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## NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

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**TO:** Board of Supervisors  
**FROM:** Jill Pahl for Trent Cave - Director  
Environmental Management  
**REPORT BY:** Trent Cave, DIRECTOR OF ENVIRONMENTAL MGT , 253-4471  
**SUBJECT:** Restaurant Health Inspections

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### **RECOMMENDATION**

Discussion and possible direction by the Board regarding potential changes to how the summary results of restaurant health inspections are reported.

### **EXECUTIVE SUMMARY**

The Board of Supervisors requested that it have the opportunity to provide guidance as it pertains to the potential development of a different methodology in reporting the summary results of food facilities inspections.

### **FISCAL IMPACT**

Is there a Fiscal Impact?                      No

### **ENVIRONMENTAL IMPACT**

There is no Environmental Impact for this item.

### **BACKGROUND AND DISCUSSION**

In the 2004-2005 budget, the department established the implementation of a food grading system as one of our performance indicators for the current year. Discussions with the Board and with the Chambers of Commerce, which is currently the most active advocacy group for food facilities in the area, have slowed the progression. Recent coverage by the Napa Valley Register has brought the issue forward for both the regulated industry as well

as the public.

California Health and Safety Code, Division 104, Part 7, Chapters 1 to 4 governs the regulation of retail food facilities. The department is involved with regional and statewide committees on the implementation and ongoing revisions of the California Uniform Retail Food Facilities Law (CURFFL). The various state requirements were unified under one code over fifteen years ago.

The department has developed an inspection program, which has been used for several years, that assigns points that addresses critical and noncritical violations according to CURFFL. The attached inspection form references the specific citations for each violation. The department uses the bottom section of the inspection form and additional pages if necessary, to clarify the required steps to regain compliance. In addition, the back side of the primary inspection page expands upon CURFFL references cited on the front of the form. The department established an ongoing system for checking consistency and standardizing inspectors above and beyond the existing state requirement and training for inspector standardization.

In every other area of food regulation, CURFFL removes the ability for local jurisdiction discretion except for the following areas, which includes food grading. This was due to the existing established and well received programs in San Diego and Riverside.

**113715. Authority to Establish Local Requirements**

*Nothing in this chapter shall prohibit a local governing body from adopting an evaluation or grading system for food facilities, from prohibiting any type of food facility, from adopting an employee health certification program, or from regulating the provision of patron toilet and hand washing facilities.*

There have been several recent establishments of various grading or award systems for food facilities. San Francisco, Monterey, Sonoma and Sacramento have either recently established or are beginning to implement new programs. Contra Costa County has also asked for staff to develop information on the issue. The four counties that have a grading system in place, San Diego, Riverside, Los Angeles and San Bernardino, represent 46% of the state's population. With the pending programs' implementation, the areas with a food grading program will soon be well over half of the state's population.

The county is required to implement all aspects of CURFFL in both the cities and county. Since food grading is a local optional program, each jurisdiction within a county must adopt the program for it to be applicable for a specific jurisdiction. In the counties that have adopted food grading, they have approached all of the cities to gain their concurrence or they are not implementing food grading in those jurisdictions that don't adopt the local ordinance.

The department has received many inquires since the Napa Valley Register's articles on the subject from both the public and our food facilities. It appears the articles have had a positive, albeit short-term, impact to date on many facilities. Today of our 640 permitted food facilities (not including bed and breakfasts) the following is the split of the grades among the jurisdictions:

<u>Total All Facilities</u>	<u>Unincorporated Facilities</u>	<u>Napa City</u>
A's = 453 or 70.8%	111 or 83.4%	229 or 66.6%
B's = 157 or 24.5%	17 or 12.8%	95 or 27.6%
C/D's = <u>30</u> or 4.7%	<u>5</u> or 3.8%	<u>20</u> or 5.8%
640	133	344

<u>American Canyon</u>	<u>Calistoga</u>	<u>St. Helena</u>	<u>Yountville</u>
A's =17 or 63%	29 or 65.9%	50 or 79.4%	17 or 58.6 %
B's =9 or 33.3%	14 or 31.8%	10 or 15.8%	12 or 41.4%
C/D's = <u>1</u> or 3.7%	<u>1</u> or 2.3%	<u>3</u> or 4.8%	<u>0</u>
27	44	63	29

To date, the department has used the grading system for workload management. Any C's or D's are put on a more frequent inspection schedule, 60 days or 30 days respectively. The department also uses the grades to determine serial violators with whom the department either allows the opportunity for an office hearing before their permit is suspended or revoked, or refer to the district attorney's office depending on the severity of the violations and on the facility's responsiveness to correcting the violations. If sites score below 80 three times, it triggers a referral to the district attorney's office. In addition to the district attorney's office, the department has developed tools to use to obtain compliance and/or assess costs for obtaining compliance at troublesome facilities.

There are a few obvious areas for consideration when contemplating the posting of grades, which have many intricacies within each area of concern. I'll attempt to consolidate some of the pro's and con's of the main areas of concern and further note concerns raised at a recent City of Napa Chamber meeting. There were representatives of the St. Helena Chamber present, but it should be emphasized that if a local requirement for grading occurs, each City/Town would be required to pass the same ordinance for implementation in their jurisdiction since this is a local option rather than a state mandate.

### **Grade Concept**

Possible grading and/or posting options include either individual or combined programs of the following:

- | Mandatory posting.
- | Recognition/Award program.
- | Status Quo with enhanced enforcement.
- | Internet posting.

Some issues include how does an 89 score differ from a 91? It's a B versus an A. Does it mean you shouldn't eat there from the public perspective? What has been the violation history of recent inspections? Have they been subject to inspections during their peak hours?

