



Food-Borne Illness: A Moving Target

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Issue

Is the Environmental Health Department ready to finally provide the same level of public health and safety oversight of food trucks as it does for restaurants?

Summary

There were approximately 146 food trucks operating in San Mateo County as of December 31, 2011. This compares to approximately 3,745 fixed location restaurants. The number of food trucks has grown 47% over the last two years compared to a 4% decline in restaurants. Food trucks have also gone up-scale, with more cook-to-order and specialty items available. The storage and handling of raw meats is associated with a greater potential for contamination and food-borne illness than with pre-packaged foods.

The San Mateo County Environmental Health Department (EHD) is responsible for permitting and inspecting both restaurants and food trucks. EHD routinely inspects restaurants during normal business hours when food storage, preparation, serving and cleaning conditions can be observed. These inspections are unannounced, increasing the opportunity to see possible health code violations or poor practices. In sharp contrast, EHD inspects all food trucks for initial permitting and for annual renewal by appointment or during scheduled appointment drive-up periods. In many cases, food and beverages are not even in the vehicle during these inspections. Many food-borne illness risks go undetected with this system. EHD claims the difficulty of locating food trucks on their routes and resource constraints prevent an inspection program comparable to that for restaurants.

Food trucks are required by law to designate and use commissaries for key support services, such as parking, gray water and waste disposal, potable water supply and, in some cases, for limited food storage and preparation. Food trucks do not always use the commissaries they designate and EHD does not routinely check compliance. Finally, food trucks can operate for up to 60 days without an operator who has completed the Food Safety Certification program, a risk that applies to all food facilities under state law.

The Grand Jury recommends that the Board of Supervisors direct the EHD to move to a system of unannounced inspections of food trucks under actual operating conditions as soon as possible in fiscal year 2012-2013. It recommends that EHD prepare for this transition by completing, by October 2012, as many unannounced inspections of food trucks under actual operating conditions as necessary to reliably estimate the resources required. The Grand Jury further recommends that EHD require food truck operators to notify EHD within two weeks of any route changes. It also recommends EHD periodically reconcile commissary customer lists with its own records of commissaries designated by food truck operators in order to verify that all food truck operators are in compliance with the law. Additionally, the Grand Jury recommends that

EHD require Food Safety Certificate training program administrators to notify EHD when certificates are issued.

The Grand Jury also recommends changes to the EHD website to make it easier for the public to identify restaurants and food trucks with repeat major violations.

These changes will provide an equivalent level of inspections of restaurants and food trucks. They will help drive higher standards of compliance that will reduce food-borne illness risks from food trucks and increase public confidence in this popular new dining option.

Background

Terminology

Some terms used in the California Retail Food Code and internally by San Mateo County EHD are not consistent with each other and are not the same as those commonly used by the general public for the equivalent food facility.¹ To make this report more readable, some commonly understood terminology has been substituted for “official” language. The following table is provided as a guide. For full official/legal definitions, where they exist, *see* Attachment 1.

Common Term used in this Report	San Mateo County EHD Equivalent	California Retail Food Code Equivalent
Food Truck	Mobile Food Preparation Unit (MFPU) - subcategory of Mobile Food Facilities preparing cook-to-order items	Mobile Food Facility (MFF) - any vehicle used in conjunction with a commissary or other permanent food facility upon which food is sold or distributed at retail
Mobile Food Facility (MFF)	Mobile Food Facility (MFF) - includes vehicles in five categories: 1. sells prepackaged foods prepared at another location 2. MFPU as above 3. Ice Cream Trucks 4. Ice Cream Carts 5. Push Carts (e.g. hot dogs, espressos, tamales) ²	Mobile Food Facility (MFF) - as above
Restaurant	Retail Food Facility	Permanent Food Facility
Commissary	Commissary	Commissary
Cal Code	California Retail Food Code	California Health and Safety Code Division 104, Environmental Health, Part 7, 113700 - 114437

¹ California Health and Safety Code, Division 104, Part 7, Chapter 1

² San Mateo County Mobile Food Program Permit Application Form, January 2012

Regulations

The California Retail Food Code (Cal Code) contains provisions that “provide for a system of prevention and overlapping safeguards designed to minimize foodborne illness, ensure employee health, demonstrate industry manager knowledge, ensure safe food, specify non toxic and cleanable equipment, and to delineate acceptable levels of sanitation of food facility premises.”³ Some provisions of the Code apply to all food facilities whereas others apply specifically to certain categories of food facilities.

Grand Jury Focus on Food Trucks

There are currently approximately 3,745 restaurants and 232 mobile food facilities permitted to operate in San Mateo County. About 146 of the latter are food trucks. There has been rapid growth and increasing popularity of food trucks in the County, rising from 99 just two years ago. They increasingly operate on predetermined routes and schedules and, more recently, in conjunction with each other at organized promoted events such as Moveable Feast and Off the Grid. Today’s food trucks vary greatly in the types of food they offer from inexpensive traditional ethnic items to higher priced gourmet specialties. Vehicles range from old, converted pickup trucks in poor mechanical condition to modern custom-designed specialty trucks.

There is a relatively low risk of contamination and food-borne illness from items sold from the vehicles selling prepackaged items, such as sandwiches and snacks, or from the ice cream or push cart categories, relative to food trucks where raw meats are stored, handled and cooked. Grand Jury members questioned whether the incidence and risks of food-borne illnesses from food trucks were greater than in restaurants. Specifically, it wondered whether regulatory agency permitting and inspection processes had kept up with the rapid growth of this relatively new phenomenon, and were successfully managing those risks for the safety of their customers. Its investigation was scoped to answer these questions.

