these facilities comply with the department's health, sanitation and safety standards set out in administrative rules. The department's rules for these facilities are found in chs. HFS 172, 175, 178, 195, 196, 197 and 198 of the Wisconsin Administrative Code. None of the facilities may operate without having a permit issued by the department or an agent local health department. A permit is evidence that the facility complies with the department's rules. Under the department's rules, facilities are charged permit and related fees. Fee revenue supports the department's expenses in providing statutorily-required regulatory oversight of these entities.

This rulemaking order amends the department's rules for operation of these facilities to increase permit fees an average of 30% for all program areas and to increase the pre-inspection fee for new hotels and motels, tourist rooming houses, restaurants and bed and breakfast establishments.

The fee increase will enable the department to fully staff existing position regulatory program vacancies, allowing the department to increase its frequency of routine inspections, its ability to promptly respond to public complaints, and to undertake necessary enforcement action.

This order does not affect facilities regulated by local health departments granted agent status under s. 254.69(2), Stats. Permit fees for those facilities are established by local health departments pursuant to s. 254.69(2)(d), Stats.

The department's authority to repeal, amend, repeal and recreate, and create these rules is found in ss. 254.47(4) and 254.68, Stats. The rules interpret ss. 254.47 and 254.68, Stats.

SECTION 1. HFS 172.04(1m)(a) is amended to read:

HFS 172.04(1m)(a) *Annual permit fee.* Beginning July 1, ~~1998~~2002, the operator of a public swimming pool shall pay an annual permit fee of ~~\$430~~150 to the department.

SECTION 2. HFS 172.04(1m)(d) is repealed.

SECTION 3. HFS 175.05(3)(a) is amended to read:

HFS 175.05(3)(a) *Annual permit fee*. ~~The Beginning July 1, 2002,~~ the operator of a camp shall pay an annual permit fee of ~~\$77250~~ to the department ~~by July 1.~~

SECTION 4. HFS 178.05(1m)(a)2., is amended to read:

HFS 178.05(1m)(a)2. Beginning July 1, ~~1998~~2002, the annual permit fee shall be as follows:

- a. For a campground with 1-25 sites, \$106;
- b. For a campground with 26–50 sites, ~~\$130~~147;
- c. For a campground with 51–100 sites, ~~\$153~~and 175;
- d. For a campground with ~~over 100~~101-199 sites, ~~\$174~~195; and
- e. For a campground with 200 or more sites, \$300.

SECTION 5. HFS 178.05(1m)(d) is repealed.

SECTION 6. HFS 195.04(1m)(a)2. is amended to read:

HFS 195.04(1m)(a)2. Beginning July 1, ~~1998~~2002, the annual permit fee shall be as follows:

- a. For a hotel or motel with 5 to 30 rooms, \$124;
- b. For a hotel or motel with 31 to 99 rooms, ~~\$165~~ 190;
- c. For a hotel or motel with ~~100 or more~~ to 199 rooms, ~~\$212~~ and 250;
- cm. For a hotel or motel with 200 or more rooms, \$500; and
- d. For a tourist rooming house, ~~\$59~~85.

SECTION 7. HFS 195.04(1m)(d)1. and 2. is amended to read:

HFS 195.04(1m)(d) *Preinspection fee*. 1. 'Hotel and motel'. The operator of a hotel or motel shall pay to the department a preinspection fee. The preinspection fee shall be as follows:

- a. For a hotel or motel with 5 to 30 rooms, ~~\$425~~160;
- b. For a hotel or motel with 31 to 99 rooms, ~~\$200~~250; and
- c. For a hotel or motel with ~~100 or more~~ to 199 rooms, ~~\$275~~340; and
- d. For a hotel or motel with 200 or more rooms, \$700.

2. 'Tourist rooming house'. The operator of a tourist rooming house shall pay to the department a preinspection fee of ~~\$425~~150.

SECTION 8. HFS 195.04(1m)(e) is repealed.

