

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 11/2/00

BILL NO. _____

OR

SUBJECT CR 00-060

MICHAEL KUSSON

(NAME)

2601 CROSSROADS DR.

(Street Address or Route Number)

MADISON, WI 53718

(City and Zip Code)

WI GROCERS ASSN.

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O.Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 11/2/00

BILL NO. _____

OR

SUBJECT Clearinghouse Rule

00-059

00-060

(NAME) Tommy Schneider

4913 Eyrne Ln

(Street Address or Route Number)

Madison WI 53711

(City and Zip Code)

Wisconsin Local Health Dept

Board of Health

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 11-2-2000

BILL NO. _____

OR

SUBJECT Clearing House Rule

00-059

00-060

(NAME) Timothy C. BRAWEL

813 N Garfield Ave

(Street Address or Route Number)

Janesville WI 53545

(City and Zip Code)

Rock Co Health Dept

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: Nov 2, 2000

BILL NO. SR 00-059 CR 00-060

OR

SUBJECT _____

(NAME) James P. CURRAN

5675 Mary Lakes Road

(Street Address or Route Number)

WAUNAKEE WI 53597

(City and Zip Code)

SELF

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 11-2-00

BILL NO. _____

OR

SUBJECT CR - 00-059
060

Tom Leitzke
(NAME)

P.O. Box 8911
(Street Address or Route Number)

Madison WI 53708
(City and Zip Code)

WDATCP
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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Senate Sergeant-At-Arms
State Capitol - B35 South
P.O.Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: November 2, 2000

BILL NO. _____

OR

SUBJECT Food Safety
Rules (CR-00-60)

Kathie Boyce
(NAME)

44 East Dittin #404
(Street Address or Route Number)

Madison WI 53703
(City and Zip Code)

Patrolman Marketers Assn. WI
(Representing) WI Assn of Gov. Service

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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Senate Sergeant-At-Arms
State Capitol - B35 South
P.O.Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 11/2/00

BILL NO. _____

OR

SUBJECT Wis Food Code

Steve Steinhoff
(NAME)

2811 Avonhurst Dr
(Street Address or Route Number)

Madison, WI
(City and Zip Code)

Wis Dept of Ag - TRP
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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Senate Sergeant-At-Arms
State Capitol - B35 South
P.O.Box 7882
Madison, WI 53707-7882

WISCONSIN LEGISLATURE - COMMITTEE ATTENDANCE FORM

Senate

Health, Athletics, Veterans

Military Affairs

COMMITTEE 2-11-2000 DATE

LEGISLATOR NAME

Peter Bock

WISCONSIN LEGISLATURE - COMMITTEE ATTENDANCE FORM

Public Health

COMMITTEE 11/2/2000 DATE

LEGISLATOR NAME

David Caputo

WISCONSIN LEGISLATURE - COMMITTEE ATTENDANCE FORM

Senior Human

COMMITTEE 11/2/00 DATE

LEGISLATOR NAME

Rep. David Curcio

Committee Meeting Attendance Sheet

Senate Committee on Health, Utilities, Veterans and Military Affairs

Date: 11/2/2000 Meeting Type: Public Health
Location: Room 201 S.E.

Committee Member

Sen. Rodney Moen, Chair

Sen. Roger Breske

Sen. Judy Robson

Sen. Jon Erpenbach

Sen. Robert Welch

Sen. Peggy Rosenzweig

Sen. Carol Roessler

Present

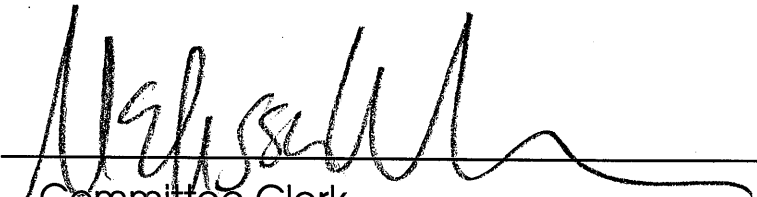
Absent

Excused

Totals:

4

3



Committee Clerk

FEDERAL FOOD CODE – CHAPTER 8

This model code sets the inspection interval “at least once every 6 months.” The minimum interval in Table 1 for the lowest risk is one inspection per year.

Frequency

8-401.10 Establishing Inspection Interval.

(A) Except as specified in ¶¶ (B) and (C) of this section, the regulatory authority shall inspect a food establishment at least once every 6 months.

