

## **Food Safety Advisory Committee meeting, January 20, 2016**

### **Location: Natural Resources Center, Salem, Oregon**

#### Meeting summary

#### **9am~ Welcome and introductions by Jenny Dresler & Brian Campbell, co-chairs**

#### **Ideas for Food Safety Program improvement**

Committee members took turns sharing their suggestions for Food Safety Program improvement, and also identified issues that the program will be dealing with in the future. Suggestions and issues are summarized below.

##### Marijuana and cannabinoid edibles

- This is going to affect every segment of ODA. We will need to help steer businesses into compliance and assess the risk level. Includes dispensaries, processors, concerned about effects on employees, etc.
- Concerned about how to avoid taking up existing resources and need to stay aware of this as budget develops. Don't want to put ODA in the position where they have more responsibilities with same resources.
- Education about labeling, etc and need for a lot of front-end work.
- Concerned about the food processing side/OLCC/OHA
- Concerned about resources being so absorbed in cannabis issues. Need to watch budget.

##### Food Safety Modernization Act (FSMA)

- One concern is with implementation of FSMA and how we can incorporate the Pasteurized Milk Ordinance and how to incorporate the two documents so we are not double covered, in addition to cost.
- FSMA funding - engagement with Congress. Some kind of on farm or at Extension farm tour and readiness review. Perception is that when inspectors come onto farms they have to find something.
- FSMA is a huge focus for FSP/AHID and the implementation. We will discuss this more at the next meeting. We are still waiting on the funding (federal resources) to implement.
- Some are wondering if medical dispensaries will go away and only have the recreational facilities. Still unclear as of now.

##### Raw milk

- Concern expressed about raw milk sales; the exemption for on-farm raw milk sales; and illnesses resulting from retail sales of raw milk.

### Routine work/inspection frequency/program operations

- Protecting food safety staff time to do inspections, making sure that we do enforcement right in the rare event that we do it.
- Making sure that the food safety program stays whole, and that inspections are adequate around the state. When get involved in issues on inspections, can be because of inconsistency. Education and working with our folks to make sure they're trained and keeping that consistency. Only gets involved when something is way out of bounds. Interested in financial part and how agency is doing. Think inspection frequency is directly related to budget, because goal is to get around to everybody once per year and it used to be twice.
- Retail world is very visible. Retail here is compared with retail in other jurisdictions around the country. One thing we look at in Oregon is the frequency of visits and the average number of critical violations during an inspection. When corporate sees high number of violations in stores in Oregon they wonder what is going on. Would like to see more frequent visits. Oregon has a higher # of violations per visit. One visit where they do meat/seafood one time, deli another time, bakery another time, etc. A little less writing and a little more coaching/training when in stores. People get written up when can't demonstrate knowledge. Can have 3 violations written up on dishwasher for example. Lots of coaching and training opportunities; not sure it was worth critical violations.
- Speaking on retail, the inconsistency with inspections. The average inspection across the country has maybe 1 or 2 critical violations but our inspectors have 5-10. More frequent visits. "A little less writing and a little more coaching".
- Communication and different methods of communication to make up for the resource squeeze that you will always be facing. Do a risk-based assessment of who you go to but might want to do some touches with people you don't always see once a year. Could there be communication touches with people when you don't visit them once a year. Are there phone calls, electronic touches. Licensees benefit from having ODA top of mind more of the year. If there are contacts you can have with them even via email, might be some benefit. If we are eliminating every task that you are doing superfluously.
- Additional communications help to build the relationship. If I'm seeing my inspector once a year or less, then that relationship is not there and the report can be overwhelming.
- Local inspector does a great job. Need more visits; do get visits from the FDA. They come in, they can stay a week. Our toughest visitor is our customers. Recalls are probably the biggest things that will scare any customer or any company. Quality assurance is huge in all aspects.

### Education and technical assistance

- A lot of guidance documents and resources out there - anything we can do to consolidate those resources. Science driven education to consumers.