Food-Borne Illness - Incidence and Investigations

Food-borne illness in the United States is a major cause of personal distress, preventable death, and avoidable economic burden. The Centers for Disease Control and Prevention (CDC) estimates roughly one in six Americans (48 million people) gets sick, 128,000 are hospitalized, and 3,000 die of food-borne diseases each year.⁴ According to a senior EHD official, reports of food-borne illness in the County for food facilities have averaged about 160 per year since 2004. The US Department of Health estimates that for every reported case there are actually 3 or 4 additional incidents that go unreported. Other estimates are much higher. As one example, the CDC estimates that for each one of the 35,000 known cases of salmonella, another 38 cases go undiagnosed and unreported each year.⁵

³ California Retail Food Code, California Association of Environmental Health Administrators Excerpts from the California Health and Safety Code, Preface, p3

⁴ Center for Disease Control and Prevention, <http://www.cdc.gov/foodborneburden/index.html>

⁵ <http://www.workingnurse.com/articles/foodborne-illness>

Most food-borne illnesses are characterized as short duration “acute gastrointestinal illness” involving diarrhea or vomiting, alone, together or in conjunction with other gastrointestinal symptoms such as fever or abdominal cramps. Most of these incidents go unreported, either because the severity does not warrant it in the minds of the victims, they do not associate their symptoms with food poisoning, or because they don’t know where or how to make such reports.

Complaints that are reported come in a variety of ways. These include calls from the victims or family members to the County Environmental Health Department (EHD) hotline or by letters and emails. Other reports go to Public Health from doctors, clinics and hospitals who diagnose/treat patients who present in those settings. Whether and how complaints are investigated varies. The County Public Health Communicable Disease Program has a process for investigating reports it receives and it varies based upon the determination of whether it is an isolated incident or an “outbreak”. (See Attachment B: Algorithm of Events in the Investigation of Potential Outbreaks.) EHD investigations are generally limited to inspections of suspect food facilities.

Investigations attempt to determine the source of the contamination but are rarely conclusive. Long incubation periods, reporting delays, and incomplete or inaccurate information from victims are contributing factors. The specific food product, employee and or operating conditions responsible for the contamination/illness are usually not present at the time of follow-up days or weeks later.

San Mateo County Environmental Health Department

The Environmental Health Department is part of the San Mateo County Health System. Its food program duties include the following: regulation, inspection, and permitting of food facilities; public and business education about proper sanitation and food handling; follow-up on complaints and reports of food-borne illness and; providing information on food establishment compliance via the Internet.

There are 16 Environmental Health Specialists (EHSs) engaged in food inspections. Many are Registered EHSs by virtue of passing a state certification exam. Each inspector covers a defined geographical territory and has responsibility for all food facilities in his or her district. Inspectors have the authority to write violations, assess additional fees, and shut down food facilities if major violations are discovered. There is a Supervisor for the Food Program and an EHS responsible for overall coordination of the food truck program, which includes all aspects of initial permitting and annual renewal inspections as well as investigations. Commissary inspections are generally performed by the inspector responsible for the territory where the commissary, considered a permanent food facility under the law, is located.

The Initial Permitting Process for Food Trucks

A new food truck operator can complete the initial permit process at any time during the year. Applicants obtain from EHD a New Vendor Packet that includes the (Cal Code) regulatory

requirements and that contains the forms that must be completed. Requirements of particular interest to the Grand Jury are:

- The designation of the commissary the food truck will operate out of, the services the commissary will provide, and the signature of a commissary owner/operator certifying it will provide those services
- A listing of all locations where the operator will sell food and the times and days he/she will be selling at those locations
- The signatures of the business owners/operators providing compliant restroom facilities for the food truck if they are to be stationed there for one hour or more
- As part of the permit process, food truck operators must show proof that they have completed the Food Safety Certification training or, as of February of this year, that they have enrolled in a valid course. They have 60 days after the permit is issued to complete the Certification.

The new operator submits the completed packet to EHD with the prorated permitting fee. After the packet is reviewed and fees are paid the new operators bring in their food trucks for physical inspection. Inspections for new food trucks are done on most Wednesdays at the EHD office in San Mateo. The inspector uses the food truck Permit Inspection Report form to inspect the food truck. For the initial inspection, the food truck operators typically do not store any food items because they do not have a permit and are not yet operating. The food truck either passes the inspection and is issued a permit or fails the inspection and must return after all noted code violations are corrected. After the food truck passes inspection and obtains a permit, it is subject to renewal during the annual inspection process for all food trucks in February. The inspector applies a colored sticker (color represents the year) to the preferred location at the rear of the vehicle.

The Annual Permit Renewal Process for Food Trucks

Food trucks with a permit obtained anytime during the previous year are required to go through the annual permit and inspection process in February. EHD sends operators a renewal packet in early January. The operator must pay all fees before scheduling the inspection. The requirements are essentially the same as for initial permitting with the following exceptions

- Written operational procedures for food handling are required.
- A copy of the Food Safety Certificate must be presented.
- Any new state/county requirements that may have been added since initial permitting must be met.

Two EHD inspectors are available for approximately eight days in February for the annual inspections process. The inspector uses the food truck Permit Inspection Report form to inspect the food truck. The inspections take approximately 30 minutes. During the inspection the inspector verifies checklist items such as proper hot water temperature, mechanical refrigeration, generator operation, raw food storage temperature, lack of pest infestation and clean hand washing facilities. There is no food handling or preparation activity during the inspection,

although there may be food on the vehicle if the vehicle is interrupting its normal operating schedule for the day to accommodate this inspection time frame.