SECTION 9. HFS 196.04(2)(b) to (e) is repealed and recreated to read:

HFS 196.04(2)(b) *Annual permit fee.* The operator of a restaurant that serves meals prepared from raw, canned, dried, packaged or frozen foods shall pay an annual permit fee to the department. Except as provided in subds. 4. to 6., the annual permit fee shall be based on the permit category assigned to the restaurant under par. (d). Beginning July 1, 2002, the restaurant permit fee structure is as follows:

1. For a restaurant in the simple permit category, an annual permit fee of \$148 and, in addition, \$80 per area for any physically separate food holding, serving or preparation area.
2. For a restaurant in the moderate permit category, an annual permit fee of \$208 and, in addition, \$80 per area for any physically separate food holding, serving or preparation area.
3. For a restaurant in the complex permit category, an annual permit fee of \$300 and, in addition, \$80 per area for any physically separate food holding, serving or preparation area.
4. For a restaurant that serves only individually wrapped, hermetically sealed single food servings supplied by a licensed processor, an annual permit fee of \$75.
5. For a temporary restaurant, an annual permit fee of \$100.
6. For a mobile restaurant base with no food preparation, an annual permit fee of \$95.

(c) *Preinspection fee.* The operator of a restaurant shall pay to the department a preinspection fee before issuance of the initial permit or when there is a change of operator except when the new operator is an immediate family member. The preinspection fee shall be based on the permit category assigned under par. (d). Beginning July 1, 2002, preinspection fees are as follows:

1. For a restaurant in the simple permit category, the preinspection fee shall be \$150.
2. For a restaurant in the moderate permit category, the preinspection fee shall be \$250.
3. For a restaurant in the complex permit category, the preinspection fee shall be \$350.

(d) *Restaurant permit category assignment.* 1. A restaurant permit category shall be determined by the evaluation of the complexity of the restaurant based on the criteria specified in Table HFS 196.04.

2. Except as provided in subd. 5., a restaurant whose point value equals zero, shall be included in the simple permit category.
3. Except as provided in subd. 5., a restaurant whose point value is at least one but not greater than 4 shall be included in the moderate permit category.
4. A restaurant whose point value equals 5 or greater shall be included in the complex permit category.

5. A restaurant that has been ordered closed by a state or local health department or that has caused a foodborne outbreak within the previous licensing year shall be included in the complex category.

Note: Cause of foodborne outbreaks are determined using standard epidemiological practices.

**TABLE HFS 196.04  
Determination of Restaurant Permit Category**

COMPLEXITY FACTORS	Point(s)
Food is not prepared until an order is placed.	0
No more than 2 food items are held hot for one meal period or for a maximum of 4 hours, whichever is less.	0
Food preparation is limited to mixing together prepackaged products that do not need to be cooked further except for aesthetic reasons (such as frozen soup concentrate with milk), or to condiment preparation (such as slicing pickles and onions).	0
The potential for cross-contaminating food is low.	0
The restaurant contains a self-service salad or food bar.	1
The restaurant handles raw poultry, meat, or seafood.	1
The seating capacity of the restaurant or operation is 50 or more.	1
Food is served through a drive-through window for food pickup.	1
Delivery of ready-to-eat products to the homes or workplaces of customers comprises at least 25% of food sales volume.	1
Potentially hazardous foods are cooled or reheated.	1
Food is prepared in one location and then transported to be served in another location.	1
The restaurant contains or uses banquet facilities.	1
Food is served that requires preparation that is beyond the definition of "limited" as defined above. Activities such as chopping, dicing, slicing, boiling, cooling, blanching, reheating occur in order for that product to be served.	1

(e) *Penalty fee.* Beginning July 1, 1998, if the annual permit fee is not paid within the first 15 days of the permit period, the department shall require the operator of the restaurant to pay a penalty fee of \$75, in addition to the annual permit fee, for renewal of the permit.

SECTION 10. HFS 196.04(2)(f) is created to read:

HFS 196.04(2)(f) *Fee for duplicate permit.* The department shall charge a restaurant operator \$10 for a duplicate permit.

