

**DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION (DATCP)
RETAIL FOOD SAFETY ADVISORY COMMITTEE**

July 26, 2024, 9:03-11:53AM

Kalahari Resort 1305 Kalahari Drive, Wisconsin Dells and Microsoft Teams Meeting

Roll Call: Cheri Schweitzer, Kirsten Homstead, Todd Drew, Brian Hobbs, Jim Kaplanek, Courtney Kempfert, John Chastan, Susan Quam, Julie Hults, Daniel Tew, Chris Hinz, Sarah Scanlan; Mike Nordos, Anthony Reams, Adam Brock, Hsing Yi Hsieh, Troy Sprecker, Jessica Hoover, Jordan Mason, Katie Roberts, Jean Finger

A. Call to Order: Cheri Schweitzer called the meeting to order at 9:03 am.

B. Additions to agenda/change of order: No additions

C. Consideration of Minutes: Motion to accept minutes as written by Todd Drew and 2nd by Katie Roberts. All in favor. None opposed. Minutes accepted as written.

D. Public Comment/Input: None

E. Disclosures and Recusals: None

F. Membership Updates:

- **DPI:** Kirsten shares leave upcoming in October and expects to miss 1 to 2 meetings.
- **Hsing-Yi:** Two weeks ago, (Festival Foods), the Department (and the) Commissioner for the FDA met in Kenosha to talk about the Traceability rule. Requested an update on the Listeria outbreak and current recall.
- **Cheri** asked on behalf of Jay where everyone is at regarding traceability? Does anyone need help? This will be a topic at the Kwik Trip in service. Cheri shared that she was approached by UW Health Services and will be working there part time for a year but is still operating her business during this time.
- Roll call; Cheri thanks Mike Nordos for being here.

G. Member Issues (Members can bring forth issues to the committee of concern):

- **Adam:** Listeria outbreak update-mentions that the only info out is that the food of concern is from Boar's Head (liverwurst). 1 illness in WI; 200,000# of product, such as ham, bologna, and beef salami are also being looked at. Triggered by a retail store in Maryland.
 - **Hsing-Yi:** Do they know if it is a Boar's Head facility or a copacker?
 - **Adam:** Unsure at this point.
 - **Hsing-Yi:** Just want to make sure I'm on top of things.

- **Anthony:** has the establishment number 12612, looks like it is a Boar's Head establishment, looks like a Virginia plant. Anthony has had to check his store for bologna, and they are in the clear.
- **Cheri:** Question for Jim Kaplanek-hear that we maybe do not have to write up how things are placed in the coolers?
 - **Jim:** When storing raw animal product by cook temp (eggs toward top, chicken on bottom), still a good practice, but concern is more about raw animal products over ready to eat. Order of raw animal products is not of concern. Wisconsin brought to the Conference for Food Protection. Maybe Mike can add.
 - **Mike:** Let me check official reply.
 - **Brian:** Was it FDA Food Code that it was taken out of?
 - **Jim:** That we adopt? Yes.
 - **Brian:** Nothing new for serve safe.
 - **Jim:** Still discuss, suggest, but not a violation. Most time the food is in its own container.
 - **Hsing-Yi:** That would apply during storage and display, correct?
 - **Jim:** Yes.
 - **Hsing-Yi:** Is that adopted now?
 - **Jim:** Yes, in 2013.
 - **Hsing-Yi:** This is written out a lot.
 - **Jim:** It is in the Annex, but no where in the food code.
 - **Brian:** will DATCP put out a guidance for agents?
 - **Hsing-Yi:** It will help when challenging that in inspections.
 - **Jim:** Technical specialists are already incorporating it in standardizations, but can also ask about fact sheet creation.
 - **Brian:** Anything from Jay?
 - **Cheri:** Yes, will mention Kwik Trip Conference later.

1. Education of Licensable activities-

- **Jim:** Cheri, did you put that there?
- **Susan:** No, I brought it up at the last meeting due to the explosion of the activities, for example Facebook Marketplace Operations. Pretty serious things industry ad regulators need to share. Why we do inspections; why we have regulations and trades. We cannot ignore this anymore and WRA members are upset about it, too. If someone gets sick, they always blame the grocery store/restaurant.