Commissary Operations and Inspection Process

Cal Code states that all food trucks shall operate in conjunction with a commissary, mobile support unit, or other facility approved by the enforcement agency (EHD). A Commissary is defined as a Food Facility that services Mobile Food Facilities, Mobile Support Units, or vending machines where any of the following occur:

- (a) Food, containers, or supplies are stored
- (b) Food is prepared or prepackaged for sale or service at other locations
- (c) Utensils are cleaned
- (d) Liquid and solid wastes are disposed of, and potable water is replenished⁶.

Food truck operators are required to return to their commissary every day for contracted services.

There are many permitted commissaries in the County. Five of these permitted commissaries - two in South San Francisco, one in Redwood City, one in San Carlos and one in East Palo Alto - offer contracted services to the majority of food trucks. Food trucks operating in San Mateo County also have the option of contracting with a commissary in another County for required services. Many food trucks are permitted to operate in more than a single County, and owner/operators tend to use a commissary close to the operator's residence.

Prior to February 2012, food trucks designated their commissary on the Commissary Agreement & Verification Form, which also required the commissary owner's signature, indicating agreement to provide the stipulated services. Per this form, the food truck operator was required to notify EHD if the use of the designated commissary was discontinued. There was no obligation for the commissary owner to report such changes.

The new food truck renewal form requires commissaries to report to EHD if a food truck no longer uses its facilities. There is no longer a food truck operator's signature to that effect required, apparently shifting the burden of reporting changes entirely to the commissary. However, according to an EHD supervisor the plan is to add that clause back onto the Renewal Form so the food truck operator also has responsibility to report a change in commissaries.

Commissaries are inspected at least twice per year. The inspections are unannounced and performed during EHD's normal business hours. The inspector tours the facility and notes findings on the Food Program Inspection Report form. Food truck inspections are not normally part of the commissary inspection process. Upon completion of the inspection, the owner is given a copy of the inspection report. If there are code violations, comments are written and a timeframe is given to correct the violations and a follow up inspection is performed.

⁶ California Retail Food Code (Cal Code) Section 113751

Restaurant Inspection Process

While restaurants are not the focus of this Report, it is necessary to briefly describe the inspection process for them in order to be able to compare and contrast the food truck inspection process to it. Inspections of restaurants are unannounced and intentionally scheduled during times when meals are being prepared and served. Inspectors spend an average of one and a half to two hours observing food storage, preparation and clean up. They confirm proper temperatures of various hardware and utilities and overall cleanliness of the facility.

Investigation

This report is based on the following activities from October 2011 through February 2012.

- Interviewed four different EHD Inspectors and two supervisors involved in the Mobile Food Program, and a senior Public Health official.
- Attended a San Mateo City Council committee meeting where food truck operations in that city were discussed.
- Reviewed EHD permitting and inspection forms, blank and completed.
- Reviewed relevant sections of the California Retail Food Code (Cal Code) and Health and Safety Code for Mobile Food Facilities (MFF), and local ordinances.
- Reviewed the FDA Employee Health and Personal Hygiene Handbook.
- Reviewed EHD food inspection policies, processes and procedures.
- Reviewed inventory lists of permitted food trucks and their designated commissaries.
- Observed field inspections of food trucks for initial permitting and annual renewal.
- Observed field inspections of three San Mateo County commissaries and accompanied an inspector on a visit to a Santa Clara County commissary used by some food trucks permitted in San Mateo County.
- Reviewed relevant content on the San Mateo and neighboring counties EHD websites.
- Reviewed investigation files associated with suspected and isolated food-borne illness outbreaks.

Food-Borne Illness Investigations

The number of reported complaints of food-borne illnesses associated with food trucks over the past 5 years is proportionally about the same as for their brick and mortar counterparts. In 2010, there were 177 incidents, 3 of which were related to food trucks. For 2011, as of December 15, 2011, there were 186 incidents, 2 of which were food truck related.

The Grand Jury reviewed documentation of the most recent investigation of a possible food-borne illness. A Senior Public Health Nurse in the Communicable Disease Control Program coordinates such investigations and maintains the associated records. The Grand Jury's focus was the specific engagement of EHD in the process.

The incident provided was an outbreak of acute gastroenteritis reported to Public Health on December 1, 2011. It ultimately affected 87 students and four teachers/employees at a San Mateo

County high school. The investigation package was comprehensive, consisting of numerous reports, letters, forms, email, updates, hand-written Progress Notes, telephone call scripts, a laboratory test order form, and notices for posting. EHD completed its piece of the overall investigation and reported its results within 24 hours. The outbreak was subsequently determined to be norovirus spread by contact from a single individual and not a food-borne illness.

The Grand Jury also reviewed documentation related to a single case of *confirmed* food-borne illness (not an “outbreak”). The package provided was a report of Vibrio Infection on September 10, 2010. The package was similarly comprehensive and again EHD executed its responsibilities in a timely manner (same day response). In this case, the inspector took action to have untagged oysters destroyed and provided documentation of that process and subsequent follow-up when new information was obtained.

Complaints received directly by EHD are logged and assigned to the appropriate district inspector to investigate and follow-up. Typically, this entails visiting the suspect establishment and performing a routine inspection since elapsed time would make it difficult to associate it with any particular employee or food or condition. EHD provided copies of inspection reports for each reported food-borne illness incident, indicating appropriate follow-up. There have been very few complaints of food-borne illness where EHD was able to determine the exact source and initiate action to correct it.