(B) *The regulatory authority may increase the interval between inspections beyond 6 months if:*

(1) *The food establishment is fully operating under an approved and validated HACCP plan as specified under § 8-201.14 and ¶¶ 8-103.12(A) and (B);*

(2) *The food establishment is assigned a less frequent inspection frequency based on a written risk-based inspection schedule that is being uniformly applied throughout the jurisdiction and at least once every 6 months the establishment is contacted by telephone or other means by the regulatory authority to ensure that the establishment manager and the nature of food operation are not changed; or*

(3) *The establishment's operation involves only coffee service and other unpackaged or prepackaged food that is not potentially hazardous such as carbonated beverages and snack food such as chips, nuts, popcorn, and pretzels.*

(C) The regulatory authority shall periodically inspect throughout its permit period a temporary food establishment that prepares, sells, or serves unpackaged potentially hazardous food and that:

(1) Has improvised rather than permanent facilities or equipment for accomplishing functions such as handwashing, food preparation and protection, food temperature control, warewashing, providing drinking water, waste retention and disposal, and insect and rodent control; or

(2) Has inexperienced food employees.

8-401.20 Performance- and Risk-Based.

Within the parameters specified in § 8-401.10, the regulatory authority shall prioritize, and conduct more frequent inspections based upon its assessment of a food establishment's history of compliance with this Code and the establishment's potential as a vector of foodborne illness by evaluating:

(A) Past performance, for nonconformance with Code or HACCP plan requirements that are critical;

(B) Past performance, for numerous or repeat violations of Code or HACCP plan requirements that are noncritical;

- (C) Past performance, for complaints investigated and found to be valid;
- (D) The hazards associated with the particular foods that are prepared, stored, or served;
- (E) The type of operation including the methods and extent of food storage, preparation, and service;
- (F) The number of people served; and
- (G) Whether the population served is a highly susceptible population.

(C) Risk Categorization of Food Establishments

(Refer to Subpart 8-401, Food Code)

Studies have shown that the types of food served, the preparation steps these foods require, the volume of food, the population served, and previous compliance history can have a bearing on the opportunity for the occurrence of foodborne illness.

The rational allocation of inspection resources to target the highest risk establishments with more inspection time and the lowest risk establishments with the least is a HACCP approach concept. Risk categorization allows establishments to be ranked by considering risk factors and creating a variable inspection frequency for each category. An example of risk categorization and frequency of inspection is shown in Table 1.

Table 1. Risk Categorization of Food Establishments

RISK TYPE	RISK TYPE CATEGORY DESCRIPTION	FREQUENCY #/YR
1	Pre-packaged nonpotentially hazardous foods only. Limited preparation of nonpotentially hazardous foods only.	1
2	Limited menu (1 or 2 main items). Pre-packaged raw ingredients are cooked or prepared to order. Retail food operations exclude deli or seafood departments. Raw ingredients require minimal assembly. Most products are cooked/prepared and served immediately. Hot and cold holding of potentially hazardous foods is restricted to single meal service. Preparation processes requiring cooking, cooling, and reheating are limited to 1 or 2 potentially hazardous foods.	2
3	Extensive handling of raw ingredients. Preparation process includes the cooking, cooling, and reheating of potentially hazardous foods. A variety of processes require hot and cold holding of potentially hazardous food. Advance preparation for next day-service is limited to 2 or 3 items. Retail food operations include deli and seafood departments. Establishments doing food processing at retail.	3

4	Extensive handling of raw ingredients. Preparation processes include the cooking, cooling, and reheating of potentially hazardous foods. A variety of processes require hot and cold holding of potentially hazardous foods. Food processes include advanced preparation for next-day service. Category would also include those facilities whose primary service population is immunocompromised.	4
5	Extensive handling of raw ingredients. Food processing at the retail level, e.g., smoking and curing; reduced oxygen packaging for extended shelf-life.	4

Previous compliance history should also be considered when establishing inspection frequency. Non-conformance with critical Code items or HACCP plan requirements may move an establishment up into the next higher frequency range until a record of more consistent compliance is achieved.

There are a wide variety of ways to assign establishments to categories. The simplest method for that jurisdiction is usually the best.

Resources need to be allocated for seasonal and temporary food establishment operations. Frequently, this involves scheduling inspections on weekends and during evening hours. Some jurisdictions have also found it useful to schedule a number of inspections during the evening hours to get a more balanced view of certain food operations.