- **Hsing-Yi:** I agree. We have people coming to us and they don't know that they need to have a license/warehouse. When it comes to retail, no way to know if what is sold is less than 25%, if sold to all 40 stores it is hard to believe but hard to know.
- **Susan:** Members reporting seeing store fronts & finding cottage food producer food in stores. People who have a license in one place and realizing they need license in another place plus those that blatantly disregard. The whole point is to ensure food safety, prevent a foodborne illness. Other than a foodborne illness outbreak, no one cares.
- **Courtney:** See more pop-up events, framed as a fundraiser.
- **Hsing-Yi:** Another issue is labeling-they aren't labeling their foods.
- **Brian:** Do you check back with licensing agents in those areas? Would want to check with 25% wholesale limit?
- **Todd:** Agree. Susan is there a mechanism for letting people know?
- **Susan:** Thinks DATCP has one but unsure if those are forwarded (one stop shop).
- **Jim:** DATCP is a one stop shop-will funnel complaints to the right agency. There is limited staff for tracking, and rely on information from others. Agencies will pursue Operating without a License facilities. Maybe worth it to form a subcommittee for educational materials to get education out there. Not as easy as a webpage or twitter account.
- **Adam:** Would second that. Thinking of how much social media data really sticks. It must be really impactful.
- **Jim:** We can have it on the agenda, but maybe put together members to work on to put together the message.
- **Susan:** Willing to volunteer; think agencies could use their sites.
- **Jim:** Don't want to see people being negative online.
- **Susan:** Definitely receive that negative response-there's much disdain for licensing and those that inspect.
- **Adam:** There tends to be recurrent theme that all government entities have an issue-COVID did not help that. Trust needs to be rebuilt and reintegrated.
- **Susan:** Agree. Big thing to bite off. I see it in legislature. Not just disdain for understanding but uneducation for risk.
- **Brian:** Could there e a media campaign to help educate people?
- **Susan:** There could be. Maybe in conjunction with Food Safety Month?
- **John:** It can't come off about doing it without a license. It's a contrast of right versus unsafe. Level playing field.
- **Adam:** That's what Wisconsin and the committee understand. Not against competition but want it done safely. There's a struggle within public health

expecting zero and closer to zero. Are zero deaths possible is the struggle right now. Big marketing strategy. Its what keeps me up at night.

- **Susan:** I think you're on the right track. You're right on the risk side. Other parts of public health and dealing with that on their levels. There's never going to be zero risk.
- **Adam:** To the point, the Listeria issue, we got it, follow up on it, now moving and spiraling- what do you want?
- **Brian:** Conversation needs to be moved to acceptable risk.
- **Adam:** Sometimes that comes to our partners and consumers.
- **Sarah:** Most people don't know we have outbreaks. Its not something the public widely knows.
- **Troy:** The licensing team has a large influx of inquiries for licenses. They try to get out to any opportunity when the outreach has been made to us.
- **Jim:** We do keep those numbers.
- **Cheri:** What do we need to do to create a subcommittee?
- **Jim:** Do we need to make a motion? Then once we have approval to create a subcommittee.
- **Brian:** Do we need to wait until we are a council?
- **Troy:** Yes, I believe that would be best.
- **Susan:** Yes, otherwise we would need to create it now and after the council is formed.
- **Cheri:** We should get this out to the media.
 - **Jim & Cheri** agree to add this as an action item to the council.
- **Adam:** Do a lot with core groups to speak at. Look for ones with more consumer focus. What is something we can focus on?
- **Cheri:** Def had cookie bakers come to me, and sometimes its financial and there are hoops to jump through.
 - **Jessica H:** volunteered for the subcommittee through chat.

A return to Mike regarding storage issues:

- **Mike:** 2009 supplement discusses above and below, removed due to unless items are comingled, there is a lower risk of contamination. 3-302.11 (2) should still be debited for chicken over beef. Still must be separated. Arranging each type of equipment to prevent contamination-so it might be fine if packaged but could be noted if done in another way. If chicken is dripping on beef, then it would be considered contamination.
- **Jim:** In the past told that if products are properly packaged then ok, but if contamination is occurring then it would be noted.
- **Mike:** Would want us to send that to him.