Food Truck Inspection Process

The Grand Jury observed the initial permitting inspections of two food trucks at EHD’s San Mateo offices and the renewal inspections of three food trucks at the Redwood City Grant yard.

No food was present on the trucks at the initial inspections. Inspectors confirmed presence of all required items and ability of equipment to maintain proper temperatures for food storage. The inspectors acknowledged that this might not be the case under actual operating conditions. For example, a refrigerator may be overloaded in a way that may block fans or otherwise causes significant temperature variations in the unit and possibly above maximum allowable temperatures at some locations. This condition can be observed in restaurants and could be observed in food trucks if inspected under normal operating conditions, but not with the current inspection process.

As another example, most food trucks require an external mounted gasoline generator to operate the refrigeration. If a food truck runs out of gas there is no way to tell if the operator refills the tank during their daily operations or just waits for the next day's operation to refuel. Similarly, adequate water, soap and other supplies for sanitation purposes can be determined via inspections under operating conditions, but not in the artificial situation of an unloaded vehicle. An Inspector questioned whether an operator would leave a route to return to the commissary for new sanitary supplies if it should run out during the day.

Inspectors will occasionally perform unannounced food truck inspections at special events where food trucks are scheduled to be present. Multiple inspectors stated that unannounced inspections

were not practical because of the time required to locate food trucks on their routes. They stated that the time and location data provided by the operator on their Food Vehicle Operation Location Form was not reliable. Resource levels available are not sufficient to add this extra tracking time, according to Inspectors and a Supervisor. Operators were required per this form to notify the office within 30 days of any changes to locations or times and to make sure EHD had current information. Few reports of this type are actually made. The new permitting forms for 2012 do not require the operators to notify EHD if they change locations.

It should be noted that the annual inspection is not necessarily efficient either. Only approximately 60 percent of 146 food trucks showed up for the annual inspection during the scheduled period in February 2012. Each inspection takes an average of 30 minutes. According to EHD's labor tracking system, however, it took approximately 936 labor- hours to complete approximately 90 inspections, including preparation, waiting and administrative time. This corresponds to approximately 10 hours per food truck inspected. The remaining food trucks still need to be tracked down by EHD, an effort that is in progress. (Food trucks that do not show up for the scheduled inspection are being contacted and told they will be assessed additional fees if they do not have their food truck inspected within a required timeframe.) It is not known exactly how many food trucks need to be reinspected for 2012 permits as there are always some that go out of business, sell their vehicles or do not plan to operate for that year.

According to EHD personnel it would take approximately one hour and 15 minutes of additional time to do unannounced inspections in the field - one hour for travel time and 15 minutes additional inspection time to observe the food truck under actual operational conditions. This new inspection process would require approximately an additional 182 hours of annual EHD inspector time. (146 food trucks at an average of 1.25 hours each)

Food Safety Certificate Program

Cal Code requires that there shall be at least one food safety certified owner or employee at each food facility. The certified owner or employee need not be present at the food facility during all hours of operation⁷. Prior to February 2012, food truck operators were required to obtain a valid Food Safety Certificate within 60 days of obtaining a permit. As of February 2012, the new EHD permitting forms require a copy of a certificate or confirmation of enrollment in a valid food safety class as a condition of permitting. Unless the owner/operator voluntarily submits completion documentation at the time of receipt, EHD will not confirm completion until the next annual inspection.

Commissary

The Grand Jury learned during its commissary visits that not all food trucks operating in San Mateo County were returning to their designated commissary at the end of each day. There are some that initially contract with a commissary, complete the annual inspection process and then cancel their contract with the commissary. (They would then have to sign up with a new one before the next annual permitting inspection).

⁷ California Retail Food Code section 113947.1. (a)

The Grand Jury compared the food truck customer list of the largest commissary in the County to EHD's inventory lists of food trucks designating that same commissary. The commissary customer list included only 29 of EHD's 49 listed food trucks as currently active. EHD subsequently made changes to the annual inspection form to partly address this issue. However EHD does not have a written procedure to follow up and make sure all food trucks are in compliance with the regulation. Commissary arrangements are typically on a cash only day-by-day basis so it is not difficult to make frequent changes if space is available. As noted in Background, the new food truck Renewal Form requires commissaries to report to EHD if a food truck no longer uses its facilities.

EHD Website Changes

The Grand Jury reviewed the EHD website for food truck and restaurant violations with EHD personnel. In July 2011, EHD stopped posting to its website restaurants and food trucks with repeat major violations. This has made it more difficult for interested consumers to easily identify those food facilities as that information can now be found only by searching the inspection history of each individual restaurant.

Findings

The San Mateo Grand Jury finds that:

1. EHD inspections of fixed location restaurants are unannounced and include observations of food handlers, food storage, food preparation, food serving and cleanup under normal operating conditions.
2. The large majority of EHD inspections of food trucks are by appointment or on a fixed schedule and do not provide for the opportunity to view normal operations. Food is often not even on the vehicle during initial or annual permitting inspections.
3. It takes approximately 30 minutes of actual inspection time to do a physical inspection of a food truck by the current process.
4. Only approximately 60 percent of the 146 food trucks showed up for their 2012 scheduled inspection appointments.
5. An unannounced food truck inspection during actual operations would take an average of 45 minutes, 15 minutes longer than the current process, and incur an estimated one-hour of travel time per inspection.
6. All food truck operators are required to contract with and designate on initial and annual permitting applications, a commissary where they will park their vehicles, clean their facility, discharge waste and utilize other provided services. Some food trucks were not using the commissary they identified and did not reliably report changes to EHD consistent with permitting requirements.