Some agencies replace one or more of their routine inspections with such alternatives as a full-scale HACCP study, or a staff training session. If a manager certified in food safety is on duty at all times, some agencies may discontinue routine inspection. Care must be exercised in using these alternatives to maintain sufficient regulatory oversight.

(D) Types of Inspections

The Food Code specifies that access to a retail establishment for inspection is a condition of the acceptance and retention of the food establishment permit. Inspections are generally unannounced to obtain a more accurate assessment of normal operating practices and conditions. Exceptions can be made during construction and preoperational inspections where an appointment is needed to ensure that all parties are available for discussion or where work is intermittent and access to a new establishment is limited; or during follow-up inspections which may require the presence of specific personnel or management from the establishment. Full documentation should be maintained on each inspection as a part of the establishment's official agency record.

Inspections determine the food establishment's compliance with the Food Code. These inspections may be categorized by purpose such as:

(1) Preoperational Inspection

(Refer to Subpart 8-203, Food Code)

The Food Code specifies that a preoperational inspection shall be conducted to ensure that the establishment is built or remodeled in accordance with the approved plans and specifications. It is helpful to have these documents available during the inspection.

(2) Routine Inspection

(Refer to Part 8-4 and Subpart 8-403, Food Code)

Routine inspections should be scheduled on an interval based on risk. These inspections are full reviews of the food establishment operations and facilities and their impact on food safety. They include assessment of food employee and management health, practices, and knowledge of food safety; food flows, source, storage, thawing, preparation (including cooking temperatures and times) and post-preparation processes; equipment and facility construction; cleaning and sanitizing processes; water sources; sewage disposal; and vermin control.

Detailed reports are prepared at the conclusion of each inspection and presented to the person in charge. Items found not to be in compliance are categorized as critical or noncritical. Items found to be repetitive from the previous inspection are also noted. The Code section in violation is included in the report citation section.



Judith B. Robson
Wisconsin State Senator

November 1, 2000

Honorable Rod Moen
Chair, Senate Committee on Health, Utilities
& Veterans & Military Affairs
8 South, State Capitol

Dear Senator Moen:

Thank you for scheduling a hearing this Thursday on Clearinghouse Rules 00-059 and 00-060 relating to restaurants and retail food establishments. My request for this hearing is predicated on the need to strengthen the requirement for inspections and inspection frequency.

The news stories this week on the investigation of the E. coli outbreak at two Milwaukee area Sizzler restaurants confirm the importance of annual inspections. Enclosed, for your information, is a copy of some of the pertinent findings from the reports compiled by the Department of Health & Family Services.

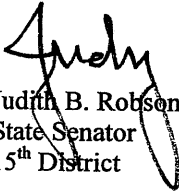
A total of 61 people with confirmed E. coli infections were linked to the restaurants, with 22 requiring hospitalization. One child died of hemolytic uremic failure. With the threat of foodborne infectious illness increasing, our minimum standard for inspection frequency should be strengthened.

Clearinghouse Rule 00-059, Section HFS 196.05, should be revised to require the department or its agent to inspect a restaurant at least once annually. The language allowing the department or its agent to "increase or decrease the interval between inspections" should be struck. The best interests of the public are not served if we allow, in lieu of an annual inspection, "an inspection frequency based on a written department approved risk-based inspection schedule that is being uniformly applied by the licensing authority" in which "the department or its agent shall contact the food establishment by telephone or other means at least once every 12 months to ensure that the restaurant operator and the nature of food operation have not changed."

The language requiring an annual inspection should also be added to Clearinghouse Rule 00-060 relating to retail food establishments.

Your attention to this issue is appreciated.

Sincerely,


Judith B. Robson
State Senator
15th District

JBR:kas


Enc.

CC: Members, Senate Committee on Health, Utilities & Veterans & Military Affairs

15 South, State Capitol, Post Office Box 7882, Madison, WI 53707-7882 • Telephone (608) 266-2253

District Address: 2411 East Ridge Road, Beloit, WI 53511

Toll-free 1-800-334-1468 • E-Mail: sen.robson@legis.state.wi.us

 Printed on recycled paper.