- **Jim:** I will have Carrie call and relay her experience. She felt like she was attacked for even bringing up the issue.
- **Brian:** One thing taking from the discussion-each time discretion “put” in there-inconsistency occurs within agents. Easier when its black and white (based on temperatures for example).
- **Jim:** We do have the ability to be stricter. Needs to be brought up at code committee, and if committee feels strongly then it can be more strict.
- **Brian:** Looking for clear guidance-such as a guidance document.
- **Jim:** We could have that written.
- **Courtney:** *note taker was unable to capture comment
- **Cheri:** What defines packaging? Eggs for example-those might be a bad example
- **Jim:** Any package can be damaged. Is it a high risk? The discussion should be about how to store to reduce contamination. As an example, evident cross contamination issue. Cannot regulate “what ifs”. Food code is a double-edged sword. We expect people to think, ask questions, go through processes-when something is more prescriptive in code then you take away that ability.
- **Cheri:** I love that approach. Brian should have t-shirts ‘Can’t regulate “what ifs”’.
- **Mike:** Its Jim’s law (WI code), but it doesn’t say packaging, just separated. Example: Bus tub is separated, but chicken above beef with no tub is not separated.
- **Jim:** To Brian’s point, does it lead to inconsistency or more convoluted to move consistency.
- **Cheri:** To DATCP Issues

H. DATCP Issues:

1. Status of RFSAC Council-Council Formation update

- **Jim:** Happy to announce the Secretary said we can move forward to a council. All current members will start off in the council. Once the council is up and running, the link to the page and fill out an application will be emailed. Applications will be sent as a group to the Secretary and returned to you. Request return within 1-2 weeks then it will move us to Step 2. Step 2 will be to fill the open vacancies: Retail food serving meals, grocery, convenience store, meat and retail food not serving meals vacancy. We will work with the Public Information Officer to send a Govdelivery; will request that members send to interested people. I will then make recommendations to the Secretary, and the Secretary will review. Hopefully, we will get all seats filled and have a functioning council by the end of the year.
- **Brian:** Might want to get a cottage food person involved.
- **Sarah:** May be able to do this as Jenna, who attended the Food Summit was in contact with someone involved in the cottage food industry.

- **Susan:** I wouldn't have a problem with that as long as they attend and understand.
- **Jim:** We can always add additional seats once we are a fulfilled council with seats.
- **Cheri:** That's great Jim.
- **Jim:** Adam is probably relieved for us to become a council.
- **Adam:** Governor had to review and the process was a bit scrutinized.

2. NEARS

- **Jim:** I suggest to put NEARS for the October meeting, due to technological difficulties with Sarah's computer.
- **Cheri:** That will be interesting to hear.

3. Inspection Guidance

- **Jim:** Waco requested information on the inspection process to prepare operators. Jim wants to do for all areas. It will include types of things DATCP is looking for, what operators should be focused on, where they will get the biggest bang for their buck. Will put together those documents and put them out there.
- **Cheri:** Hopefully in their language rather than ours.
- **Jim:** Yes, that's the plan.
- **Cheri:** You said camping operators?
- **Jim:** WACO-they are always looking to help operators.
- **Hsing-Yi:** That's great. Would love to help with that and see what you create.

4. Recent Policy

- **Jim:** Food distribution operation-Snofruit (Kroger) contracting with a company to come on their property and cut all their fruit and put out for retail sale, not really wholesaling. Put together policy-they need their own retail food license. Internal distribution, as it is staying onsite. They don't have control over the food same as sushi, there will need to be a person in charge agreement, and Kroger will be able to take action on the product. I think maybe there is a dissociation from fruit if there is an issue but consumer will still associate the product with them.
- **Brian:** Is it grocer's control for FBI?
- **Jim:** It would be the licensed entity, but grocer would be involved too at the end of the day.
- **John:** Are they using grocer knives?
- **Jim:** Facility only (Snofruit provides the fruit and knives),

