

CR 83-135

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STATE OF WISCONSIN)
) SS.
DEPARTMENT OF AGRICULTURE,)
TRADE & CONSUMER PROTECTION)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Norman E. Kirschbaum, Administrator, Food Division, State of Wisconsin Department of Agriculture, Trade and Consumer Protection, and custodian of the official records of said Division, do hereby certify that the annexed order amending rules relating to the retail sale of foods in bulk form, by means of customer self-service, Chapter Ag 32, Wis. Adm. Code, was duly approved and adopted by the Department on April 4, 1984.

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

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Department offices in the city of Madison, this 4th day of April, 1984.

Norman E. Kirschbaum
Norman E. Kirschbaum
Administrator
Food Division

ORDER OF THE
STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION
ADOPTING, AMENDING OR REPEALING RULES

1 To amend chapter Ag 32 of the Wisconsin administrative code,
2 relating to the retail sale of foods in bulk form, by means of
3 customer self-service.

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

The department's amendments to ch. Ag 32, Wis. Adm. Code will authorize retail food establishments to display and sell certain unpackaged foods in bulk form, by means of customer self-service, subject to sanitation requirements set forth in the rule amendments. Ag 32 currently prohibits retail food establishments from dispensing unwrapped foods, other than raw agricultural commodities, by means of customer self-service. The amendments will create exemptions for (1) foods which are dispensed by mechanical devices which allow customers to serve themselves, but which prevent direct customer contact with food not included in the individual served portion; and (2) foods, including processed foods requiring further heat treatment, which are not potentially hazardous, and which are specifically approved by the department for sale in bulk form. Approvals are to be given on a case-by-case basis, based on the type of food being sold in bulk form, and the specific method of display and sale. Approval may be revoked by the department, if it appears that food is not adequately protected from contamination.

The amendments establish certain conditions governing the sale of unpackaged foods in bulk form, by means of customer self-service. These include provisions related to:

1. The location and maintenance of bulk display and storage facilities.
 2. The cleaning and sanitizing of equipment and utensils used to handle bulk foods.
 3. The sanitary construction and maintenance of self-service display containers, and the availability of appropriate self-service utensils.
 4. Single-service containers used by customers.
 5. Recordkeeping requirements. Records are required to identify the manufacturer or distributor of bulk foods sold at retail.
 6. The labeling of bulk food display containers.
 7. Sanitation training requirements for retail food establishment employees engaged in the handling of bulk foods.
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1 Pursuant to the authority vested in the state of Wisconsin
2 department of agriculture, trade and consumer protection by
3 s. 93.07(1) and 97.28, Stats., the state of Wisconsin department of
4 agriculture, trade and consumer protection hereby creates rules
5 interpreting s. 97.28, Stats., as follows:

6 SECTION 1: Ag 32.06(4)(c) is amended to read:

7 (c) Display of bulk, unwrapped, ready-to-eat or delicatessan
8 foods. Bulk, unwrapped, ready-to-eat or delicatessan foods, while
9 on display, shall be kept covered or otherwise protected against
10 contamination. ~~Such foods, while on display,~~ Except for salad
11 ingredients displayed in a salad bar, the displayed foods shall not
12 be available for handling by the public, and shall be handled only
13 by employes. This paragraph does not apply to:

14 1. ~~raw~~ Raw agricultural commodities.

15 2. Foods which are dispensed by a mechanical device which
16 allows customers to serve themselves, but which prevents direct
17 customer contact with food not included in the individual self-
18 served portion. Foods, while on display in the dispensing device,
19 shall be kept covered or otherwise protected against contamination.
20 Dispensing devices shall be approved by the department for compli-
21 ance with this subdivision. Approvals shall comply with par. (d).

22 3. Foods which are not potentially hazardous, including
23 processed foods requiring further heat treatment, if specifi-
24 cally approved by the department for sale in unwrapped bulk form,
25 by means of customer self-service. Approvals shall comply with
26 par. (d).

27 SECTION 2: Ag 32.06(4)(d) is created to read:

1 (d) Sale of unwrapped foods in bulk form; department
2 approval. The department may approve the display and sale of
3 unwrapped food in bulk form, by means of customer self-service,
4 if the method of display and sale provides adequate protection
5 against the contamination of food, and if the food is not poten-
6 tially hazardous. Approval shall be specific to the individual
7 retail food establishment, the type of food being displayed and
8 sold, and the method of display and sale. Approval may be revoked
9 at any time, if it appears that food is not adequately protected
10 from contamination. The following conditions shall apply to all
11 approvals under this paragraph:

12 1. Unwrapped bulk foods, while on display or in storage,
13 shall be adequately separated from all potential sources of contam-
14 ination within the retail food establishment. Areas used for the
15 storage of unwrapped bulk foods, and for the filling of retail dis-
16 play containers, shall be clean and sanitary.

