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RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 00-059

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.]

1. Statutory Authority

Section 254.61 (5), Stats., defines the term “restaurant.” The definition also states that the term “restaurant” does not include specified operations. For example, a restaurant does not include any bed and breakfast establishment that serves breakfasts only to its lodgers. In contrast, s. HFS 196.03 (5) provides in part that a restaurant does not include any bed and breakfast establishment, regardless of whether it is serving meals in addition to breakfasts to its lodgers. Also, the rule adds to the list of excluded operations any food service provided solely for needy persons. The department should explain the statutory authority for these provisions.

2. Form, Style and Placement in Administrative Code

a. In s. HFS 196.03 (5) (b), semicolons or commas should be used consistently. In par. (i), the phrase “local business, governmental or other civic organization” should be replaced by the phrase “local businesses or governmental or other civic organizations.”

b. In s. HFS 196.04 (2) (d), the phrase “shall be” should be replaced by the word “is.” [See also, s. HFS 196.04 (2) (e).]

c. In s. HFS 196.04, it may be helpful to the reader to include a note describing the process by which an operator of a restaurant will not pay a direct fee to the department if fees are assessed by a local agent.

d. In s. HFS 196.05 (2) (c), it appears that the word “then” should be deleted.

e. In s. HFS 196.06 (4), the statutory cross-reference should read “ss. 66.124 and 254.69 (2) (g), Stats.” The phrase “which shall supersede subs. (2) and (3)” is unnecessary and should be deleted, since the subsection begins with the phrase “Notwithstanding subs. (2) and (3).”

4. Adequacy of References to Related Statutes, Rules and Forms

The statutory cross-reference in appendix 1-201.10 (B) (33) (b) (i) should refer to “Stats.” instead of “of the Wisconsin statutes.”