The restaurant employed a diverse multi-lingual workforce of approximately 35 people, the majority of whom worked part-time. Communication barriers existed which may have prevented employees from learning and properly performing their job duties. Employees' experience levels ranged from very little (less than 3 months with no food service background) to extensive (over 5 years). Although employees had specific job descriptions, their duties varied considerably depending on staffing levels. For instance, cashiers and others did salad preparation work between July 8 and July 16 when the primary salad person was on vacation.

The "back of the house" facilities consisted of a front cook line and grill area, a food preparation area, a meat processing area, a dishwashing room, a waitress area and storage areas. A pre-wash/hand-washing sink was located in the dishwashing area and one additional hand-washing facility served the remaining areas. There were no hand-washing facilities in the front cook line area.

Most food preparation for the salad bar took place on two tables located side-by-side, with a stand mixer between them. The mixer was equipped with a removable grinder attachment and was used to whip butter, make frostings, seafood salad, fish batter, and, most significantly, to grind meat. Since both raw meats and foods that would not receive heat treatment prior to consumption were prepared in such close proximity, the potential for cross-contamination existed.

Except for meat products which were obtained from Excel Corporation in Wichata, Kansas, the restaurant purchased most of its food from Sysco, a distributor located in Jackson, WI. Deliveries were made to the LASR twice weekly. The complete sanitarian's report is included in **appendix Q**.

DISCUSSION AND RECOMMENDATIONS

The layout of the facility and the practices of personnel may have contributed to this outbreak. The arrangement of a meat processing area (the grinding area) in close proximity to ready-to-eat food preparation areas increased the likelihood of cross-contamination. Although there was a separate meat processing area where most cutting and other processing was done, the grinding of meat was done in an area where ready-to-eat foods were prepared.

There was no assurance that ill employees refrained from food-handling activities. A cook reported working with diarrhea, stomach pains, and nausea for eight days just prior to the outbreak. He felt that he would lose his job if he failed to report for work due to illness. A cashier with similar symptoms also worked while ill during this period, and her child, still in diapers, was laboratory-confirmed for *E. coli* O157:H7 early in the outbreak. This child frequently spent time and consumed food at the restaurant between shifts. Cashiers' activities included some food preparation. In addition, one employee had laboratory-confirmed *E. coli* O157:H7 infection during this time period, but reported being asymptomatic.

Hand-washing facilities were not conveniently located. Only one hand-washing sink was available for the food preparation area and front cook line area, and several cooks admitted that they “washed” their hands in sanitizer buckets.

Methods used to replenish the salad bar may have also contributed to this outbreak. Food items were rotated – old food was put on top of new food in a continual cycle. If ready-to-eat food items, such as watermelon, were to become contaminated via a cutting board, for example, this rotation method could allow contaminated juices to flow into fresh foods, continually re-contaminating the food. This would explain the prolonged ten-day exposure period (July 12 to July 21) during which restaurant patrons became ill. An initial single episode of cross contamination could have been propagated through the rotational method of replenishing the salad bar.

General knowledge of safe food-handling practices by employees was inadequate. For example, several cooks stated that they used thermometers and took temperatures, yet none of the cooks interviewed knew the safe cold food temperature and only one knew the safe-re-heating temperature.

Based on the results of the case-control study, the test results of the opened and intact food samples from the restaurant and the conclusions of the restaurants inspections, it is most probable that the watermelon was the vehicle for infection, cross-contamination of fresh watermelon with raw meat product was the mechanism by which the vehicle became contaminated, and the raw sirloin tri-tips were the source of *E. coli* O157:H7 organisms in this outbreak.

The likelihood of future foodborne outbreaks in similar facilities can be reduced by:

- Providing complete physical separation between meat processing areas and ready-to-eat food preparation areas.
- Ensuring that hand washing facilities are adequately and conveniently located. This cannot be determined by Code provisions alone – in many cases it is necessary to observe actual use (or lack thereof) to determine adequacy.
- At facilities using salad bars, ensuring that old food is not indefinitely recycled by mixing it with new food.
- Ensuring that all potentially hazardous foods are held at safe temperatures.
- Monitoring the knowledge and skill levels of foodservice workers and providing training to ensure that foods are handled safely and that, to reduce the likelihood of cross-contamination, utensils, equipment, and work surfaces are properly cleaned and sanitized between contact with raw food products and ready-to-eat products. Food-handler Certification requirements are a step in the right direction, but how people actually use their knowledge and skills is much more important.
- Ensuring that a HACCP plan or other standard operating procedures are followed.

and four of those employees worked while they were symptomatic. One cook, who did not work while symptomatic, reported symptoms of diarrhea among himself and his three children that ceased just two days before he worked 10 days of a 12-day work period.

