

Retail Food Inspection and Grading Case Study: Southern Nevada Health District



The following case study describes Southern Nevada Health District's (SNHD's) Retail Food Establishment Inspection Process and Grade Cards. NACCHO interviewed representatives from SNHD's Environmental Health Division and its Board of Health (BOH); the BOH representative served as the food industry representative for the Board and also provided the food industry perspective for this case study.

Background

SNHD serves an estimated population of 2.1 million residents; SNHD's jurisdiction includes Clark County, which encompasses the Las Vegas area and draws more than 44 million visitors annually. SNHD serves an area of approximately 7,891 square miles, with a population of 243.3 people per square mile. At the time of the 2014 Census, Clark County's population was 72.2% White, 11.6% Black or African American, 1.2% American Indian, 9.9% Asian, 0.8% Pacific Islander, 4.3% two or more races, and 30.3% Hispanic or Latino.

The health district has more than 500 employees working in four divisions: (1) Administrative Services; (2) Community Health Services; (3) Nursing and Clinics; and (4) Environmental Health. The Environmental Health Division ensures a healthy and safe environment for both residents and visitors through monitoring, regulating, and educating the community. Program staff review and inspect food and beverage establishments, public accommodations, subdivisions, child care facilities, body art facilities, public swimming pools, public water systems, septic tanks, and solid waste facilities.

SNHD provides 18,500 permits and 5,500 temporary permits to retail food establishments annually. It employs 47 food operations inspection staff and nine facility design and permitting staff (Plan Review) inspectors who conduct routine inspections; special events, vendor, and temporary events inspections; and construction plan review of licensed retail food facilities. These staff, with the assistance of training office and special review process staff, are also responsible for inspections conducted on nights, weekends, and special hours at venues

such as clubs, bars, and concession stands. On average, one full-time equivalent inspector is responsible for 400 licensed retail food facilities.

Nevada's statute requires that retail food establishments be inspected at minimum once a year and as often as necessary to assure compliance. SNHD assures a minimum of one annual inspection and increases the frequency of inspections for facilities that are noncompliant (consecutive closures or "C" grades), as outlined in their standards administrative process. Based on SNHD's staffing capabilities, facilities with complex food operations are inspected more frequently. SNHD has assigned risk categories to food establishment permits similar to the Food and Drug Administration (FDA) Food Code and plans to move toward the model's inspection frequency if staffing permits. (SNHD's risk categories are denoted as 1-1, 1-2, 1-3, 2, 3, 4-1, 4-2, and 4-3; for example, Risk Category 1's will be inspected at least once per year; Risk Category 2's will be inspected at least twice per year, etc.) In 2014, SNHD conducted a cumulative 22,132 routine (unannounced) inspections and 2,928 re-inspections.

SNHD is governed by a 14-member policy-making BOH; members serve two-year terms. The members consist of two elected officials from the Board of County Commissioners and Clark County, one elected representative from each of the remaining jurisdictions in the county, and three at-large

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members selected by the Board members.¹

Nature of Southern Nevada Health District's Scoring and Grading Policy

Key Elements of Scoring and Grading Policy

SNHD's 2010 Regulations Governing the Sanitation of Food Establishments requires that "every food establishment in the health authority's jurisdiction shall post the health permit and grade card, stating the grade received at the time of the most recent inspection, in an area that is clearly conspicuous to the consumer upon entering the food establishment."²

SNHD uses letter grades and color graphics to communicate the results of an inspection. Inspections results are typically posted online within five business days of the inspection and are available from 2005 to the present. The grade card is explained as the following:

- A grade (Blue card): The establishment has earned between 0 and 10 demerits on their last inspection.
- B grade (Green card): The establishment has earned between 11 and 20 demerits or identical consecutive critical or major violations.
- C grade (Red card): The establishment has earned between 21 and 40 demerits, has identical consecutive critical or major violations, or more than 10 demerits on a 'B' grade re-inspection.
- Notice of Closure (Pink card): The establishment has earned 41 or more demerits, an imminent health hazard requiring closure was cited, or failed a "C" grade re-inspection.

Violations that are considered "good food management practices" are not assigned a demerit value. Critical violations are marked as a five-point demerit and major violations are marked as a three-point demerit. Critical violations are violations that can directly cause foodborne illnesses and major violations are violations that are a contributing factor to the risk of foodborne illness. The assigned demerit values for violations have evolved throughout time. Historically, SNHD has had violations demerits ranging from one up to 10. Over time, SNHD has simplified the scoring system to focus solely on direct risk and contributing factors of foodborne illnesses by removing excessively high six and 10 demerit violations and the one demerit violations associated with "good food management practices."

SNHD's website states that "these records provide a 'snapshot' of the day and time of the inspection. An inspection conducted on any given day may not be representative of the overall, long-term cleanliness of an establishment. The conditions and violations documented during a food establishment inspection may have been corrected since the last date of inspection. New violations may have developed since the last inspection."³

Policy Enforcement

SNHD requires facilities to pay an annual permit or plan review fee.⁴ The department will close a retail food facility that has an imminent health hazard present, has 41 or more demerits, or failed a re-inspection (received a "C" grade). The facility must

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The grade cards include Quick Response (QR) codes that direct users to the health department's website for inspections and an inquiry page that allows consumers to search for a facility's inspection grade, violations, and inspection history.

remain closed until it is re-inspected and approved by SNHD. The operator must correct all major and critical violations, pay the closure fee, and schedule the re-inspection. The results of the re-inspection must show that the establishment passed with 10 demerits or less and have no identical repeat critical or major violations.

SNHD requires the operator to attend a conference with the department's supervisors if the facility receives a "C" grade or is closed more than once during routine inspections. In preparation for the conference, SNHD will review the facility's inspection history and work with the facility operator to develop an action plan to increase compliance. The Department also requires an ongoing non-compliant facility to have certified food protection managers and will increase the frequency of unannounced inspections until the facility shows compliance. SNHD will suspend a facility's permit to operate if the facility receives another "C" grade or is closed during an unannounced inspection within the 12 months following two supervisory conferences. The facility is suspended, pending a permit revocation process in which the facility operator will meet with a hearing officer to plead his or her case. The hearing officer will either permanently revoke their health permit or place conditions on the permit for them to re-open. The re-inspection is announced and in the event that the facility does not pass, it will remain closed. Few facilities reach the stage of the permit revocation process because the supervisory conferences are effective at improving compliance. SNHD's downgrade percentage (any grade lower than an A) has historically been around 9%.

SNHD can also suspend or close a facility at any time if its inspectors decide that it poses a danger to the public's health. In addition, facilities that fail to post the grade card in a conspicuous location may face the penalty of a downgrade and three demerits.

Re-Scoring and Appeal Process

SNHD requires a re-inspection of facilities that receive a "B" or "C" grade to ensure the facility has corrected violations. Within 10 business days of the downgrade (grades lower than "A") inspection, facilities are required to pay applicable fees. SNHD will conduct a re-inspection after 15 business days, as determined by the inspector. However, the operator may also request a re-inspection be conducted sooner if the facility has

made corrections and paid any applicable fees. Failure to pass the re-inspection will lead to an additional downgrade or closure with applicable fees.⁵ In 2014, SNHD conducted 2,928 re-inspections and 22,132 routine announced inspections. SNHD has conducted a consistent number of inspections and re-inspections throughout the years, with the exception of 2013 when it conducted additional audits and inspections for the THINK RISK Initiative (discussed in more detail below).

Operators are also able to appeal the grade without a re-inspection by contacting the environmental health supervisor. The supervisor will review the inspection report and any accompanying documents and photographs. Currently, SNHD does not track the number of appeals submitted, but a cursory review show that appeals are submitted infrequently.

Communication of Food Inspection Summary to the Public

Inspection summary reports are available to the general public through several different venues, including SNHD's website and grade cards.⁶ The grade cards include Quick Response (QR) codes that direct users to the health department's website for inspections and an inquiry page that allows consumers to search for a facility's inspection grade, violations, and inspection history. The health department most recently created a mobile app that allows consumers to learn more about a facility's inspection grades and history.⁷

Policy Formation & Implementation

The SNHD Food Grading Ordinance went into effect before 1989 and predates the SNHD staff that were interviewed. However, SNHD shared details on the revision process, conducted in 2013, to make the inspection and grading process more focused on risk. The process was spearheaded by the department and included public hearings with members of the industry and community.

Barriers in Implementing the Scoring and Grading System

SNHD does not have information about barriers and facilitators when the system was first implemented. A challenge that SNHD

faces now in regards to inspections and the system overall is the high workload of each inspector. By reducing the number of permits per inspector, facilities could be inspected more frequently and more time could be spent educating and building relationships between operators and inspectors. Additionally, geography also limits the number of inspections that an inspector can conduct. Within the jurisdiction, there are several outlying areas that may take inspectors longer to drive to for inspections, ranging from 30 minutes to over two hours one way.

The industry representative noted that there is a large spectrum of facilities, which have varying amounts of resources. Large resorts have more resources to educate their staff on food safety and update kitchen appliances than small businesses. Therefore, industry's perception is that facilities with more resources have the ability to score higher grades. However, SNHD does not have data that suggest that large chain/resorts receive higher grade than "mom-and-pop" facilities.

There are a few facilitators that contribute to the acceptance of the system. One facilitator is that local consumers are knowledgeable about the scoring system and support it because it provides them with information on inspection results. Another facilitator is that the jurisdiction's economy is heavily based on tourism and as a result the area has many large resort properties. In general, the resort properties have food safety policies and highly educated food safety experts who strive to comply with the system. Concurrently, registration of Environmental Health Specialists is mandatory in the state of Nevada. SNHD has rigorous entry-level training and ongoing training of field staff to assure a high level of and up-to-date inspection service to the regulated community.

Controversial Policy Elements

The industry representative stated several concerns about elements of the policy. One concern is that some industry

members believe that inspections represent a "snapshot" of their facility operations and does not reflect their overall operation. However, it should be noted that SNHD is accommodating in conducting quick turn-around re-inspections which allows a facility to correct their violations and be re-graded. In addition, the SNHD communicates this limitation of the grading system to the public by stating that the grade only reflects the state of the facility during the time of inspection. This limitation is communicated on their website and on the grade cards.

Another concern with the policy is that some operators perceive that their grades can be affected by inconsistent inspection practices among inspectors. The industry representative believed that the grading system needs to be objective and science-based, which can be partially addressed by providing uniform training and standardizing inspectors. In addition, the industry representative felt that inspections should focus on foodborne illnesses risk factors instead of the physical upkeep of facilities. SNHD has responded to the industry concerns about uniform inspectors and are working on standardizing inspectors as part of their effort to conform to the Retail Program Standards and revise the inspection process be more risk-based.

Additional Resources, Technical Assistance, or Guidance to Implement Policy

The individuals interviewed did not have information on the additional resources or technical assistance provided when the system was first implemented since it predates their tenure at SNHD. However, they did share information on the resources and guidance provided when changes to the food establishment regulations were approved by the BOH in 2010. SNHD conducted 25 informational sessions and provided training to over 8,000 industry partners over the course of several months before implementing the revised regulations. SNHD conducted onsite training for some of the major resort properties and created online training for those unable to attend in-person. The training included details on the changes made between the old and new regulations. SNHD also created the Food Establishment Resource Library on their website, which hosts handouts, FAQ's, and fact sheets to help facilities comply with the regulations.⁷

Policy Impact & Evaluation

Policy Impact on Nature of Inspections

The SNHD representative believed that since the policy has been in place for years, most industry members do not have a negative view of the system and see the benefits in having the policy. A compliant facility that received an "A" grade is proud to show off their grade and a facility that received a downgrade is quick to respond and fix issues. However, in some cases, SNHD has encountered operators who are solely focused on the grade they will receive during the inspection instead of food safety.



From the industry representative's perspective, the policy provides clear guidance to food operators on the importance of food safety and public health and what the operator needs to do to receive an "A" grade. Industry operators take the receipt of a downgrade seriously and will work hard to not receive one. The industry also views the inspections as a necessary step to achieve compliance with SNHD's policies and not necessarily as an educational experience for their staff. To achieve compliance, some members of the industry will mimic SNHD's field inspections and grading system during in-house inspections and train staff on how to pass an inspection and respond to health inspectors. In addition, some owners and operators may behave defensively during an inspection and will only show the inspectors the operations and areas they want them to see.

Policy Impact on Information-Sharing with Consumers

The SNHD representative believed that the policy has increased consumer awareness of retail food safety inspections and the scores that facilities receive. Over the years, the policy and grade cards have been revised to provide more information to consumers about a facility's inspection score and the meaning of the grade.

The industry representative stated that the policy is important because it increases the consumer's understanding of a facility's inspection grade. To the consumer, a number score may not be as meaningful or relatable as a grade. Consumers are more likely to understand that a facility that receives an "A" grade performed well in their inspection, while a facility that received a "B" grade had more violations.

Media Involvement and Impact

The media provides information to the public regarding the grades that facilities have received. In the past, a local newspaper posted weekly downgrades of selected facilities. One local news station hosts an interactive online map that allows the public to search for facilities and see the grades they received. A few other local news stations highlight facilities weekly in segments that consist of a visit to the facility and an interview with the owner. SNHD is not involved in publicity by the media, nor does it directly provide the media with additional information. The SNHD representative thought that media stories on grades may possibly have a short-term impact on how inspectors, operators, and consumers behave.

The industry representative believed that regular media coverage of inspection results maintains public interest in the grading system. From the standpoint of a large resort, business is heavily influenced by media coverage of the inspection grades because a large portion of their business come from conventions held on their properties. Convention operators pay attention to media coverage of downgrades because it is in their best interest to conduct business at a resort that has received good inspection grades.

Impact of the Food Inspection Scoring and Grading System on Food Safety

SNHD has not conducted an analysis on the impact of the system on food safety within their jurisdiction because they believe it is difficult to measure the prevention of foodborne disease and illness. However, considering their population, the large number of tourists who visit the area, and the large number of meals served in their jurisdiction, the incidence of foodborne illness is low. SNHD used this information to conduct a targeted outreach to the facilities and provided additional food safety education to them.

According to SNHD, the system has had a positive impact on food safety because it provides standard food safety practices to facility operators. In addition, the department has seen operators expedite correction of violations in order to receive a higher grade. They also believe that the grade card serves as a visual food safety reminder to operators.

From the industry representative's perspective, most operators accept the grading system as a measure of good quality food handling and food safety. On a case-by-case basis, some operators believe that the grade is not truly reflective of their overall operation because the inspection only captures their operation during the time of the inspection and because inspection grading varies from inspector to inspector. Therefore, there is a belief among operators that the system would be more effective in impacting food safety and reflecting a facility's overall operation if the inspectors were uniformly trained across the board.

Impacts of System on Consumer, Owner, and Inspector Behavior

According to the industry perspective, the system impacts facilities' decision in budgeting for their establishment. For example, at a resort, receiving an "A" grade is high priority so if





resort operators must decide between fixing plumbing in a guest room or fixing kitchen appliances in a restaurant, they would fix the issues in the restaurant first.

The SNHD representative believed that a facility's business may possibly be affected in the short-term by downgrades. However, as discussed earlier, operators may choose to expedite correction of violations and be re-inspected prior to the 15-day limit to correct violations.

Policy Evaluation and Revision

Since the policy was first implemented, SNHD has revised the regulations, inspection process, and grade cards several times to focus more on foodborne risk factors and be more industry-friendly. In an early version of the grading system, the inspection form that was used prior to 1989, was based on a 118-point grading scale and was not risk-based. In the mid-1990's, the system was revised to a 40-item inspection report with clearer delineations between critical major violations and minor violations. In 2010, the system moved to a 100-point inspection form to mirror the FDA Food Code. In this system, an "A" grade equated to receiving between 90 to 100 points, a "B" grade was 80 to 89 points, a "C" grade was between 60 and 79 points, and a facility was closed if it received 59 points or fewer or if it had an imminent health hazard. The 2010 revisions marked a significant change by expanding the regulation from 47 pages to 187 pages. The first eight chapters of the regulations mirrored the FDA Food Code and chapters 9-15 addressed specific types of permits, such as mobile vendors, catering, and special events. For a time period of one year after the adoption of the 2010 regulation, facilities were not penalized for new items introduced in the regulation at the first routine inspection. Instead, facilities were provided education on these items if they were found to be in violation.

Despite the education provided, there was a marked increase in the downgrade rate in 2012, which led to the 2013 THINK RISK Initiative. The Initiative included a redesign of the inspection report form and an increased focus on the five risk factors that can result in foodborne illness as determined by the Centers for Disease Control (CDC) and the FDA.⁹ (P. 548 of the Food Code Annex provides more information regarding the relationship between CDC's "contributing factors" and FDA's "foodborne illness risk factors." Five of these broad categories of contributing factors directly relate to food safety concerns within retail and food service establishments and are collectively called "foodborne illness risk factors" by the FDA.) For facilities that had potential for all five risk factors (complex food operations), if they earned a "B" or "C" grade at their first routine inspection in 2013, they were provided with a one-time audit inspection that did not penalize them for violations cited. These facilities were then inspected 30 days later. SNHD staff conducted 1,295 audits that consumed 2,351 staff hours, at an average of 1.6 hours per audit. After an evaluation of the audit component of the initiative, SNHD found that audits did not result in a measurable increase in food safety and that the downgrade percentage among these facilities was greater than twice that for facilities overall within that timeframe. The SNHD representative believed that the audit component was not successful in improving food safety because there were no consequences for facilities when they were cited for violations. SNHD has continued the THINK RISK initiative as their standard practice for inspections without the audit inspection component. The system was revised to the current system in 2013, which uses an 87-point inspection form.

In addition to changes to their inspections, SNHD has revised the appearance and information provided on the grade cards throughout the years to increase consumer awareness of the policy. Example of revisions include changing the language on the card to notate that the grade the facility earned is only reflective of the state of the facility on the date and time of inspection. The

Representatives from SNHD recommend that LHDs interested in forming and implementing a scoring and grading system consider several processes, including (1) basing the system on the FDA Food Code and customizing the code to the unique circumstances of each jurisdiction; (2) holding public workshops to generate industry support; (3) providing education and training to inspectors and supervisors on the system; and (4) holding regular meetings with LHD staff and industry members to discuss news or issues regarding the regulations from the operator perspective.

card states, “On this date this facility earned the following grade...” In addition, SNHD added the grading scale on the cards so consumers would be aware of what each grade means and added two QR codes.

One revision to the policy that originated as an idea from an industry member was the addition of a re-inspection fee to facilities that receive a downgrade, instead of increasing the inspection fee for all facilities. Industry members supported charging non-compliant facilities because the health department would spend more time working with the non-compliant facilities.

SNHD has also supported its training and education programs for food safety managers. One change is the addition of a manager-level card to the basic food safety food handler card program. The new level allows the certified food protection managers (CFPM) to obtain a Food Safety Manager card with an expiration date that matches that of their CFPM certificate (good for up to five years). The basic food handler card requires renewal every three years. The department is also moving toward having at least one certified food manager present at a facility. It is currently revising its regulation to align with the 2013 FDA Food Code by requiring facilities that serve open food employ a least one CFPM.

According to industry perspective, no major revisions were made to the system since it was first implemented and the industry views the regulations as strong, but appropriate. The industry and BOH representative believed that the system reflects the FDA Food Code and has kept up with new special processes and variances. The revisions have not caused any major negative response from the industry.

Guidance on Forming and Implementing Scoring, Grading, or Placarding System

Lessons Learned and Recommendations for Health Departments Interested in Scoring, Grading, or Placarding Systems

From their experience, representatives from SNHD recommend that LHDs interested in forming and implementing a scoring and grading system consider several processes, including (1) basing the system on the FDA Food Code and customizing the code to the unique circumstances of each jurisdiction; (2) holding public workshops to generate industry support; (3) providing education and training to inspectors and supervisors on the system; and (4) holding regular meetings with LHD staff and industry members to discuss news or issues regarding the regulations from the operator perspective.

The industry representative believed that a scoring and grading system should be focused on foodborne illness risk factors rather than “floors, walls, and ceilings.” The inspections and grading should be focused on the flow of food and food handling processes. As discussed previously in this case study, industry members would like the system to be science-based and would also support uniform trainings in inspections and grading for all inspectors. In addition, the industry representative believed that it was important for industry members to educate themselves about their jurisdiction’s scoring and grading system. One tool that has been helpful for industry members is SNHD’s online library, Food Establishment Resource Library (FERL). The library helps operators understand the system and, as a result, more facilities will be in compliance with food regulations.

[REPORT]

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FOR MORE INFORMATION, PLEASE CONTACT:

Amy Chang, MS

Program Analyst, Environmental Health
202-507-4221
achang@naccho.org

Jennifer Li, MHS

Senior Director
Environmental Health/Health and Disability
jli@naccho.org

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1100 17th St, NW, 7th Floor Washington, DC 20036

P 202-783-5550 F 202-783-1583

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