7. The new permitting forms for 2012 do not require the food truck operators to contact EHD if they change their route schedule.
8. Beginning with the annual renewal process in February 2012, commissaries are now required to report to EHD when food trucks stop using their services. EHD does not currently have a written procedure in place to act on this information to ensure compliance.
9. EHD does not routinely check for food truck usage of designated commissaries during its commissary inspections.
10. All food truck operators are required to complete a food safety certification program or show proof that they have enrolled in one. They have up to a 60-day grace period to complete the food safety certification process.
11. Unless the food truck operator provides EHD with the Food Safety Certificate completion information, EHD will not know whether the required Certificate was obtained until the next annual inspection.
12. Prior to July of 2011, EHD posted to its website food trucks or restaurants with major repeat violations, providing interested consumers with useful information that is no longer easily available.
13. Actual reports of food-borne illness appear to be approximately the same for restaurants and food trucks. However, the low reporting of food-borne illness makes it difficult to reliably evaluate comparative risk levels on a quantitative basis.
14. Food-borne illnesses present a complex set of symptoms and can take up to 14 days to diagnose. Therefore the source is difficult to identify. EHD investigations generally consist of standard inspections of suspect facilities to identify any ongoing risks.

Conclusions

The San Mateo Grand Jury concludes that:

1. Because food borne illnesses are significantly underreported and so difficult to trace to the original source, it is challenging to quantitatively demonstrate what the Grand Jury believes to be an increased risk of food borne illness from food trucks compared to restaurants.
2. The nature of the food truck operation clearly provides opportunities for contamination and food-borne illness that require attention. Many of these can be detected only during actual operations.
3. Even if the argument was made from the limited data available that the food truck operation is no riskier than restaurants from a public health standpoint, that position does not support an EHD inspection program for food trucks that is less diligent than that for restaurants, as exists today. At a minimum, it would make the case for equivalent standards.

4. The annual food truck inspection process is an inefficient use of inspector resources when only approximately 60 percent of food trucks show up for their scheduled appointments.
5. At least some of the additional time it would take to perform unannounced inspections of food trucks in the field during actual operational conditions could be made available by improving the efficiency of the annual inspection process.
6. Food trucks that are not using commissaries for required services may be compromising health and sanitation practices and potentially increasing the risk of food-borne illnesses
7. EHD needs more reliable information about where the food trucks are operating in order to inspect under normal operating conditions.
8. Food truck operators may be operating without a Food Safety Certificate since EHD does not require confirmation of course completion by receipt of a Food Safety Certificate within 60 days.
9. Changes made to the EHD website for administrative efficiency eliminated inspection information useful to the consumer.
10. Even though it is difficult to identify the source and course of food-borne illness complaints, EHD responds appropriately in investigating complaints received.

Recommendations

The San Mateo Grand Jury recommends that the Board of Supervisors direct the San Mateo Environmental Health Department to:

1. As soon as possible in FY 2012-2013, move to a system of unannounced inspections of all food trucks under actual operating conditions, equivalent to that of restaurants.
2. By October 2012, perform a sufficient number of unannounced inspections of food trucks under actual operating conditions to reliably estimate the time and resources needed to fully implement a program of unannounced inspections of all under actual operating conditions.
3. In January 2013, when the annual inspection notifications are mailed, advise food truck operators that they will be assessed additional fees or penalties if they fail to keep their scheduled appointments.
4. By October 2012, implement a system that reconciles ongoing reports by commissaries of food trucks that terminated their commissary relationship against EHD's internal database records to verify that all food trucks are using a commissary as required by Cal Code.
5. As part of the 2013 annual permitting process, require food truck operators to report changes to their route schedules to EHD within two weeks of the change.

6. By October 2012, change its permitting procedures to require food truck operators or the Food Safety Certificate training program administrators to notify EHD when the certificate is issued.
7. By October 2012, enhance the EHD website to enable a process of searching and displaying a list of restaurants and food trucks with repeat major violations as of their last inspection.

Attachment A: California Retail Food Code Official Definitions
California Health and Safety Code, Division 104, Part 7, Chapter 2
Definitions (Relevant Extracts)

113789 Food Facility

- (a) “FOOD FACILITY means an operation that stores, prepares, packages, serves, vends, or otherwise provides FOOD for human consumption at the RETAIL level, including, but not limited to, the following:
- (1) An operation where FOOD is consumed on or off the PREMISES, regardless of whether there is a charge for the FOOD.
 - (2) Any place used in conjunction with the operations described in this subdivision, including, but not limited to, storage facilities for FOOD-related UTENSILS, EQUIPMENT, and MATERIALS
- (b) “FOOD FACILITY” includes permanent and nonpermanent FOOD FACILITIES, including, but not limited to, the following:
- (1) Public and private school cafeterias
 - (2) RESTRICTED FOOD SERVICE FACILITIES
 - (3) Licensed health care facilities
 - (4) Commissaries
 - (5) Mobile food facilities
 - (6) Temporary food facilities
 - (7) Vending machines
 - (8) CERTIFIED FARMERS’ MARKETS, for purposes of permitting and enforcement pursuant to Section 114370
 - (9) FARM STANDS, for purposes of permitting and enforcement pursuant to Section 114375

113831 Mobile Food Facility

- (a) “Mobile Food Facility” means any vehicle used in conjunction with a COMMISSARY or other PERMANENT FOOD FACILITY upon which FOOD is sold or distributed at RETAIL. “MOBILE FOOD FACILITY” does not include a “TRANSPORTER” used to transport packaged FOOD from a FOOD FACILITY, or other APPROVED SOURCE to the CONSUMER.