Hand-washing facilities were not conveniently located in the kitchen area of the restaurant. The two hand-washing sinks were located in the kitchen and grill areas. One was located at the south end of the grill line and one was located at the north end of the preparation line of counters in the kitchen. There was no hand-washing sink in the meat room. There was concern that the sink in the meat preparation room that was for food cleaning might also have been used interchangeably for hand-washing and food cleaning. General knowledge of safe food-handling practices by employees was inadequate.

Meat processing knives were stored in standing water with a sanitizing solution in the meat room. The water was observed as a rust color, possibly the result of meat juices.

Nothing unusual was discovered regarding receipt, storage or handling of chicken wing product. Chicken wings were received from Sysco and immediately stored in a walk-in freezer. Chicken wings were removed from the walk-in freezer to the upright freezer on the cooking line, as needed, and were removed from the upright freezer for frying. Chicken wings were cooked when needed for the buffet and uneaten cooked chicken wings were discarded at the end of the day. Chicken wings were part of the buffet and were not a regular menu item.

Complete reports prepared by the WHD sanitarians (**appendix T**) and another prepared by Division of Public Health, Bureau of Environmental Health (BEH) sanitarians (**appendix U**) are attached. A restaurant floor plan is included as **appendix V**. Considerable time was spent assessing food-handling practices in the facility. Conditions for re-opening were established and presented to the operator/owner on August 16, including a requirement that the operator/owner provide an action plan detailing changes in food-handling practices so as to minimize future risks (**appendix W**).

DISCUSSION AND RECOMMENDATIONS

Although the Mayfair Road and Layton Avenue Sizzler restaurant outbreaks occurred in a similar time frame and in geographic proximity, they are distinct outbreaks and have been summarized in separate reports. There is no evidence that any of the cooked or raw products implicated in either outbreak were shared between the two restaurants during the outbreak period. The two outbreaks occurred in separate locations and were caused by different errors in food preparation and handling. The LASR outbreak was caused by cross contamination of watermelon with *E. coli* O157:H7 from the raw sirloin tri tips meat product. It is not unexpected that the 60 *E. coli* O157:H7 human isolates from the LASR outbreak matched the two *E. coli* O157:H7 isolates from the MRSR outbreak pattern by PFGE since both restaurants received and were using the same lot of sirloin tri-tips (XL EST 86R) during the outbreak period. Cross contamination of

different food items at the two restaurants with this same lot number of sirloin tri-tips would result in isolates with the same PFGE pattern.

It is hypothesized that the Mayfair Road Sizzler outbreak was caused by two distinct human pathogens - a Norwalk-like virus and *E. coli* O157:H7. Based on the incubation period, signs and symptoms of MRSR patrons and the case-control statistical analysis, it is most likely that the 19 patrons with shorter incubation illness became ill following consumption of lettuce that was contaminated with Norwalk-like virus. There are many reports in the literature which document the transmission of Norwalk-like viruses from the bare hands of symptomatic food handlers to raw fruits and vegetables.¹⁻³ There are also reports in the literature which document the continued shedding of Norwalk-like virus in the stool of individuals for periods up to 2 weeks following cessation of diarrhea.³⁻⁵

The two-laboratory-confirmed cases of *E. coli* O157:H7 infection in the MRSR outbreak appear to be part of a group of 33 patrons with longer incubation illness. The symptom profile, incubation period, and case-control analysis of the 33 longer incubation patrons suggest that their illness was due to *E. coli* O157:H7 infection associated with consuming chicken wings that were cross-contaminated with raw sirloin tri-tip meat product. The mechanism by which this may have occurred is undetermined.

The likelihood of future foodborne outbreaks in similar facilities can be reduced by:

- Providing complete physical separation between meat processing areas and ready-to-eat food preparation areas.
- Ensuring that hand washing facilities are adequately and conveniently located. This cannot be determined by Code provisions alone – in many cases it is necessary to observe actual use (or lack thereof) to determine adequacy.
- Monitoring the knowledge and skill levels of foodservice workers and providing training to ensure that foods are handled safely and that, to reduce the likelihood of cross-contamination, utensils, equipment, and work surfaces are properly cleaned and sanitized between contact with raw food products and ready-to-eat products. Food-handler Certification requirements are a step in the right direction, but how people actually use their knowledge and skills is much more important.
- Ensuring that a HACCP plan or other standard operating procedures are followed.
- Designated cutting boards should be used, cleaned and stored separately. Interchangeable use should be discouraged.
- Knives, like cutting boards, and other processing equipment must be cleaned and sanitized after each use. Storage in standing water should be discouraged.