SECTION 11. HFS 196.04(2m) is created to read:

HFS 196.04(2m) RECONSIDERATION OF PERMIT CATEGORY ASSIGNMENTS. (a) The operator of a restaurant may request reconsideration of the restaurant permit category assignment made under sub. (2)(d).

(b) A request made under par. (a) shall be made to the department within 30 days of the category assignment.

**Note:** To request reconsideration of permit category assignment call the Bureau of Environmental Health at 608-266-2835 or send your written request to the Bureau of Environmental Health, P.O. Box 2659, Madison, WI 53701-2659.

SECTION 12. HFS 197.04(1m)(a) and (d) are amended to read:

HFS 197.04(1m)(a) *Permit fee.* Beginning July 1, ~~1998~~2002, the operator of a bed and breakfast establishment shall pay a ~~biennial~~annual permit fee of ~~\$40665~~ to the department.

HFS 197.04(1m)(d) *Preinspection fee.* Beginning July 1, ~~1998~~2002, the operator of a bed and breakfast establishment shall pay to the department a preinspection fee of ~~\$125~~150 before issuance of the initial permit.

SECTION 13. HFS 197.04(1m)(e) is repealed.

SECTION 14. HFS 198.04(1) and (1m) are repealed and recreated to read:

**198.04 Permit to operate. (1) APPLICATION.** No person may conduct, maintain, manage or operate one or more vending machines or a vending machine commissary who has not been issued a permit by the department. Application for a permit shall be made on a form furnished by the department. An application for a permit submitted to the department shall be accompanied by the fees required under sub. (1m)(a) to (d), as applicable.

**(1m) DEPARTMENT FEES.** (a) *Annual permit fee for the operator of a vending machine.* The operator of a vending machine shall pay an annual permit fee to the department. The annual permit fee shall be as follows:

1. For the vending machine operator, \$100 beginning July 1, 2002; and
2. For each vending machine, \$6.

(b) *Annual permit fee for the operator of a vending machine commissary.* The operator of a vending machine commissary shall pay an annual permit fee to the department. Beginning July 1, 2002, annual permit fees are as follows:

1. For a vending machine commissary where food is prepared, an annual permit fee of \$175.
2. For a vending machine commissary where food, transport equipment and vending supplies are only stored, an annual permit fee of \$85.

(c) *Preinspection fee.* Beginning July 1, 2002, the application for an initial permit to operate a vending machine commissary, shall be accompanied by a preinspection fee of \$150.

(d) *Penalty fee.* Beginning July 1, 1998, if the annual permit fee is not paid within the first 15 days of the permit period, the operator of the vending machine or vending machine commissary shall pay the department a penalty fee of \$75, in addition to the annual permit fee, for renewal of the permit.

(e) *Fee for duplicate permit.* 1. The department shall charge the operator of a vending machine \$2 for a duplicate permit for the vending machine.

2. The department shall charge the operator of a vending machine \$10 for a duplicate vending machine operator permit.

3. The department shall charge the operator of a vending machine commissary \$10 for a duplicate permit.

The rules included 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)(intro.), Stats.

Wisconsin Department of Health and  
Family Services

Dated:

By: \_\_\_\_\_  
Phyllis Dubé  
Secretary

SEAL:



Scott McCallum  
Governor

Phyllis J. Dubé  
Secretary

**State of Wisconsin**  
Department of Health and Family Services

DIVISION OF PUBLIC HEALTH

1 WEST WILSON STREET  
P O BOX 2659  
MADISON WI 53701-2659

608-266-2835  
FAX: 608-267-3241  
www.dhfs.state.wi.us

DATE: March 27, 2002

TO: Tourism and Recreation Committee

FROM: Gregory A. Pallaske, M.S., R.S., Chief  
Food Safety and Recreational Licensing  
Bureau of Environmental Health

SUBJECT: DHFS Fee Proposal

Dear Committee Members:

Attached you will find a letter from the department agreeing to modify our initial request for an increase in licensing and pre-inspection fees. Also attached is a one-page handout that lists current fees, our initially proposed fees, and the revised fees as negotiated with committee members on March 26, 2002.

