

WASHOE COUNTY
FOOD PROTECTION HEARING AND ADVISORY BOARD
MEETING MINUTES

Members
Michael Chaump
David DeMars
Vern Martin
Jerry Montoya
J.P. Pinocchio
Christopher Romm
Sergio Guzman

Thursday, March 5, 2015
1:00 p.m.

Washoe County Administration Complex
Health District South Conference Room
1001 East Ninth Street
Reno, NV

1:00 p.m.

1. Call to order, Pledge of Allegiance and selection of a Board Chairman for this hearing
2. *Roll Call

The following members and staff were present:

Members present: Michael Chaump
David DeMars
Sergio Guzman
Vern Martin
Jerry Montoya

Members absent: J.P. Pinocchio
Christopher Romm

Ms. Valentin verified a quorum was present.

Staff present: Leslie Admirand, Deputy District Attorney
Dave McNinch, Supervisor, EHS
Tony Macaluso, Supervisor, EHS
Amber English, Senior Environmental Health Specialist, EHS
Paula Valentin, Administrative Secretary Supervisor/Recording Secretary,
EHS

3. *Public Comment

None.

4. Selection of a Board Chair and Vice Chair for this hearing

**The Board moved to nominate Mr. Martin as Chair and Mr. Guzman as Vice Chair.
The motion passed five in favor and none against.**

5. Approval of agenda by Chair

The Board moved to approve the agenda for March 5, 2015. The motion passed five in favor and none against.

6. Overview of Regulation Approval Process

Presented by Environmental Health Services staff

Mr. McNinch provided an overview of the evolution of the proposed food regulations. He reminded the members that they had requested the opportunity to review the proposed updates to the regulations. The updates will also be presented during public workshops and public hearings.

Mr. McNinch stated EHS was enrolled in FDA's Voluntary National Retail Food Regulatory Program Standard as of 2004. The program is a nationwide effort to standardize food safety actions, measures and development of compliance methods. It has been utilized to help EHS build a food safety program that is up to date. The existing rules have been in place for 30-40 years.

Mr. McNinch explained the update was a long-term, ongoing project and one of the major pieces of the program standards is a regulatory program based on a national standard, which is the FDA Model Food Code. A goal of the new program is to help food establishment owners and operators to take responsibility for food safety in their facilities. EHS staff will be there for them as a resource.

Mr. McNinch explained there were nine standards, of which the Health District met one, although many aspects of the other eight have been met. Adopting the revised regulations is the foundation for completing those.

Mr. McNinch stated inspections were transitioning to focus more on high-risk activities, and he reviewed a partial list. He explained the FDA Model Food Code had been compiled based on input received from interested parties at all levels. A bi-annual conference is held at which they consider recommendations for new or amended food safety regulations. The recommendations are studied and either rejected or acted upon. The FDA releases an updated Code every two years.

Mr. McNinch explained the proposed changes to the Washoe County regulations were based predominately on the 2005 Code, but components have been modernized based on more recent releases. He noted a substantial portion of the 2005 Code had not changed since it was originally released. A Board member asked if the FDA Code could be modified for the County's needs. Mr. McNinch stated it could and they had modified it to fit the current regulatory structure, within the limits of law.

Mr. McNinch explained other major governmental entities in Nevada had gone through the process and adopted new regulations. Washoe County's new regulations would be very similar to those, creating more standardization, benefiting the public. Businesses are aware of the updated FDA Code and EHS staff has been working with them as they operate under that Code, even though they are not following the letter of the law of the current, antiquated Washoe County (WC) regulations.

Mr. McNinch reiterated that one of the goals of the new regulations was to emphasize the responsibility of food safety belonged to the owners and operators. Others included integration of advanced methods of food safety, and formalization of regulation of high-risk activities, to include HACCP plans.

Mr. McNinch explained that policies, standard operating procedures and guidelines had been developed to provide direction while the revision of the regulations was underway. They have been incorporated, as have some administrative topics such as late fees and refunds. Provisions have been added clarifying the use of private homes for food preparation requires the same standards as commercial facilities. Cottage foods are exempt by statute.

Mr. McNinch further explained statute allows reasonable exemptions based on certain criteria, and those criteria have been included in the new regulations. Additionally, terminology and formatting have been standardized throughout the entire document.

Mr. McNinch stated feedback had been and would continue to be received regarding the new Food Protection Manager requirements and the restriction against bare hands touching ready-to-eat foods. Ill employee exclusion and restriction policies had also been expanded.

Outreach efforts to obtain feedback had included internal workshops, one member of the Board of Health, the District Attorney's office, and a Food Protection Instructor workshop. Public workshops would be conducted, as well as a meeting with the Nevada Restaurant Association. The public hearings before the District Board of Health (DBOH) will be held in April and May. If approved in May, the regulations would be taken to the State Board of Health in June. If that approval is received, they will take effect upon recordation with the County Clerk's office.