113849 Permanent Food Facility

“PERMANENT FOOD FACILITY” means a “FOOD FACILITY operating in a permanently constructed structure, including any room, building, place, or portion thereof, maintained, used, or operated for the purpose of storing, preparing, manufacturing, packaging, or otherwise handling FOOD at the RETAIL level

113751 Commissary

“COMMISSARY” means a FOOD FACILITY that services MOBILE FOOD FACILITIES, MOBILE SUPPORT UNITS, or VENDING MACHINES where any of the following occur:

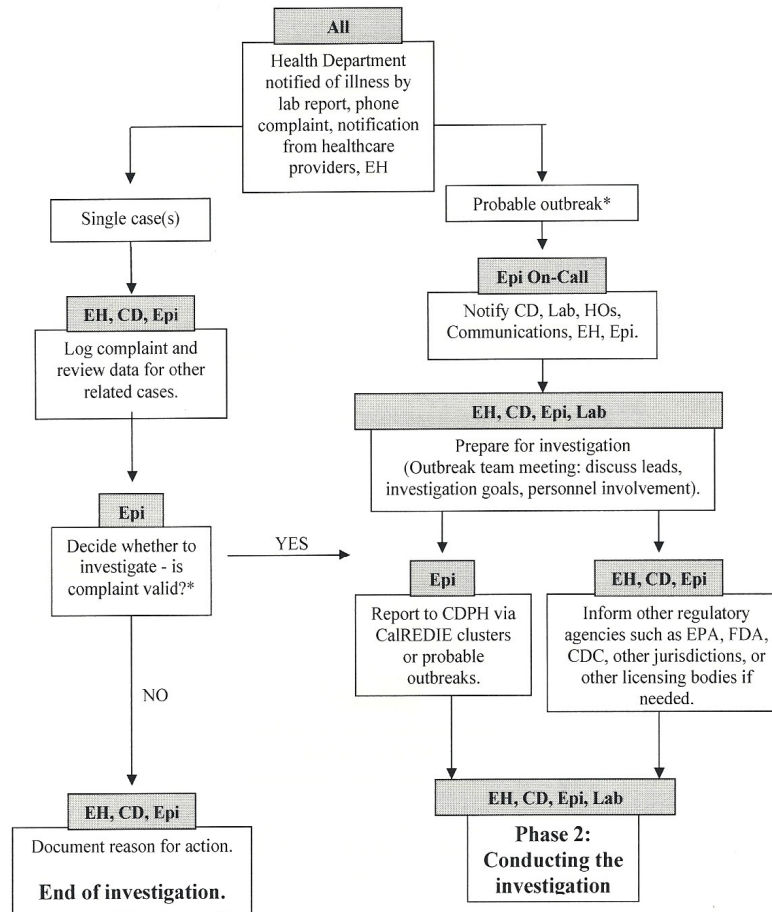
- (a) FOOD, containers, or supplies are stored.

- (b) (b) FOOD is prepared or prepackaged for sale or service at other locations.
- (c) UTENSILS are cleaned.
- (d) Liquid and solid wastes are disposed, or POTABLE WATER is obtained.

Attachment B: Algorithm of Events in the Investigation of Potential Outbreaks

Algorithm of Events in the Investigation of Potential Outbreaks

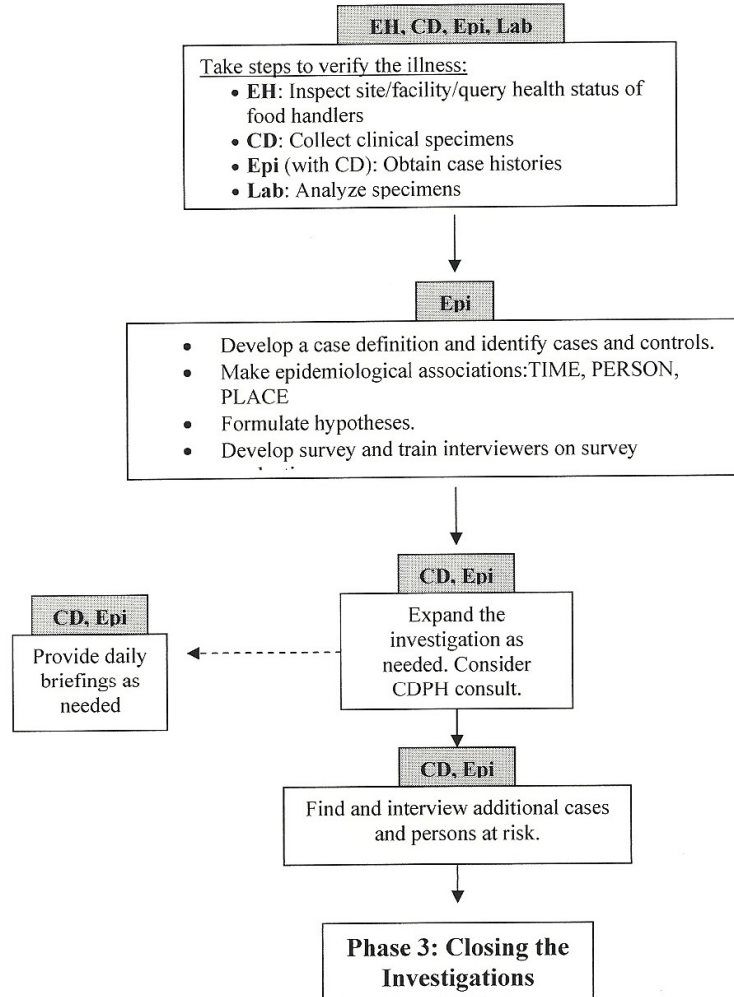
PHASE 1: DETERMINE THE NEED TO INVESTIGATE



In the case of a probable **foodborne disease outbreak**, an outbreak is defined as an incident in which two or more persons, who do not live in the same household or are from separate parties, experience a similar illness after ingestion of a common food or meal, and a specific food or meal is suspected, but person-to-person transmission or other exposures cannot be ruled out.