Some important points came out of yesterday's meeting. The first is an understanding that these changes to the original fee proposal will represent a loss of revenue in excess of \$100,000 for the upcoming licensing year. In order to make up for this shortfall, we will not be able to hire the five limited term employees, one for each region, as planned for this and future summers. The direct result is that the department will be unable to guarantee inspection coverage for the county fairs, city festivals, and myriad other special events that take place throughout the summer season.

Additionally, the department has agreed, during the next year, to convene a committee of industry and government, including representative(s) of the committee if desired, to explore the following licensing options:

- the possibility of tying future fee increases to the Consumer Price Index, while still maintaining committee oversight;
- the possibility of a discounted fee structure for holders of multiple licenses issued by the department;
- the option of billing by time unit for departmental services; and
- the creation of additional categories for swimming pools to encompass the range of inspection requirements from a simple pool to a large theme water park.

Please do not hesitate to contact me at 608-266-8351.

Attachments

cc: Senate Human Services Committee  
Thomas Sieger, Director, Bureau of Environmental Health

# Inspection and Pre-inspection Fee Handout. Revised 3/27/02

Facility Type	Inspection Fees		Pre-inspection Fees		
	Current License Fees	Initial Proposed Fees	Current Fee	Initial Proposal	Final Revised Fee
Restaurants 02 simple	148	160	125	150	150
Restaurants 02 moderate	148	230	200	250	250
Restaurants 02 complex	148	300	275	350	350
Restaurants 01 & Equiv	65	95	125	125	125
<b>Lodging</b>					
Hotel/Motels 5-30	124	150	125	160	160
Hotel/Motels 31-99	165	210	200	250	250
Hotel/Motels 100-199	212	265	275	340	340
Hotel/Motels >200	new category		new category		700
Bed & Breakfasts	53	65	125	150	150
Tourist Rooming House	59	85	125	150	150
<b>Campgrounds</b>					
60 1-25 sites	106	120			
61 26-50 sites	130	150			
62 51-100 sites	153	180			
63 100 - 199	171	210			
>200 sites	new category				300
Swimming Pools	130	175			
Recreational Camps	77	250			
<b>Vending</b>					
Vending Machine Comm	148	175	125	150	150
Vend Mach Comm Equip	59	85			
Vend Mach Operators	71	100			

We do not currently charge pre-inspection fees for any of these classifications.

## WISCONSIN LEGISLATIVE COUNCIL STAFF

**RULES CLEARINGHOUSE**

**Ronald Sklansky**  
Director  
(608) 266-1946

**Richard Sweet**  
Assistant Director  
(608) 266-2982



**Terry C. Anderson, Director**  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

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**CLEARINGHOUSE REPORT TO AGENCY**


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[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 01-016**

AN ORDER to repeal HFS 172.04 (1m) (d), 178.05 (1m) (d), 195.04 (1m) (e) 1. and 2., 197.04 (1m) (e) and 198.04 (1m) (f); to amend HFS 172.04 (1m) (a), 175.05 (3) (a), 178.05 (1m) (a) 2., 195.04 (1m) (a) 2. and (d) 1. and 2., 197.04 (1m) (a) and (d) and 198.04 (1m) (a) and (e); to repeal and recreate HFS 196.04 (2) (b) to (e) and 198.04 (1) and (1m); and to create HFS 196.04 (2m) (a) and (b) and Note, relating to permit fees for the operation of public swimming pools, recreational and educational camps, campgrounds, hotels and motels, tourist rooming houses, restaurants, bed and breakfast establishments and food and beverage vending operations and commissaries.

Submitted by **DEPARTMENT OF HEALTH AND FAMILY SERVICES**

02-15-01 RECEIVED BY LEGISLATIVE COUNCIL.  
03-14-01 REPORT SENT TO AGENCY.