- **Brian:** No labeling?
- **Jim:** Labeling still applies.
- **Hsing-Yi:** We take responsibility for all products. This stems also from labor, not different from sushi. From a traceability and responsibility standpoint, based on location thus still responsible.
- **Jim:** What about multiple licensed facilities?
- **Hsing-Yi:** FDA will come to us for records.
- **Mike:** Yes, as far as manufacturer. We are looking at for responsibility. Rules-if its their own separate licensed entity then would think traceability is on them.
- **Cheri:** They make and put out food but had an agreement with operator (in this case Festival Foods), as they can't have active managerial control.
- **Jim:** Yes, if issues with the product then (the grocer) would take control of the product.
- **Cheri:** Why don't they (Snofruit) need a processing license?
- **Jim:** Had this discussion (with licensing). Looks and acts like retail, we're already there. Distribution rather than wholesale as it stays there.
- **Cheri:** What if they made a bunch at one Festival Foods then separated to other Festival Foods?
- **Jim:** Could wholesale up to 25%. More needs a manufactured foods license.

5. AFDO

- **Jim:** Jay was at AFDO and did a nice panel discussion. Great to see Wisconsin representatives at these national panel discussions. Traceability session, left just as confused as when I came. Problem logistically is technology and the system used.
- **Cheri:** Hsing-Yi has a question.
- **Hsing-Yi:** We know technology is put out as the issue. It goes beyond that-it will change business practices and labor. If it was just tech it wouldn't be as complicated as it is. Changes in procurement, receiving. It is a lot more than tech.
- **Jim:** Agree, but its going to be here before we know it (2026). What can we do to understand that? We need a base level understanding. What are we going to do at DATCP?
- **Hsing-Yi:** During a visit from Jim-discussed regulated by DATCP. Smaller facilities aren't even in on traceability. We need partnership.
- **Jim:** Thank Troy for partnerships. Only good can come from it. Saw a lot of new technology at AFDO, one made hamburgers.
- **Cheri:** Will we have to open code to address this?

- **Jim:** Vending is retail. New Taylor system-closed system, bag is all contained, and hooked into a machine. If employee forgets cleaning aspect then machine shuts down.
- **Brian:** Bet Jay will put those into Kwik Trip next to F'Real.
- **Jim:** (AFDO) Have put together a process for HACCP review, would be fee based, to have consistency for recognized body to put HACCP plans together. FDA put together employee illness link pdf. Sarah will send that out.
- **Cheri:** That would be great to send. Worked with food fight to create a beefed up kit. Put together a BARF kit with procedures in place for replacement.
- **Jim:** There have been conversations on consumer protection (third party delivery).
- **Troy:** Specifically, complaints against the vendor itself will be involved. Have some things online.
- **Susan:** Link on our site for third party delivery. Third party delivery need to provide food safety. Primarily focused on third party doing it without restaurant consent. Consumer protection is not responding. This went into effect (in) July! Some operators using their own lawyers and DATCP. Work in progress from implementation (standpoint).
- **Jim:** Kwik Trip is having its annual Food Safety Conference in September. WEHA will be at the Kalahari in November, and would like to invite industry.
- **Brian:** WEHA is November 5-8th. Weha.net for registration.
- **Cheri:** All invited (to Kwik Trip Conference) from this group. If you haven't received an email from Evan Powell, let Jay know. Traceability, tours, dinner (will all occur at the Kwik Trip Conference). Highly recommend WEHA conference.

Break until 11:20

- **Cheri:** Try to keep us on time.
- 6. Agent updates:**
- **Jim:** Agent updates on Monroe County had a meeting with the county board. Monroe County approved. Next July, they will move forward. Just have to enter into agreement. Pepin County became agent this year. Dodge and Calumet counties both made inquiries. Its really EH issues aren't going away, and this is one piece of the pie to employ a sanitarian.
 - **Cheri:** That's interesting. Were they inspected by the state or another county.
 - **Jim:** State inspected; Takes time to build that position. At the end of the day a success.