A Board member asked if there will be a requirement for certification for people who do teach, or if it was just a matter of passing the test regardless of method of education. Mr. McNinch explained the test would cover it. ANSI and the FDA determined it would be more effective to have a national standard and they updated the Food Protection Manager Accreditation standards. From that, recognized examinations were developed. Training was not required as part of the certification program.

A Board member asked how the exam was administered. Mr. McNinch explained most instructors in WC are certified as proctors through national certification organizations. A Board member questioned whether or not people needed to be certified through Washoe. Mr. McNinch stated they do not necessarily need to be. If they are ServSafe certified, they will have to be able to demonstrate that.

Mr. Macaluso the reason for adopting the standard is because ServSafe certified individuals are currently required to take a 16-hour training course and repeat the test. It is burdensome for the individual, the employers and the public.

7. Presentation, Discussion, and Possible Recommendations for Changes to the Proposed Revisions to the Regulations of the Washoe County District Board of Health Governing Food Establishments

Members asked if a table of contents would be created and if the sections would be renumbered and Mr. McNinch said they would. If there were a citation, the section would be referenced.

Mr. McNinch stated that Section 1 is definitions, any regulations in that section will be moved. Many of the definitions mirror the ones the State has. 90% of the regulations are very close or identical to the State's.

Mr. McNinch explained Section 2 clarifies permits and fees. A Board member asked if there were modifications that were not highlighted like they were in the definitions. Mr. McNinch stated items in blue text are new language. A Board member asked if the fees

themselves were not printed in the Code. Mr. McNinch explained no, they were not, they are set by DBOH. The State's fees are built into their Code.

Mr. McNinch went on to explain Section 3, management and personnel. The language is very similar to the State and SNHD. The section outlines the responsibilities of the person(s) in charge. A Board member referred back to the ServSafe certificate, by you saying they have someone in charge, the purpose of the certificate is to have someone in charge during every shift, correct? Mr. McNinch, yes, a person of knowledge who has demonstrated a level of competence.

A Board member asked: so if, in the demonstration of knowledge section, it makes an exclusion if the certified FPM is available via telephone. Not sure I understand when not physically present. Mr. McNinch explained what it basically is saying there are going to be times when people are not in the facility. If the FPM has designated someone to be in charge while they are out, the facility is compliant. A Board member is that consistent with what the regulation is today? Mr. McNinch explained it really is. There is a revision in the FPM section.

Mr. McNinch stated there were provisions describing hand washing, which has been discussed extensively across the country.

Mr. McNinch noted the next section is about the FPM. New sections were compiled addressing smaller facilities, requiring one FPM instead of three. A Board member asked how days off are addressed. Mr. McNinch stated the exemption addresses that. Previously there had been five risk levels and now there will be three. If the FPM has control of the facility and are available by phone it is unlikely a problem will arise. If there are challenges, another FPM may be required.

Mr. McNinch stated the next section is food, and there are a lot of comprehensive changes. It is regulatory, but offers avenues and considerations not previously available. A Board member asked about refilling of returnable containers are you working with the microbrews. Mr. McNinch noted there had been no specific conversation with them yet. There are provisions for people to refill their personal containers. The regs will allow for that, it just has to be done properly. A Board member asked if Washoe County will set the standards for sanitation. Mr. McNinch said it would, that is included in the upcoming sections which address personal hygiene and facility maintenance.

Mr. McNinch then discussed utensils and linens, addresses limitations on uses of certain items. Because the regs are based on Food Code compiled from input from across the country, some things are addressed that we don't see in WC. Ventilation and heating are also addressed.

A Board member asked: regarding equipment, are there any specifications in the new requirements for drain boards on sinks or dish tables regarding whether or not they be self-draining and the size. Mr. McNinch read the regulation, noting the drain board must be of adequate size and pointing out where the complete text could be found.

Mr. McNinch said the next section addresses water, plumbing and waste. The new language primarily clarifies existing regulations; including the fact Washoe County does not represent any other jurisdiction. A Board member asked if it covered the machines that are being used to refill bottled water that is served in restaurants. Mr. McNinch answered they are covered under other provisions related to water systems, but dispensing systems are required to deliver water through an approved safe system.

A Board member noted that on page 168 there is a provision for tying a ware washing machine directly into the sewer, and I've always seen it go through an indirect pipe. Mr. McNinch stated that was a plumbing code. If you are going to connect directly to the sewage system, it's acceptable if there is a floor drain no more than five feet away. A Board member noted direct tying to a ware washing machine is acceptable but not to a three-compartment sink for example. He asked for clarification regarding there being a preventer against backflow in that ware-washing machine. Mr. McNinch explained the backflow would come up through the floor drain.

Mr. McNinch then discussed the garbage storage, cleaning supplies, implements section. New regs state the business must have service and provides remedies for not following proper disposal standards. A key change is the reversal of the requirement for a drain in a garbage area if it is just for dry storage and is being managed properly.

Physical facilities, things are cleanable, durable, and manageable. A Board member asked if down the road is something like the repair of a wall going to be just a recommendation. Mr. McNinch explained it could still be a requirement, WC would still retain authority, but it wouldn't be the focus of the inspection. The focus of inspections will begin to revert more towards active food preparation and storage instead of facilities inspection.