RNS:DLS:jal;ksm

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached      YES       NO

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

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Director  
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Richard Sweet  
Assistant Director  
(608) 266-2982



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Director  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
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FAX: (608) 266-3830

## CLEARINGHOUSE RULE 01-016

### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]**

#### 2. Form, Style and Placement in Administrative Code

- a. SECTION 8 should state: "HFS 195.04 (1m) (e) is repealed."
- b. SECTION 9 purports to repeal and recreate s. HFS 196.04 (2) (b) to (e). However, that SECTION also contains a par. (f). Paragraph (f) should be created in a separate SECTION.
- c. In the treatment clause to SECTION 10, "(a) and (b)" should be deleted.
- d. In the treatment clause to SECTION 11, "are" should replace "is."

PROPOSED ORDER OF THE  
DEPARTMENT OF HEALTH AND FAMILY SERVICES  
REPEALING, AMENDING, AND CREATING RULES

To repeal HFS 172.04(1m)(d), 178.05(1m)(d), 195.04(1m)(e)1. and 2., 197.04(1m)(e), and 198.04(1m)(f); to amend HFS 172.04(1m)(a), 175.05(3)(a), 178.05(1m)(a)2., 195.04(1m)(a)2. and (d)1. and 2., 197.04(1m)(a) and (d), and 198.04(1m)(a) and (e); to repeal and recreate HFS 196.04(2)(b) to (e) and 198.04(1) and (1m), and to create HFS 196.04(2m)(a) and (b) and Note, relating to permit fees for the operation of public swimming pools, recreational and educational camps, campgrounds, hotels and motels, tourist rooming houses, restaurants, bed and breakfast establishments and food and beverage vending operations and commissaries.

Analysis Prepared by the Department of Health and Family Services

The department and agent local health departments regulate all campgrounds, recreational and educational camps, the operation of swimming pools that serve the public, restaurants, hotels and motels, tourist rooming houses, bed and breakfast establishments and food vending operations in the state under the authority of ss. 254.47 and 254.61 to 254.88, Stats., to ensure that these facilities comply with the department's health, sanitation and safety standards set out in administrative rules. The department's rules for these facilities are found in chs. HFS 172, 175, 178, 195, 196, 197 and 198 of the Wisconsin Administrative Code. None of the facilities may operate without having a permit issued by the department or an agent local health department. A permit is evidence that the facility complies with the department's rules. Under the department's rules, facilities are charged permit and related fees. Fee revenue supports the department's expenses in providing statutorily-required regulatory oversight of these entities.

This rulemaking order amends the department's rules for operation of these facilities to increase permit fees an average of 40% for all program areas and to increase the pre-inspection fee for new hotels and motels, tourist rooming houses, restaurants and bed and breakfast establishments.

The fee increase will enable the department to fully staff existing position regulatory program vacancies, allowing the department to increase its frequency of routine inspections, ability to promptly respond to public complaints, and undertake necessary enforcement action.

This order does not affect facilities regulated by local health departments granted agent status under s. 254.69(2), Stats. Permit fees for those facilities are established by local health departments pursuant to 254.69(2)(d), Stats.

The department's authority to repeal, amend, repeal and recreate, and create these rules is found in ss. 254.47(4) and 254.68, Stats. The rules interpret ss. 254.47 and 254.68, Stats.

SECTION 1. HFS 172.04(1m)(a) is amended to read:

HFS 172.04(1m)(a) *Annual permit fee.* Beginning July 1, ~~1998~~ 2001, the operator of a public swimming pool shall pay an annual permit fee of ~~\$130~~ \$175 to the department.

SECTION 2. HFS 172.04(1m)(d) is repealed. 

SECTION 3. HFS 175.05(3)(a) is amended to read:

HFS 175.05(3)(a) *Annual permit fee*. Beginning July 1, ~~1998~~2001, the operator of a camp shall pay an annual permit fee of ~~\$77~~125 to the department.

SECTION 4. HFS 178.05(1m)(a)2. is amended to read:

HFS 178.05(1m)(a)2. Beginning July 1, ~~1998~~2001, the annual permit fee shall be as follows:

- a. For a campground with 1–25 sites, ~~\$106~~125;
- b. For a campground with 26–50 sites, ~~\$130~~150;
- c. For a campground with 51–100 sites, ~~\$153~~175; and
- d. For a campground with over 100 sites, ~~\$174~~200.