17 2. Equipment and utensils, including retail display con-
18 tainers, used for the storage, handling, display or transportation
19 of unwrapped bulk foods shall be cleaned and sanitized as necessary
20 to keep them in a sanitary condition. Cleaning and sanitizing
21 facilities and methods shall comply with s. Ag 32.10.

22 3. Self-service display containers, other than mechanical
23 dispensing devices under s. Ag 32.06(4)(c)2, shall be equipped with
24 a tight-fitting lid. The lid shall be permanently attached in such
25 a manner that the lid, when opened, is prevented from touching the
26 floor or other containers. The lid shall be self-closing or kept
27 in a closed position at all times, except when food is being

1 removed from the container by a customer. Salad ingredients, while
2 on display in a salad bar, may be protected by an overhead canopy
3 and food shield over the salad bar, rather than by individual covers
4 or lids on the salad ingredient containers. Salad ingredients shall
5 be arranged so that customers may have access to the ingredients
6 without reaching over uncovered food.

7 4. Each self-service display container shall be equipped with
8 a utensil, complete with handle, to be used by customers in removing
9 food from the container. A sign, prominently posted on or near the
10 self-service display container, shall direct customers to use the
11 utensil provided for self-service of unwrapped bulk foods.

12 5. Individual serving containers provided to customers by a
13 retail food establishment shall be for single-service use. Con-
14 tainers shall not be returnable for re-use by other customers for
15 purchases of unwrapped foods in bulk form. Containers supplied by
16 customers shall not be used in a manner which may cause contamin-
17 ation of displayed food.

18 6. Every retail food establishment shall maintain a record of
19 sources from which unwrapped foods, displayed for sale in bulk
20 form, were obtained. Records shall identify the wholesale source
21 of the food, and the bulk packager or manufacturer of the food.
22 Records shall be made available for inspection and copying by the
23 department upon request.

24 7. The contents of each self-service display container shall
25 be labeled as provided in s. Ag 32.11(4).

26 8. Retail food establishment employes engaged in the handling
27 of unpackaged foods in bulk form shall be given appropriate

1 sanitation training and instructions, including appropriate written
2 or posted instructions. Copies of all written instructions shall be
3 made available for inspection and copying by the department upon
4 request.

5 9. Bulk food returned to a retail food establishment shall not
6 be resold, or placed together with food inventory held for sale.
7 Bulk food returns shall be promptly discarded, except where the
8 retail food establishment contemplates a possible recall action
9 related to the bulk food. Bulk food returns kept in anticipation
10 of, or pursuant to a recall action shall be kept in segregated
11 storage, and be identified and maintained so as to facilitate
12 testing and the identification of source lots or batches.

13 SECTION 3: Ag 32.11(4) is created to read:

14 (4) UNWRAPPED FOODS DISPLAYED FOR SALE IN BULK FORM.

15 (a) The contents of every self-service display container,
16 used for the display and sale of unwrapped food in bulk form under
17 s. Ag 32.06(4)(d), shall be conspicuously labeled on the container,
18 or immediately adjacent to the container. The label shall
19 include:

20 1. The common name of the food.

21 2. In the case of a processed food, a declaration of the
22 ingredients used in the manufacture of the food. Ingredients shall
23 be identified by their common or usual names, in descending order
24 of predominance by weight.

25 (b) No manufacturer, packer or distributor shall sell or
26 distribute an unwrapped, processed food for resale in bulk form
27 unless the bulk distribution container is accompanied by a label

1 which complies with par. (a).

2 (c) If a bulk food is not readily identifiable on sight, the
3 retail food establishment shall provide labels or marking devices
4 which may be used by customers to identify the contents of the
5 individual serving containers in which the bulk food is sold.

6 SECTION 4: The rules contained in this order shall take
7 effect on the first day of the month following their publication,
8 as provided in s. 227.026(1)(intro.), Stats.

9 Dated this 4th day of April, 1983.

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STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE
TRADE AND CONSUMER PROTECTION

By N. E. Kirschbaum
N. E. Kirschbaum, Administrator
Food Division

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