State of Wisconsin
Department of Health and Family Services

Tommy G. Thompson, Governor
Joe Lekan, Secretary

November 1, 2000

The Honorable Judith B. Robson
Wisconsin State Senate
P. O. Box 7882
Madison, WI 53707-7882

Dear Senator Robson:

I am dismayed at your statement in today's press release that the proposed food rule is weak and allows a phone call to replace a restaurant inspection. This is neither what the proposed rule does nor its intent. The purpose of the phone call was to afford sanitarians the ability to assess whether a food establishment has changed ownership, revised its menu or added additional items, has new hours of operation or maybe has plans to remodel the facility. This type of information would allow the sanitarian to assess whether a change of inspection frequency is necessary, but would not replace an inspection.

The proposed food rule is based upon the most current food science information and provides to date the best guideline for safe food production. Throughout the public hearing process, industry and regulators stated their support of the new food rule and believed it to be an improvement over the existing rule. In short, this rule is a very important improvement to our food safety programs.

In the future, the Department would appreciate communication with your office to assure that you fully understand and interpret the food rule correctly before releasing information.

Sincerely,

A handwritten signature in cursive script that reads "Joe Lekan".

Joe Lekan
Secretary

*18 mos
reassessable*



JUDITH B. ROBSON

State Senator • Wisconsin Legislature

FOR IMMEDIATE RELEASE
November 1, 2000

CONTACT: Sen. Robson
Capitol: 608-266-2253
Home: 608-365-6587

Robson Objects to Weak Restaurant Inspection Rules

MADISON – State Sen. Judy Robson says proposed state rules relating to the frequency of restaurant and grocery store inspections are too lenient.

“At a time when the E. coli outbreaks are making children critically ill, the state should not be slacking off on food safety inspections,” Robson said.

At Robson’s request, the Senate Health Committee will hold a public hearing on the proposed rules at 10 a.m. Thursday in Room 201 Southeast.

196.05
(2)
(C)

Clearinghouse Rule 00-059 would allow the Department of Health and Family Services and local public health departments to make telephone contact with restaurants in lieu of on-site inspections.

“A telephone call provides no assurance that a restaurant is handling food safely,” Robson said. “A hands-on inspection is needed to make sure the food is cooked and refrigerated properly, raw meat is isolated from other foods, and the premises are kept clean.”

“There are so many opportunities for contamination that restaurants must be ever vigilant,” Robson said. “To ensure they are meeting food safety standards, they should be prepared for any inspection at any time.”

Robson said Clearinghouse Rule 00-060, which governs the inspection of grocery stores, must also be strengthened because it does not specify the frequency of inspections.

Statutes require DHFS or a local health department to make at least one inspection per year for every licensed restaurant in the state. However, in practice the department or local agency may make repeat visits to the same restaurant while other restaurants are not inspected at all during the year.

Federal guidelines recommend a minimum of one inspection per year for food establishments with low risk for food contamination, such as facilities that only sell prepackaged food. For restaurants with extensive handling of raw ingredients, four inspections per year are recommended.

Statute

September 22, 2000

Honorable Rod Moen
Chair, Senate Committee on Health, Utilities
& Veterans & Military Affairs
8 South, State Capitol

Dear Senator Moen:

I request a hearing on Clearinghouse Rules 00-059 and 00-060 relating to restaurants and retail food establishments. These rules should be revised to strengthen the requirements for inspections and inspection frequency.

Clearinghouse Rule 00-059 includes a section, HFS 196.05 Inspections, which requires the department or its agent to inspect a restaurant at least once annually. It then allows the department or its agent to "increase or decrease the interval between inspections...if the restaurant is assigned an inspection frequency based on a written department approved risk-based inspection schedule that is being uniformly applied by the licensing authority." In lieu of an inspection, "the department or its agent shall contact the food establishment by telephone or other means at least once every 12 months to ensure that the restaurant operator and the nature of food operation have not changed."