SECTION 5. HFS 178.05(1m)(d) is repealed.

SECTION 6. HFS 195.04(1m)(a)2. is amended to read:

HFS 195.04(1m)(a)2. Beginning July 1, ~~1998~~2001, the annual permit fee shall be as follows:

- a. For a hotel or motel with 5 to 30 rooms, ~~\$124~~160;
- b. For a hotel or motel with 31 to 99 rooms, ~~\$165~~205;
- c. For a hotel or motel with 100 or more rooms ~~\$242~~250; and
- d. For a tourist rooming house, ~~\$59~~100.

SECTION 7. HFS 195.04(1m)(d)1. and 2. is amended to read:

HFS 195.04(1m)(d) *Preinspection fee*. 1. 'Hotel and motel'. The operator of a hotel or motel shall pay to the department a preinspection fee. The preinspection fee shall be as follows:

- a. For a hotel or motel with 5 to 30 rooms, ~~\$125~~160;
- b. For a hotel or motel with 31 to 99 rooms, ~~\$200~~250; and
- c. For a hotel or motel with 100 or more rooms, ~~\$275~~340;

2. 'Tourist rooming house'. The operator of a tourist rooming house shall pay to the department a preinspection fee of ~~\$125~~160.

SECTION 8. HFS 195.04(1m)(e)1. and 2. is repealed.

SECTION 9. HFS 196.04(2)(b) to (e) <sup>are</sup> is repealed and recreated to read:

HFS 196.04(2)(b) *Annual permit fee*. The operator of a restaurant that serves meals prepared from raw, canned, dried, packaged or frozen foods shall pay an annual permit fee to the department. Except as provided in subds. 4. to 6., the annual permit fee shall be based on the

permit category assigned to the restaurant under par. (d). Beginning July 1, 2001, the restaurant permit fee structure is as follows:

1. For a restaurant in the simple permit category, an annual permit fee of \$160 and, in addition, \$80 per area for any physically separate food holding, serving or preparation area.
2. For a restaurant in the medium permit category, an annual permit fee of \$230 and, in addition, \$80 per area for any physically separate food holding, serving or preparation area.
3. For a restaurant in the complex permit category, an annual permit fee of \$300 and, in addition, \$80 per area for any physically separate food holding, serving or preparation area.
4. For a restaurant that serves only individually wrapped, hermetically sealed single food servings supplied by a licensed processor, an annual permit fee of \$95.
5. For a temporary restaurant, an annual permit fee of \$110.
6. For a mobile restaurant base with no food preparation, an annual permit fee of \$95.

(c) *Preinspection fee.* The operator of a restaurant shall pay to the department a preinspection fee before issuance of the initial permit or when there is a change of operator except when the new operator is an immediate family member. The preinspection fee shall be based on the permit category assigned under par. (d). Beginning July 1, 2001, preinspection fees are as follows:

1. For a restaurant in the simple permit category, the preinspection fee shall be \$150.
2. For a restaurant in the medium permit category, the preinspection fee shall be \$250.
3. For a restaurant in the complex permit category, the preinspection fee shall be \$350.

(d) *Restaurant permit category assignment.* 1. A restaurant permit category shall be determined by the total number of points assigned to a restaurant based on the criteria specified in Table 196.04.

2. A restaurant whose total score is 0 or 1 shall be included in the simple permit category.
3. A restaurant whose total score is 2 to 5 shall be included in the medium permit category.
4. A restaurant whose total score is 6 to 11 shall be included in the complex permit category.