Finding something that the public can easily grasp is a challenge. They will most likely go to the quickest method, which will penalize the occasional B. Will this be a deterrent to tourists? I don't know the answer. Should the C's and B's strive to be A's; yes. An occasionally slip to a B should not be a deterrent for customers to patronize the business. The department realizes that many well-meaning facilities could receive a B with only a few point differences. It is more important that a B facility is primarily doing the right things over the long term, but the general public perception might limit patronage.

Grades are easily recognized, but within the food grading programs in the state, and the nation, there are wide varieties in how grades are established. CURFFL assigns violations as either critical or noncritical and point assessment varies as interpreted in the different food grading programs. The department's current program is fair but strict when compared to some of the longer established grading programs.

It is important to note the food grading systems vary across the implementing jurisdictions concerning what 'points' count, i.e. how do critical violations compare to noncritical violations, and how many points certain

violations count. Our grading is fairly tight and allows for 1 critical violation (6 points) and a few minor violations (varying between 1 and 3 points) to achieve an A. The department may revise our scoring which could result in the current 85 to 90% category being redesignated into the A's (which is a technique that Los Angeles used not once, but twice to get to their current rating system). This would currently make 84% of our facilities A's.

### **Mandatory Food Grading**

A mandatory food grading ordinance can be created to provide the public disclosure and many of the concerns of the industry. The implementation could be phased to allow facilities the ability to correct violations prior to full implementation of the program. The pluses of a food grading program are that you get more A's, for a variety of good and bad reasons. Facilities improve their operations, but over time there could be more leniencies by inspectors knowing that a B could impact the facilities' bottom line. The department has made education our primary enforcement tool and it has been very effective in protecting public health. The department teaches, with the UC Cooperative Extension Office, the mandatory food manager's training course required by CURFFL as one method of outreach and mails out newsletters to all of the facilities when changes occur in CURFFL.

Requests for re-inspections would be generated that counter the department's current practices, i.e. currently spending more time with C's and D's versus B's wanting to be upgraded. This would shift the workload for the short-term. This impact would need to be analyzed. Additional re-inspections could have an associated fee, but the bottom line is that inspection staff needs to be available to accomplish these requests. The department needs to make sure the solid food safety controls are there at all times. This takes an expansion of our current education efforts.

### **Department Summary of Pro's and Con's**

#### **PRO's**

- | Gives B's the incentive to strive for an A.
- | Quicker response overall to violations.
- | Public disclosure improved.
- | Studies indicate the reduction in foodborne illnesses, along with a corresponding increase in food facility revenues due to a grading system.

#### **CON's**

- | Changes current focus from improving C/D's, to inspecting B's more frequently to upgrade to A's.
- | B versus an A is a perception that the public may interpret strictly by not patronizing B facilities.
- | Staffing resources to address the demand for re-inspections may place a burden on existing staff.
- | Staff leniency to avoid B's.

### **Industry Concerns**

- | Fear of losing points for noncritical, non-food handling violations that have no relationship to safe food preparation and storage.
- | Public perception of a B not being good enough.
- | It is a snapshot in time for the overall operations.
- | Staff resources to address the desire for re-inspections.
- | Confrontational versus educational cooperative process.
- | Desire for the full report to be online versus summaries.

### **Recognition/Awards Program**

An awards program allows a flat, no major violations approach over a period of time that shows the continuum of good operations. This is the carrot approach, but it may not motivate the behavioral changes necessary to assist us with improving food safety at all facilities. The facilities that would be concerned with the award are the ones that are already doing well. The remaining 24.5% of facilities that are B's are ones that could do better if they choose to do so. Sites often have very cyclic patterns of compliance. These facilities may need a motivational factor, such as public scrutiny to effect a behavioral change. The department has educated them on multiple inspections, but prolonged change has not been effected. The department attempts to document these perpetual fluctuations, but it is difficult to track.

### **Status Quo with Enhanced Enforcement**

Increased enforcement above the department's current levels has been suggested by industry. This may require legislative changes in order to implement more stringent enforcement since this is not an area where local discretion is allowed. The department already has an active enforcement partnership with the district attorney's office and has gained injunctions on operators that have recurrent critical violations. Staffing in both offices would need to be prioritized over other programs due to the time required to put together and prosecute these cases.

### **Internet Posting of Inspections**

The department has been very proactive with the ITS department in technological program enhancements. More could be accomplished through a variety of methods/styles. The chamber membership requested that the whole inspection report be scanned. This would present the 'whole' story, but the inspection form is complicated and the public would quickly determine the ABC at the bottom of the form. Issues such as ease of getting the information on the internet and the potential delay in posting would need to be addressed. Also the issue of complaints and foodborne illness investigations posting will need to be addressed.

Many different versions of postings are occurring throughout the state, and country. For public health, the listing of critical violations such as food temperatures or hand washing, are the most important issues, but simple ABC grades don't take this into consideration.

The public's demand for disclosure in a clear and timely manner has been expressed by the requests at the department and the editorials written to the paper. This has had an unanticipated demand on our workload and needs to be addressed in an efficient manner in order to not cause a large impact on the department by accommodating these requests. The department feels that internet posting is a positive program and will solicit public and industry response on how to proceed to accomplish this efficiently.

### **Conclusions**

The department recommends the following actions:

- | Proceed with Internet posting of inspection reports.
- | Proceed with the development of a food grading posting ordinance addressing the concerns of interested parties and responding to the public's request for disclosure.

**SUPPORTING DOCUMENTS**

A . Food Inspection Report

B . Back of Food Inspection Report

CEO Recommendation: Approve

Reviewed By: Michael Stoltz