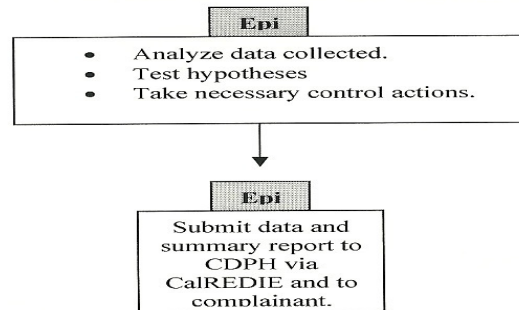
Algorithm of Events in the Investigation of Potential Outbreaks

PHASE 2: CONDUCTING THE INVESTIGATION



Algorithm of Events in the Investigation of Potential Outbreaks

PHASE 3: CLOSING THE INVESTIGATION



Updated: 12/30/2011
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Legend: Flowchart Abbreviations

EH – Environmental Health Department (County)

CD – Communicable Disease (County)

Lab – Laboratory (County)

HO – Health Officer (County)

Epi – Epidemiology (County)

FDA – Food and Drug Administration (Federal)

CDC – Centers for Disease Control and Prevention (Federal)

CDPH – California Department of Public Health (State)

CalREDIE - California Reportable Disease Information Exchange (State)

County Manager's Office



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John L. Maltbie
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CLERK OF THE BOARD

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September 27, 2012

Hon. Gerald J. Buchwald
Judge of the Superior Court
Hall of Justice
400 County Center, 2nd Floor
Redwood City, CA 94063-1655

RECEIVED

SEP 28 2012

DEPT. 10

*Reviewed
& noted
10/1/12*

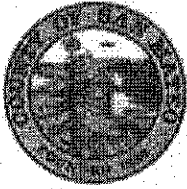
Re: Food Borne Illness: A Moving Target

Dear Hon. Gerald J. Buchwald,

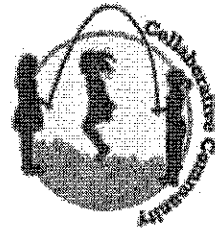
The responses to the Grand Jury Reports titled: Food Borne Illness: A Moving Target, was approved by the San Mateo County Board of Supervisors at their regular meeting on September 25, 2012. Attached please find the Board Memo that includes the formal response.

Sincerely,

Shanna Collins
County Manager's Office



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
County Manager



APPROVED BY
BOARD OF SUPERVISORS

SEP 25 2012

BY  CLERK OF BOARD
DEPUTY

To: Honorable Board of Supervisors

Date: July 3, 2012

Board Meeting Date: September 25, 2012

Special Notice / Hearing: None

Vote Required: Majority

From: John L. Maltbie, County Manager

Subject: 2011-12 Grand Jury Response

RECOMMENDATION:

Approve the Board of Supervisor's response to the 2011-12 Grand Jury report titled: Food Borne Illness: A Moving Target.

BACKGROUND:

On July 2, 2012, the Grand Jury filed a report titled: Food-Borne Illness: A Moving Target. The Board of Supervisors is required to submit comments on the findings and recommendations pertaining to the matters under control of the County of San Mateo within ninety days. The County's response to the report is due to the Hon. Gerald J. Buchwald no later than October 1, 2012.

Acceptance of this report contributes to the Shared Vision 2025 outcome of a Collaborative Community by ensuring that all Grand Jury findings and recommendations are thoroughly reviewed by the appropriate County departments and that, when appropriate, process improvements are made to improve the quality and efficiency of services provided to the public and other agencies.

DISCUSSION:

Food-Borne Illness: A Moving Target

Findings:

Grand Jury Finding Number 1. EHD inspections of fixed location restaurants are unannounced and include observations of food handlers, food storage, food preparation, food serving and cleanup under normal operating conditions.

Agree.

Grand Jury Finding Number 2. The large majority of EHD inspections of food trucks are by appointment or on a fixed schedule and do not provide for the opportunity to view normal operations. Food is often not even on the vehicle during initial or annual permitting inspections.

Partially Agree - Unannounced inspections of Mobile Food Preparation Units (MFPU) occur during Certified Farmers Markets, Temporary Events and newly emerging Mobile Food Events. Approximately 15% of active MFPU's have been observed and inspected while in operation between January and June of 2012.

Grand Jury Finding Number 3. It takes approximately 30 minutes of actual inspection time to do a physical inspection of a food truck by the current process.

Partially Agree - 30 minutes represents an inspection with no deficiencies. Additional re-inspections and pre inspection preparation (paperwork review and review of facility history) needs to be considered.

Grand Jury Finding Number 4. Only approximately 60 percent of the 146 food trucks showed up for their 2012 scheduled inspection appointments.

Agree. Food trucks that did not show up for their 2012 scheduled inspection appointments were not issued a 2012 permit. A second two-week period of inspections was held to accommodate those who could not attend the February 2012 permitting event.

Grand Jury Finding Number 5. An unannounced food truck inspection during actual operations would take an average of 45 minutes, 15 minutes longer than the current process, and incur an estimated one-hour of travel time per inspection.