- In terms of training, ODA does some Hazard Analysis and Critical Control Points (HACCP) training. Not advocating that with limited resources ODA get into more training but if we do see some gaps, maybe there is something that we can support. Also with limited resources, inspections are based on a risk assessment. Is that something that could be reviewed or taken a look at.
- Would like some more HACCP training, not necessarily asking the state to do it but its needed.
- Unlicensed firms represent a huge concern. Is there a way to get a pulse on that.
- Concept of educate before you regulate, a lot of times inspectors are doing a lot of education while they are there. Have a position specific to outreach and education. Would like to see that kind of position at ODA and make it more official.
- Web page - not entirely under ODA's control. As a user, finding the current ODA web page to be very difficult. Find that they now rely on Rebecca to interpret the web page. Filtering system is a disaster. If you have to de-select a zillion things to get to what you want we are back in the 20th century. Have to know food safety area to get to what you want. Can we make Food Safety part of the ODA web page more accessible.
- Communication touches/consultations and minimize travel times. How can we more effectively communicate with all the licensees? Web page- all Oregon.gov sites, hard to navigate and try to tell other people how to. The filtering system is a disaster. Make ODAs web page a little easier to navigate.

#### Crab/domoic acid issues

- Seafood industry is a highly regulated fishery and industry and our two most valuable species/products are Dungeness Crab and cold water shrimp. Those are state regulated. Tremendous kudos to the state of Oregon and to Dept of Ag on setting prices; has been a tremendous win. Ran into some obstacles this year with domoic acid - reached every newspaper. We always test beginning in November. This year we knew we had an algae bloom; the state of Washington closed down in June and CA is still not open. The state needs to work with the other states a bit to do some testing - maybe in the spring or in the summer, not just in November. The last thing the industry needs is one person to get sick from eating crab. Get in front of domoic a bit better - we know usually in June or July.
- Price negotiations going well (these are negotiated by the Ag Development & Marketing program)
- Testing for domoic acid, that Oregon WA and CA should be testing in spring/summer and all states should align with the same closures. A lot of confusion in the market with some open some closed. If we now there is a algae bloom why not test earlier.

#### Shellfish

- Follow FDA rules for shellfish growing. Summer time. Need more education of consumers. Summertime is a challenge for oyster growers with vibrio. Have 2 cases against us where we had to recall everything that we sell. First in Oregon to request all cooking of oysters during the summertime. Only harvest during high tide in the summertime.

#### Meat & poultry

- Not sure which agency has jurisdiction over this issue. Think back to Foster Farms salmonella outbreak of 2014. Stunning that there was no mandatory recall. Recognize that OHA was involved in some of the work related to that. Seeing that there was just a warning with product on shelves, and seeing that antibiotic resistance might have been at play, would be good to help people improve practices. Think there are opportunities to assist and where fed agency doesn't require things to be pulled off shelves. Spoke on the Foster Farm salmonella situation and that ODA should have had a heavier hand on the pulling of product/ cleaning up. (I believe this was from California/Washington)
- On the meat end of things, OR law requires that meat must be processed in state licensed facility. Have beef quality assurance program - have a seminar, etc and has been a good educational program.
- Farm program which is dairy industry's animal wellbeing program - next iteration is coming out and will integrate beef industry program into the farm program.
- FSMA doesn't deal with meat industry at all. Won't necessarily go away and doesn't reflect well on food system. Gail - Hearing rumblings about some kind of FSMA for meat industry.

#### Recalls & foodborne illness responses

- Had very good experience working with product and think ODA did really well. Interested in seeing that the Dept has the resources to respond as needed as outbreaks and mishaps surface.
- Quality Assurance is the biggest concern because recalls can be very damaging to the firm. Hopes that this can be done on the front end and not the back end.

#### **Food Safety Program- Budget and financial outlook by Jack Noble**

Jack Noble gave a PowerPoint presentation about the food safety program budget. He reviewed some basics about the program that were also covered during the committee's first meeting in November, such as program staffing levels and key activities of the program.

Jack reviewed some of the program's recent budgetary history:

- Fund shifts in the 2002 special sessions and 2003 Legislative sessions significantly reduced General Fund for the program. The fee structure that had been in place since 1987 was not sufficient to maintain service.
- In 2005, industry representatives introduced HB 2539, which established food safety license fees in statute. A formula using gross sales and the amount of time the department spent during an inspection, was used to establish the fees.
- ODA is still using this same fee structure.

Jack also reviewed the program's existing budget, which is a mix of general funds (taxpayer funds allocated by the Legislature), other funds (fees paid by license holders as well as funds from FDA contract inspections), and federal funds (funds from a cooperative agreement with FDA for Manufactured Food Regulatory Program Standards activities). The budget has grown during the last few biennia (ODA and ODA programs' budgets are established and tracked on a biennial (2-year) basis), and expenditures have also increased. Factors influencing the budget and expenditures include staffing levels, cost of living adjustments, retirements, services and supplies including trainings, and costs for lab analyses.