7. ATCP Rule Revision (START AT PAGE 8)

- **Jim:** First step was fees. Ran into an issue with scope statement in DHS 254. During the merger it was pushed into (Wisconsin Statute) 97. Some pieces did not line up. Some movement, we lost some authority- Pre-inspections and rule promulgation authority. All of rec(reational programs) stayed but all the rest became 97.30. Found out we don't have authority for pre-inspection. August 1st, we stop engaging in pre-inspection fee.
- **Troy:** Statute 97.30 states DATCP has authority to set fees and rules. Fees and rules have been valid. Legislature has expectation that legislation will specifically state the rule for the fee. Pre-inspection was not stated by legislature. (The question will be) Can I get a refund? No, its not in rule but due to discrepancy with legislature.
- **Brian:** So this only effects DATCP, being (that) agents have authority?
- **Troy:** Specifically affects restaurants, in 2016 due to large undertaking to bring food safety under the same roof.
- **Brian:** Can 97 and 75 be opened at the same time?
- **Troy:** 75 will be opening now. When you discover something, must open the rule, but 97 needs a sponsor.
- **Brian:** I have a suggestion when open.
- **Troy:** There will be a line of people behind you.
- **Adam:** Found an issue, want to fix it, and being transparent about it.
- **Susan:** Can work on this issue. There was a lot of things we had to give up (reception went out at this point and could not determine the rest of the sentence).
- **Cheri:** Manufactured Food Update.

8. Manufactured Foods Update:

- **Jean:** No update.
- **Cheri:** State Committee Updates.

9. State Committee Updates:

- **Jim:** None, same none for Retail Policy Team Updates.
- **Cheri:** Handout committee updates.
- **Sarah:** Kara did not provide an update.
- **Jim:** (There was) A request for documents we can share to help prepare industry for major events such as flooding, fires, etc.). Docs are too long. Need just in time information. Technical specialists are to go through the long docs into 2-3 page documents pertinent to Wisconsin. First one just came out, and it will be a series. First was flooding.

- **Susan:** That's awesome. (Could) they use Conference for Food Protection information and inconsistencies with what agents are telling their operators? Would be great to get that out in a standardized manner.
- **Jim:** Documents need to provide options.
- **Cheri:** Fact sheets are great. {Shared DATCP website in chat}. Thank you for the column of when fact sheets were updated. Shred in biweekly newsletter the melon sheet.
- **John:** Looking forward to inspection guidance document.
- **Jim:** I expect that the code will be larger.
- **Cheri:** Equipment updates?

10. Equipment Updates

- **Jim:** Large bread machine, did not have NSF approval, and asked DATCP to approve. They were referred to ANSI/NSF.
- **Cheri:** Risk Factor work group

11. Risk Factor Workgroup

- **Jim:** This is the year we do our tallies. Midway through HealthSpace conversion (From Notes to Cloud). Cloud is supposed to be flexible-have more reporting ability. Once we work through bugs, will roll out to agents. Then can move the focus to reporting. Hoping will have reporting by the end of the year.
- **Cheri:** Better to have full reporting than to rush it.
- **Jim:** This risk factor report was a test, as we only had information on restaurants. (We) Identified hand washing as #1 risk factor violation. Came up with posters, training videos, and 10-15-minute discussions and see if they had an impact.
- **Cheri:** National Committee Updates

I. National Committee Updates

- **Susan:** Conference for Food Protection Council applications are due August 1st.
- **Julie:** HACCP training for regulators that have to do HACCP Review. Another subgroup for low-risk inspectors for requirements to be lessened.
- **Cheri:** Legislative updates

J. Legislative Updates

- **Jim:** Nothing on our end.
- **Susan:** It's election time; legislation is not in session.
- **Cheri:** Action Items.

K. Action Items:

- **Jim** to work on council, and get applications committed.
- **Brian:** WEHA-NEHA regional will be next year in Wisconsin. Will partner with FDA. Have us locked in for Wednesday, Thursday, and half of Friday. There will be one track Wisconsin, one track Regional. People like La Crosse and the river boat. Have to get those dates locked in long in advance.
- **Mike:** Must have standards attend; more attention to Wisconsin.
- **Cheri:** Next meeting October 25th.

L. Adjourn

- **John:** Motioned to adjourn.
- **Brian:** Seconded motion.

Adjourned at 11:53am.