Partially Agree - There are many factors, as stated in finding number 3, that go into account when determining the amount of time it takes to inspect a facility.

Grand Jury Finding Number 6. All food truck operators are required to contract with and designate on initial and annual permitting applications, a commissary where they will park their vehicles, clean their facility, discharge waste and utilize other provided services. Some food trucks were not using the commissary they identified and did not reliably report changes to EHD consistent with permitting requirements.

Agree.

Grand Jury Finding Number 7. The new permitting forms for 2012 do not require the food truck operators to contact EHD if they change their route schedule.

Agree.

Grand Jury Finding Number 8. Beginning with the annual renewal process in February 2012, commissaries are now required to report to EHD when food trucks stop using their services. EHD does not currently have a written procedure in place to act on this information to ensure compliance.

Agree.

Grand Jury Finding Number 9. EHD does not routinely check for food truck usage of designated commissaries during its commissary inspections.

Agree.

Grand Jury Finding Number 10. All food truck operators are required to complete a food safety certification program or show proof that they have enrolled in one. They have up to a 60-day grace period to complete the food safety certification process.

Agree – California Health and Safety Code section 113946.1 (a) allows for a 60 day grace period for new operators.

Grand Jury Finding Number 11. Unless the food truck operator provides EHD with the Food Safety Certificate completion information, EHD will not know whether the required Certificate was obtained until the next annual inspection.

Agree.

Grand Jury Finding Number 12. Prior to July of 2011, EHD posted to its website food trucks or restaurants with major repeat violations, providing interested consumers with useful information that is no longer easily available.

Partially agree - Prior to July 2011 food trucks with major repeat violations were not included in EHD's website postings.

Grand Jury Finding Number 13. Actual reports of food-borne illness appear to be approximately the same for restaurants and food trucks. However, the low reporting of food-borne illness makes it difficult to reliably evaluate comparative risk levels on a quantitative basis.

Partially agree - EHD focuses on confirmed cases of food-borne illness. We agree that there is a low rate of complaints of suspected food-borne illness.

Grand Jury Finding Number 14. Food-borne illnesses present a complex set of symptoms and can take up to 14 days to diagnose. Therefore the source is difficult to identify. EHD investigations generally consist of standard inspections of suspect facilities to identify any ongoing risks.

Partially agree - Investigations go beyond a standard inspection as EHD focusses on preparation, storage and handling of the suspected food consumed by the complainant.

Recommendations:

The San Mateo Grand Jury recommends that the Board of Supervisors direct the San Mateo Environmental Health Department to:

- 1. As soon as possible in FY 2012-2013, move to a system of unannounced inspections of all food trucks under actual operating conditions, equivalent to that of restaurants.**

Counties across the State are being called to conduct field inspections of mobile food facilities – a goal that has long been held by San Mateo County. In past years routine inspections under actual operating conditions were conducted in San Mateo County, however an increase in number and complexity of mobile food preparation units has impacted our ability to conduct field inspections. Additionally legislative changes have required us to focus our limited resources to other areas of food safety.

For EHD to once again conduct field inspections of MFPU's we have begun collaboration with other bay area jurisdictions. This will ensure that our resources are best used in chasing a moving target. As a piece of this new system, Environmental Health is building a more robust database of MFPU routes and holding the operators more accountable for continuous location updates. We are also researching available technology such as GPS and social networking sites that could assist with locating these businesses. To assist in these issues, the division will redistrict the inventory and assign all mobile food and commissary inspections to one dedicated staff.

- 2. By October 2012, perform a sufficient number of unannounced inspections of food trucks under actual operating conditions to reliably estimate the time and resources needed to fully implement a program of unannounced inspections of all under actual operating conditions.**

EHD will continue our practice of unannounced field inspections at farmers markets and street festivals, however we do not want to rush into a commitment until an efficient plan can be established that includes ensuring reliable route information and goals. It is anticipated that it may take 12 months to develop and implement a workable program.

- 3. In January 2013, when the annual inspection notifications are mailed, advise food truck operators that they will be assessed additional fees or penalties if they fail to keep their scheduled appointments.**

EHD will include clearer language relating to appointments as suggested above.

- 4. By October 2012, implement a system that reconciles ongoing reports by commissaries of food trucks that terminated their commissary relationship**

against EHD's internal database records to verify that all food trucks are using a commissary as required by Cal Code.

EHS is currently developing a system to better reconcile commissaries and their usage. As mentioned in finding number 1, assigning a dedicated Inspector to this program will assist in this effort.

- 5. As part of the 2013 annual permitting process, require food truck operators to report changes to their route schedules to EHD within two weeks of the change.**

Language will be added to the forms and EHD will reinforce through verbal notification during the permitting process. Additionally, a process for receiving and updating route / location information will be implemented.

- 6. By October 2012, change its permitting procedures to require food truck operators or the Food Safety Certificate training program administrators to notify EHD when the certificate is issued.**

A follow-up inspection and/or correspondence will be conducted with the operators to verify successful completion of a food safety manager certificate program.

- 7. By October 2012, enhance the EHD website to enable a process of searching and displaying a list of restaurants and food trucks with repeat major violations as of their last inspection.**

EHD discontinued the practice of listing major repeat violators as the effort and resources that was needed to adequately maintain the information far exceeded the actual use by the public in viewing the information. EHD does not intend to revive this practice and are dedicating these resources in maintaining the current inspection history of all facilities, as well as weekly posting of food facility closures and administrative hearings- information that is regularly consumed by the public.

FISCAL IMPACT:

There is no Net County Cost associated with accepting this report.