Clearinghouse Rule 00-060 has no language governing inspections and inspection frequency.

Based on the recent outbreaks of foodborne illnesses in Wisconsin, an annual inspection of each restaurant and retail food establishment should be a minimal requirement.

Your consideration of this request is appreciated.

Sincerely,

DHFS inspects restaurants
DATECAP inspects grocery stores

Judith B. Robson
State Senator
15th District

JBR:kas

254.65

254.65 Preinspection.

254.65(1)

(1) The department or a local health department granted agent status under s. 254.69 (2) may not grant a permit to a person intending to operate a new hotel, tourist rooming house, bed and breakfast establishment, restaurant or vending machine commissary or to a person intending to be the new operator of an existing hotel, tourist rooming house, bed and breakfast establishment, restaurant or vending machine commissary without a preinspection. This section does not apply to a temporary restaurant or when a permit is transferred under s. 254.64 (4) (d).

254.65(2)

(2) Agents designated by the department under s. 254.69 (1) shall make preinspections of vending machine commissaries as required under this subsection and shall be reimbursed for those services at the rate of 80% of the preinspection fee designated in this subsection. Agents designated by the department under s. 254.69 (2) shall make preinspections of hotels, restaurants and tourist rooming houses and establish and collect preinspection fees under s. 254.69 (2) (d).

254.65 - ANNOT.

History: 1983 a. 203 ss. 10, 16, 19; 1983 a. 538; 1987 a. 27, 81; 1993 a. 27 s. 68; Stats. 1993 s. 254.65.

254.66

254.66 Average annual surveys. The department or a local health department granted agent status under s. 254.69 (2) shall annually make a number of inspections of restaurants in this state that shall equal the number of restaurants for which annual permits are issued under s. 254.64 (1) (a).

254.66 - ANNOT.

History: 1987 a. 27; 1993 a. 27 s. 69; Stats. 1993 s. 254.66.

Sen
Moen

Testimony Before the Committee on Health, Utilities, Veterans and Military Affairs

Thursday November 2, 2000

RE: Clearinghouse Rule 00-059
Clearinghouse Rule 00-060

My name is Timothy C. Banwell and reside at 813 N. Garfield Ave., Janesville, WI 53545. I am the environmental health director with the Rock County Health Department, in Janesville, Wisconsin. I have a masters degree in public health and am a registered sanitarian.

Our department is testifying in favor of a 12-month restaurant inspection frequency as a minimum standard. The proposed 18-month risk based inspection schedule and the telephone survey inspection process do not adequately protect the public from potential risks of food borne illness.

Various changes in a restaurant or retail food business can impact the quality of food safety such as staff turnover, change of owner or management. During these times of business stress, economic or personnel issues may have a higher priority than food protection. A routine inspection identifies these lapses and focuses the priority onto food protection and safety. Our experience is that routine inspections motivate facilities with good performance to do better. Routine inspections also identify those few poor performers who then receive more follow up inspections and enforcement action if necessary.

The Rock County Health Department has a policy of conducting 30-day inspections after a new restaurant is licensed. The good performers improve their score an average of 10 points higher on the inspection report. Poor performers score an average of 10 points lower and require follow up inspections and/or other actions until acceptable standards are met. More frequent inspections promote better food safety practices.

Rock County Health Department has been routinely inspecting the school lunch room facilities in one particular school district for the past five years. Last year we began routine inspection of the other school lunch room facilities in our county, most were infrequently inspected for food safety. The previously inspected school district scored an average of 11 points higher on the inspection report than the other newly inspected facilities. Again, this indicates that more frequent inspections promote better food safety practices.

The restaurant inspection program in Rock County has been developed to provide protection of the public's health and to promote uniformity within the county for all licensed restaurant facilities.

The Rock County Health Department is an agent for the State Department of health and Social Services to inspect restaurants in Rock County outside the City of Beloit. This year we have also become agents for the State Department of Agriculture Trade and Consumer Protection to inspect retail food establishments.

In our 1999 Annual Report, 353 restaurants were licensed. Our department conducted 343 routine restaurant inspections, 21 routine temporary restaurant inspections and 47 pre-inspections. 130 follow-up inspections were conducted subsequent to new license or low initial score and 167 follow-up inspections were made to review status of critical violations noted on a prior inspection.

Our department has an enforcement policy to address poor food safety practices observed during inspections. Quarterly newsletters are mailed to all licensed facilities to keep them abreast of public health concerns related to food safety.

