



HEALTHY FOOD, SAFE FOOD PROJECT

Regulatory Mini-Focus Group Summary

January 12, 2016

BACKGROUND

The Healthy Food, Safe Food (HFSF) Project is a partnership between University of Minnesota Extension Center for Family Development and Minnesota Department of Health's (MDH's) Office of Statewide Health Improvement Initiatives (OSHII). HFSF's goal was to conduct a formative evaluation to aid in developing a plan of action to address regulatory barriers to improve access to healthy foods, while simultaneously maintaining and enhancing food safety. Between July 2015 and July 2016, the HFSF project team conducted a listening session, key informant interviews, and focus groups, followed by analysis and planning meetings.

PARTICIPANTS

Two highly experienced food safety regulators representing Minnesota Departments of Health and Agriculture (MDH and MDA)

MODERATOR

Mary Marrow Public Health Law Center, at the Mitchell-Hamline School of Law

LISTENERS

Tim Jenkins, Project Leader, Food Access Coordinator, Minnesota Department of Health; Mary Ann Van Cura, Independent Consultant

WHAT IS GOING WELL FOR INSPECTORS WHEN IT COMES TO HELPING OPERATORS SERVE HEALTHY, SAFE FOODS?

These regulators said inspectors are good at:

- Diagnosis — identifying food safety risks for operators.
- Communication and education.
 - Using direct one-to-one communication with operators to:
 - Describe what needs to be done.
 - Explain why it needs to be done.
 - Using local staff to improve communication and education.

These regulators also said that inspectors find one-on-one education rewarding.

WHAT IS GOING WELL FOR OPERATORS WHEN IT COMES TO WORKING WITH INSPECTORS IN SERVING HEALTHY, SAFE FOODS?

Things go well for operators when inspectors:

- Work to build relationships with operators.
- Show empathy.
- Are transparent about what needs to be done and why it needs to be done.

WHAT ARE THE TOP CHALLENGES FOR INSPECTORS WHEN IT COMES TO HELPING OPERATORS SERVE HEALTHY, SAFE FOODS?

Challenge #1: Federal and state food codes focus solely on safe food.

As a result of this focus on safe food, it's difficult for inspectors to consider nutrition in their work. For example, the federal Food Safety Modernization Act doesn't address nutrition. One regulator said, "We have no authority to enforce or provide educational information on anything that has to do with healthy eating."

Challenge #2: Inspectors experience a lack of resources in both time and educational materials.

- Inspectors lack time to interact with operators. With heavy workloads (e.g., being responsible for 230 establishments per year), it can be difficult to find time to educate operators. One regulator said, "Inspectors need more time than we can give them."
- Inspectors lack effective educational materials for low literacy operators — operators whose first language isn't English — as well as operators who come from oral cultures.

Challenge #3: The complexity of the food safety system.

Numerous agencies, regulations, and codes govern food safety. For example:

- MDH has 31 delegated agencies with different levels of responsiveness related to food safety.
- MDA has 7 delegated agencies.
- Local regulations and zoning add to the complexity.
- There are two different food codes and two different standards for institutions, e.g., Food, Pools, and Lodging versus Health Regulation. Some institutions are inspected under one code, while others are inspected under both.

The complexity of the system makes it difficult:

- For operators to navigate the system.
- For regulatory staff to direct initial inquiries to the right person — so the first point of contact is "correct."
- To standardize communication — so everyone is using the same terminology.

Challenge #4: Consumers sometimes push back against government intervention with food.

- It is difficult to regulate foods because of consumer pushback, e.g., New York trying to ban sodas over a certain size.
- We have ways to make foods safer — such as irradiation— that are not socially acceptable.
- Restaurants that donate to food shelves threaten to stop donating if they are required to label the foods.



WHAT ARE THE TOP CHALLENGES FOR OPERATORS WHEN IT COMES TO WORKING WITH INSPECTORS IN SERVING HEALTHY, SAFE FOODS?

Challenge #1: Operators have difficulty navigating the system.

Operators have difficulty finding the right agency or correct point of contact to work with.

Challenge #2: State categorization of businesses is too rigid.

The state model for categorizing businesses for regulation and inspections doesn't have categories for many of the activities designed to support healthy foods, such as mobile grocery stores, food hubs, food demonstrations, and food sampling, as well as farm activities.

WHAT CAN YOU OR YOUR AGENCY DO TO ADDRESS THE ISSUES IDENTIFIED TODAY?

Here are some actions MDA and MDH staff are already taking to address the issues:

- MDA is hiring a licensing liaison to serve as the single point of entry into the regulatory process. However, one problem with this action is that the licensing liaison will serve only food businesses licensed by MDA (such as grocery stores, food processors, and markets). This means that restaurants, institutions, and other food service establishments will need to be referred to MDH or a delegated local agency.
- MDH and MDA are revising the Memorandum of Understanding between the agencies to clarify what is regulated by each agency, so there will be fewer arbitrary decisions made by individuals.
- MDH and MDA have been holding ongoing discussions to align its practices and procedures and is attempting to create the same language and license requirements for all its retail sales establishments.

In addition, these regulators said they could:

- Evaluate their agencies' current practices. They suggested:
 - Surveying operators to find out what's working and what's not and feed that information back to inspectors.
 - Asking operators what resources they need to comply with food regulations and maintain food safety standard and at what point in the regulatory/inspections process.
- Have conversations within and across federal, state, and local agencies associated with food to:
 - Get to know each other.
 - Figure out what we're all doing and where there is overlap.
 - Discuss how we can work together.
- Push to address healthy, safe food at the national level, perhaps through the federal Food Safety Modernization Act (FSMA). One regulator said, "Once the federal government says it is important, we interpret it slightly differently at the state level."
- Modify the exemption in Minnesota Statute 28A.151, which allows food demonstrations and sampling in farmers markets, to make it easier for food shelves to offer food demonstrations and sampling.



IF YOU WERE IN CHARGE OF WRITING A PLAN OF WORK FOR THE HEALTHY FOOD, SAFE FOOD PROJECT, WHAT WOULD YOU DO? WHAT ARE THE TOP PRIORITIES?

The regulators said an HFSF plan of work should give top priority to supporting high-level interagency communication on:

- How food safety and nutrition work together.
- How agencies can help each other.
- Identifying and addressing regulatory overlap, inconsistencies, and gaps.

Here are two quotes from the regulators:

“Keep the conversation going...It is actually helpful to have an outside organization or an outside group say, ‘Hey, this is important. You need to keep coming back to this.’”

“I see two really, really big roadblocks, that if you could solve them, you could solve a lot of these other things. These are a root cause or antecedent to all our issues. Number 1 is really the lack of communication between [all the] agencies that are working on safety and nutrition. [Number 2 is that] there are so many different layers of government involved in the food safety aspect...It would be good if we could push that conversation forward. How do you unravel some of [the] regulatory overlap, inconsistency, and gaps that exist?”

For more information about the Healthy Food, Safe Food Project, including summaries of other focus groups and key informant interviews, visit z.umn.edu/hfsf.

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