A Board member asked if there was anything in Code about outdoor vs. indoor food storage and requirements for covered pathways between the two. Mr. McNinch explained the food would need to be properly and safely transported. The Board member asked if it was allowed to take food that is pre-packaged from the outdoor storage area, prepare it, and transport it back to the outdoor storage. Mr. McNinch stated it was as long as it was covered and safe.

The private home provision states the kitchen must function under the same standards as a commercial location. A Board member asked: if you are preparing food in a private home and you bring someone in to help, which restroom do they use? Mr. McNinch clarified they would have to install a dedicated restroom facility. A Sani-Hut is unlikely to be approved. Mr. Macaluso explained NRS currently allows people to cook at home if there is a separate cooking facility from the household kitchen, which meets the same standards as a commercial facility. The new code clarifies the requirements for the County. A Board member suggested adding a disclaimer regarding the necessity of meeting other laws and regulations.

Mr. McNinch introduced the plan review section and explained it was somewhat simplified. Technology has standardized plan development so submittals require less clarification than in the past.

Mr. McNinch stated menus will be reviewed so that inspectors can determine if any special processes will need to be used that require development of a HACCP plan.

Mr. McNinch explained the poisonous and toxic materials section. It essentially said don't mix food with potentially toxic materials. It includes HACCP information and the information that will be required about certain plans. The District will act as a resource as much as a regulatory agency.

Mr. McNinch then went into specifics. The section covers Cottage foods, barbequing, farm to fork, etc. BBQs had been handled through policy and were now incorporated in the regulations. Food safety in processing establishments and mobile/portable units is addressed. With the major overhaul of the regs, many issues are being addressed one at a time as they come up. Portable bars within facilities will also require individual permits, but how that is to

be handled is under discussion. The major concern is that they do not currently have hand-washing facilities. A Board member suggested the use of portable hand-washing units.

A Board member asked why there were back of the house and front of the house permits. Why not just one for the facility? Mr. McNinch explained that was being discussed.

Mr. McNinch stated the next section outlines regulations for outdoor food establishments. It does not address temporary ones. A Board member asked if an outdoor/patio bar fell under any specific jurisdiction. Mr. McNinch stated it could be covered under the same regulations, because an outdoor food establishment does not stand on its own. Any food is predominantly coming out of a permitted support kitchen.

Mr. McNinch noted there were lots of revisions to temporary food permits but mostly to do with standardizing language and removing redundancies. More specifics have been built in for special events. Due to the fact the vendors will be inspected repeatedly during an event, some latitude is built in to the new regulations, such as light requirements. A Board member noted children are not allowed in temporary food preparation areas, and asked what age defines a child. Mr. McNinch stated it was not defined, but is aimed at infants. Staff will review that.

A Board member stated not all surfaces are light-colored to be able to show cleanliness. He asked if exceptions had been developed to address dark-colored ones. Mr. McNinch explained if it is not in a food prep area, they can be flexible with the colors.

Mr. McNinch said vending machines that dispense potentially hazardous foods would need to be permitted, but the area where they are located would be permitted, not each machine. That helps to address issues like different types of employee break areas. A Board member asked how temperatures are monitored inside of vending machines that distribute potentially hazardous foods. Mr. McNinch explained it was the same way as any holding unit. Additionally, if the temperature changed to unsafe levels for a designated amount of time, the machine would lock down so that the food would not dispense.

Mr. McNinch introduced the miscellaneous provisions, such as emergencies, resumption of operations, and smoking.

Remaining sections address compliance and enforcement. Provisions have been added relevant to sampling and testing, including addressing responsible payer.

Mr. McNinch noted that the Board had historically acted on quite a number of variances. Staff had determined the best course of action in the future would be to leave the variance process with the Health District instead. If the decision is appealed, the Board would hear it.

A Board member asked: regarding edible marijuana products, is that handled somewhere else? Mr. McNinch explained marijuana in a food product would be considered an ingredient, the same as flour. As long as it is being handled properly, it is a non-issue.

A Board member brought up formatting the definitions, asking if there is any consideration of putting them in the appropriate sections. Mr. McNinch explained the State addressed that in different ways depending on the situation, and that methodology could be incorporated into the County regulations.

Mr. McNinch explained this had originally been proposed as a non-action item, but it was determined that it was the right opportunity for the Board to recommend approval or denial. Whether or not they decided to take that action was up to them.

The Board moved that the presentation be accepted, with the suggestions that the Board has provided to staff. The motion passed by a vote of five in favor and none against.

***8. Board Comment** Limited to announcements or issues for future agendas.

None.

***9. Public Comment** Limited to three (3) minutes per person. No action may be taken.

None.

10. Adjournment

At 3:40 p.m., Chair Martin adjourned the meeting.

Respectfully submitted,



Dave McNinch,
Environmental Health Specialist Supervisor
Secretary to the Food Protection Hearing Advisory Board



Dawn Spinola, Administrative Secretary
Recording Secretary

Approved by Board in session on _____, 2016.