In conclusion, routine restaurant inspections promote food safety practices. Routine onsite inspections are necessary for good public health protection. The standard for conducting routine facility inspections for all facilities should be set at a minimum frequency of once in a 12 month period.

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Comments on Clearinghouse Rules 00-059 and 00-060, relating to restaurants and retail food establishments 11/02/00

Tommye Schneider

Director of Environmental Health and Laboratories, Madison Department of Public Health;
Chair, Environmental Health Specialty Group, Wisconsin Association of Local Health Departments and Boards (WALHDAB)

I am here on behalf of Environmental Health Directors from around the state who have reviewed the language in the proposed new Food Code (HFS 196.05), as well as the recent proposed amendments to this section regarding inspection frequency.

There is unanimous agreement that under no circumstances should a telephone contact (or "other means" of contact be used to replace in person face-to face inspections of food establishments.

Additionally, there is overwhelming consensus of the Environmental Health Directors who have responded on this issue that the standard for frequency of inspection of all types of food establishments should be a minimum of one time per year. (The current FDA Food Code requires a minimum of twice per year inspection). Although it apparently is not currently possible for our state food inspection program to comply with the minimum one time per year inspection frequency due to inadequate staffing levels, this minimum standard should not be reduced. It is important to maintain a strong public health department presence in the food industry. Food establishments are extremely dynamic, continually making changes in their operations that we do not know about until we perform an inspection. And shouldn't the operators be provided with the ^{annual} inspection service that the license fees are helping to support. It is beneficial to consumers when the operators know who their inspector is and that he or she will be around each year to monitor their operation and to provide them with the latest information on food safety issues.

Finally the Environmental Health Directors are advocating for as much uniformity and consistency as possible between the state departments and HFS 196 and ATCP 75. Inspection frequency should be the same in each code, which is not currently the case.

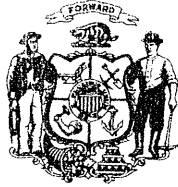
The following Health Departments are supporting the 12-month inspection standard:

Eau Claire City-County Health Department
Kenosha County Division of Health
Rock County Public Health Department
Dane County Division of Public Health
Appleton City Health Department
Pierce County Health Department
La Crosse County Health Department

City of Menasha Health Department
Brown County Health Department
Marathon County Health Department
Outagamie County Public Health Division
West Allis Health Department
Waukesha County Health Department
Madison Department of Public Health

Two health departments (Milwaukee and Portage County) responded that they would support the current proposed amendments to the code, which allow exceptions to the 12-month requirement.

Another important issue that I was just made aware of today has to do with the long-existing exemption of licensing of food service provided solely for needy persons in HFS 196.03 (22) (d). This exemption has apparently been eliminated in the new code. This change would have a significant impact on those many agencies across Wisconsin that are providing free food to those in need. I believe it is safe to say that without significant expenditures of money, a large number of the existing facilities would not meet the requirements that restaurants are expected to meet. This issue needs further discussion and evaluation before it moves ahead.



Judith B. Robson
Wisconsin State Senator

September 22, 2000

Honorable Rod Moen
Chair, Senate Committee on Health, Utilities
& Veterans & Military Affairs Committee
8 South, State Capitol

Dear *Rod* Senator Moen:

I request a hearing on Clearinghouse Rules 00-059 and 00-060 relating to restaurants and retail food establishments. These rules should be revised to strengthen the requirements for inspections and inspection frequency.

Clearinghouse Rule 00-059 includes a section, HFS 196.05 Inspections, which requires the department or its agent to inspect a restaurant at least once annually. It then allows the department or its agent to "increase or decrease the interval between inspections...if the restaurant is assigned an inspection frequency based on a written department approved risk-based inspection schedule that is being uniformly applied by the licensing authority." In lieu of an inspection, "the department or its agent shall contact the food establishment by telephone or other means at least once every 12 months to ensure that the restaurant operator and the nature of food operation have not changed."

Clearinghouse Rule 00-060 has no language governing inspections and inspection frequency.

Based on the recent outbreaks of foodborne illnesses in Wisconsin, an annual inspection of each restaurant and retail food establishment should be a minimal requirement.

Your consideration of this request is appreciated.

Sincerely,

Judith B. Robson
Judith B. Robson
State Senator
15th District

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6-22-00
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