Jack also showed the committee the program's historical cash balances starting in 2011 and showing projections through 2016-2017. The program's cash balance has increased in recent years and Jack's projections show it leveling off in 2016-2017. Jack explained that he still wonders if there are undiscovered factors that could cause the cash balance to decline rather than to level off, but he hasn't yet identified what those could be.

Several committee members asked about the other funds balance and expressed interest in keeping the other funds (1) high enough to keep the program sustainable; (2) yet not high enough that the program is likely to use general fund.

Stephanie asked for participants on a budget subcommittee and explained that we would like the subcommittee to be fee payers or organizations that represent fee payers. Volunteers for the subcommittee were:

- Shawn Miller, NW Grocery Association
- Bill Burich, NORPAC
- Rebecca Landis, OR Farmers Market Association

### **Current list of possible legislative concepts**

Stephanie Page distributed a handout with possible Food Safety, Animal Health & ID program area legislative concepts for the 2017 legislative session. These concepts are due in draft form by mid-April, and ODA is reaching out to stakeholders for input on each of its possible concepts.

Concepts included:

- Cease and desist authority for the Food Safety program. There were several questions regarding the types of situations where the program would use this authority, so there will be additional follow-up conversations on this topic.
- Clarification that ODA has authority to regulate dietary supplement manufacturers.
- Cleanup of a conflict between Oregon Revised Statute 616, which exempts alcoholic beverages from several aspects of food safety law, and ORS Chapter 471, which assigns regulation of sanitary aspects of alcoholic beverage production to ODA and Oregon Health Authority.
- Additional authorities to implement the Food Safety Modernization Act.
- Cleanup of Oregon's milk statutes to make ODA's authorities consistent with the requirements of the Pasteurized Milk Ordinance.
- Cleanup of Oregon's statutes related to livestock auction markets.

ODA and the Food Safety program will continue reaching out to stakeholders for feedback on the proposed concepts, and will review the concepts one more time with the advisory committee at its April meeting.

### **Presentation of the final Preventive Controls rule for human food**

Miriam Burbach, District Director for the Food and Drug Administration Seattle District office, discussed implementation plans for the Food Safety Modernization Act preventive controls rule for human food and some of the effects that FSMA implementation will have on FDA's Pacific Northwest region. She also answered questions regarding expectations of industry under the preventive controls rule.

- The biggest takeaway from subpart A of the preventive controls rule - when we assess training requirements, we are going to expect to see training records. This section requires records.
- Training will be rolled out beginning in October.
- FDA will have dedicated staff that will the first 300 inspections to evaluate compliance with the preventive controls rule - where those happen, the state is invited to participate in those inspections.
- How will FSMA affect facilities currently regulated by the PMO? Answer - there is a 3 year period for the PMO to be revised to incorporate the new preventive controls rule into the PMO.
- Seattle district - have about 150 employees in all 5 states. We have just hired 20 new investigators/inspectors. They have just started their basic FDA training. We are going to be hiring about a half dozen more investigators to do inspections. Will have about 100 investigators here.
- What about smaller firms? Answer - we are hoping that after the first 300 inspections, states and FDA will be coming back to the table saying what will and won't work.

- Will those 300 inspections be pre-announced? Answer - we are trying to do a 2-tier pilot with some of these large firms. We are thinking that we might be able to in certain circumstances. Think that larger firms would like to have pre-announced from a resource issue.
- Comment – it would be nice if the questions submitted to the Technical Assistance Network via FDA’s web site are made publicly available.

### **Outreach discussion**

The committee briefly discussed outreach to other stakeholders about the committee’s work. Committee members agreed that it would be best to wait for further outreach until the committee has specific requests or accomplishments to report.

### **Next Meeting**

The next meeting will be on April 7 with approximately the same start and ending time. Topics identified for the next meeting and/or future meetings included:

- Additional discussion on ODA legislative concepts, including possible cease & desist authority
- Food Safety Modernization Act rule for produce safety
- Budget subcommittee report
- Review of program activities & connection to food safety (egg grading)
- Review of program time expenditures related to cannabinoid edibles
- Shellfish program
- Crab & domoic acid issues
- How the program establishes risk levels for inspections

It was also suggested that we invite Senator Merkley and/or one of his staff to participate to learn about the resources that will be needed as part of FSMA.