**TABLE 196.04  
Determination of Restaurant Permit Category**

DESCRIPTION OF FACILITY OR OPERATION	Point(s)
The restaurant contains a self-service salad or food bar.	2
The restaurant handles raw chicken, meat, poultry, seafood, or shell eggs, frozen raw hamburger patties or frozen non-breaded raw chicken.	2
The seating capacity is 40 or more or there is a drive-through window for food pickup.	1
Potentially hazardous foods are cooled or reheated.	2
Food is prepared in one location and then transported to be served in another location.	2
The kitchen contains more than one deep fryer, or more than one grill or more than 2 hot-holding units.	1
The most recent inspection revealed 2 or more critical item violations.	1
The restaurant currently implements a HACCP plan approved by the department.	-1

(e) *Penalty fee.* Beginning July 1, 1998, if the annual permit fee is not paid within the first 15 days of the permit period, the department shall require the operator of the restaurant to pay a penalty fee of \$75, in addition to the annual permit fee, for renewal of the permit.

*create* — (f) *Fee for duplicate permit.* The department shall charge a restaurant operator \$10 for a duplicate permit.

SECTION 10. HFS 196.04(2m)(a) and (b) *is* created to read:

HFS 196.04(2m) RECONSIDERATION OF PERMIT CATEGORY ASSIGNMENTS. (a) The operator of a restaurant may request reconsideration of the restaurant permit category assignment made under sub. (2)(d).

(b) A request made under par. (a) shall be made to the department within 30 days of the category assignment.

**Note:** To request reconsideration of permit category assignment call the Bureau of Environmental Health at 608-266-2835 or send your written request to the Bureau of Environmental Health, P.O. Box 2659, Madison, WI 53701-2659.

SECTION 11. HFS 197.04(1m)(a) and (d) *are* amended to read:

HFS 197.04(1m)(a) *Permit fee.* Beginning July 1, ~~1998~~2001, the operator of a bed and breakfast establishment shall pay a biennial permit fee of ~~\$106~~\$125 to the department.

HFS 197.04(1m)(d) *Preinspection fee.* Beginning July 1, ~~1998~~2001, the operator of a bed and breakfast establishment shall pay to the department a preinspection fee of ~~\$125~~\$160 before issuance of the initial permit.

SECTION 12. HFS 197.04(1m)(e) *is* repealed.

SECTION 13. HFS 198.04(1) and (1m) are repealed and recreated to read:

**198.04 Permit to operate. (1) APPLICATION.** No person may conduct, maintain, manage or operate one or more vending machines or a vending machine commissary who has not been issued a permit by the department. Application for a permit shall be made on a form furnished by the department. An application for a permit submitted to the department shall be accompanied by the fees required under sub. (1m)(a) to (d), as applicable.

**(1m) DEPARTMENT FEES.** (a) *Annual permit fee for the operator of a vending machine.* The operator of a vending machine shall pay an annual permit fee to the department. The annual permit fee shall be as follows:

1. For the vending machine operator, \$100 beginning July 1, 2001; and
2. For each vending machine, \$6.

(b) *Annual permit fee for the operator of a vending machine commissary.* The operator of a vending machine commissary shall pay an annual permit fee to the department. Beginning July 1, 2001, annual permit fees are as follows:

1. For a vending machine commissary where food is prepared, an annual permit fee of \$175.
2. For a vending machine commissary where food, transport equipment and vending supplies are only stored, an annual permit fee of \$85.

(c) *Preinspection fee.* Beginning July 1, 2001, the application for an initial permit to operate a vending machine commissary, shall be accompanied by a preinspection fee of \$150.

(d) *Penalty fee.* Beginning July 1, 1998, if the annual permit fee is not paid within the first 15 days of the permit period, the operator of the vending machine or vending machine commissary shall pay the department a penalty fee of \$75, in addition to the annual permit fee, for renewal of the permit.

(e) *Fee for duplicate permit.* 1. The department shall charge the operator of a vending machine \$1 for a duplicate permit for the vending machine.

2. The department shall charge the operator of a vending machine \$10 for a duplicate vending machine operator permit.

3. The department shall charge the operator of a vending machine commissary \$10 for a duplicate permit.

The rules included 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)(intro.), Stats.

Wisconsin Department of Health and  
Family Services

Dated:

By: \_\_\_\_\_  
Thomas E. Alt  
Deputy Secretary

SEAL: