

**DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION (DATCP)
PRODUCE SAFETY ADVISORY COUNCIL (PSAC) MEETING**

MINUTES

Date: May 19, 2021

Time: 10:00 am – 12:15 pm

Location: Zoom

DATCP Division: Food and Recreational Safety

Welcome and Introductions

Call to order: Wayne Geist called the meeting to order at **10:00 am**.

Open meeting notice:

This meeting is a public meeting subject to open records requests; that information was posted inviting public comments. Members offered no objection to their comments being recorded.

Introduction of members:

Voting members present include:

Wayne Geist, Wisconsin Apple Growers Association and Bushel and a Peck Market; Chris Fasching, Wescott Agri Products, Inc.; Steve Louis, Oakwood Fruit Farm; Josh Rimmert, Alsum Produce (in place for Derrick Smit); Hsing-Yi Hsieh, Festival Foods; Dan Cornelius, Intertribal Agriculture Council; Jay Ellingson, Kwik Trip; Julie Keown-Bomar, Wisconsin Farmers Union; Susan Quam, Wisconsin Restaurant Association; Jerry Thompson, Wisconsin Tribal Conservation Advisory Council (WTCAC)

Non-voting members present include:

Krystal Martin, DATCP (*ex officio*); Micheal Mosher, DATCP (*ex officio*); Joanna Kahvedjian, DATCP (*ex officio*); Steve Ingham, DATCP (*ex officio*); Troy Sprecker, DATCP (*ex officio*); Amy Millard, DATCP (*ex officio*); Bridget Peck, DATCP (*ex officio*); Michael Barta, DATCP (*ex-officio*)

Voting members not present:

Lavern Zeiset, Plain Communities and Cultures Coordinator; Sara Ecker, Ecker Apples;

Introduction of Guests: Michael Schmitz, DATCP (*ex officio*); Kathy Roach, DATCP (*ex officio*)

Approval of Agenda: Jay moved to approve the agenda, and Steve Louis seconded the motion. With none opposed, the motion was unanimously approved.

Consideration of minutes: Wayne called for a motion to approve the minutes of February 17, 2021. Steve Louis motioned to approve, and Jay seconded it. Hearing no objections, the minutes were approved.

Public Comments: Wayne acknowledged the open meeting and asked if there were any public comments. None were presented.

Council Membership Management

Discussion about welcome and renewal letters from Council

Troy stated that there was a desire for a welcome and renewal letter for the council. Troy recently sent these letters out, and was curious to see if they met the council's request. There was no feedback, so Troy will continue forward with the process.

Term limits in bylaws, possible future recommendations

Troy discussed term limits and bylaws and how they could be clarified. In previous meetings it was discussed if we could look for a presentation on creating bylaws and term limits. Troy stated that the Food Safety Advisory Committee is currently going through this process, and recommends that our group let that committee blaze the trail. We will then bring back some of the findings, incorporated into our template, to present to the council for review. At this point, the template hasn't been formalized yet. Wayne asked if DATCP could present term limits in a graph form. Joanna stated that it is currently in line item form, but can be made as a visual representation for the August meeting.

Agency Reports (DATCP)

Program funding, authority, and inspection coverage

Steve Ingham thanked the entire council for their service to Wisconsin. The produce safety team will hopefully be starting the second 5 year cooperative agreement. Steve started his presentation to talk about position authority. Steve outlined three avenues: first being the biennial budget process which would give DATCP authority for certain positions. As of right now, Krystal's supervisory position is the only position on the produce team that is funded this way. Second, is the joint finance committee process, but this is seldom used in divided government. Lastly, is that DATCP asks the Governor and the Department of Administration for authority to fill federally-funded positions.

Steve then discussed spending authority, which correlates to position authority but expressed by fiscal appropriation. The produce safety team generally lacks spending authority outside of the cooperative agreement funding. The cooperative agreement (also known as the CAP or cooperative agreement program) is a contract signed with the FDA. In this agreement, the FDA defines what the team's objectives are and the team then provides services and "deliverables". Because our current agreement is ending June 30, 2021, we submitted a proposal for another five years.

Steve discussed the definition of General Purpose Revenue (GPR) which originates from tax revenues. This mainly covers expenses like staff, supplies, etc. that are not funded by the FDA cooperative agreement. Program Revenue Funding (PR) comes from entities that are regulated. Currently there is no program revenue funding for the produce program.

Steve explained two types of authority; statutory and regulatory. Steve discussed the existing basis for the produce safety rule authority, which comes from Title 21 US Code "Food and Drugs" and contains provisions of the Food Safety Modernization Act (FSMA) that was signed into federal law. In this authority, it directs FDA to write rules and regulations. Regulations at the federal level are referred to as Code of Federal Regulation (CFR). Within 21 CFR, Chapter 1, Food and Drug Administration,

Department of Health and Human Services, Part 112 is the Produce Safety Rule. This rule is the produce team's guidebook and outlines what and who we are going to be enforcing.

At the state level, the produce safety team does not have a specific produce safety law or regulation. State statutory authority would come from a bill passed by the legislature and signed into law by the Governor. Chapter 93 and 97 provide authority for DATCP-DFRS to do inspections, take samples, etc. However, it does not give us authority to write produce safety rules. State statutory authority would be our permission to write rules, which would be in the Wisconsin Administrative Code. Steve noted that the process of drafting code would easily take two years and involves approval by the DATCP governing board, legislature, and governor. Lastly, inspection authority is the permission or direction to conduct inspections, which our inspectors do under federal authority.

Concerning positions, there are two types that the produce program operates with. The project position is created outside of the permanent position management process and typically created when an agency gets external funding. Currently five of the produce safety team positions are project funded. A permanent position is not directly tied to external funding like project positions are. The supervisor (Krystal) is the only position on the produce safety team that is permanent. That permanent position was established to help DATCP create more sustainable growth within the program. Additionally, because funding is regular, Krystal is able to work in a broader arena than the produce safety rule.

Jay asked what happens if FDA funding would go away. Steve stated that it would be a bad day, and essentially all the positions, except Krystal, would end. FDA would most likely try to find staff to do inspections in Wisconsin. Wayne asked if we know when we'll expect to hear back from FDA on the status of our grant application. Steve stated hopefully before July 1, with Troy agreeing. As a follow up, Wayne asked what our plan is if we don't hear back by then. Steve noted his intent would be to keep people on the payroll.

The next portion of Steve's presentation asked what would be necessary for change. The key is legislation. State law would have to change for DATCP to get position authority, spending authority, and funding. Steve highlighted additionally that from this council, DATCP administration needs everyone to advise the program. This council is not tasked with writing a rule. Steve explained that following the legislative sequence will be very important. Steve also discussed how to create a legislative "ask". In talking with DATCP leadership about desired legislation, the council would need to craft a short, clear request. Our group would need to be able to explain why what we are asking would be better than what currently exists. Additionally, our group would need to be ready for questions around who is going to pay for it and any opposition.

Hsing-Yi stated that she appreciated the lecture. It clarifies a bit of the last few years in the council. She asked if the council can work to help DATCP meet deliverables. She also asked if we have a summary of those deliverables for the next five years. Steve stated that the deliverables include getting inspections done and developing an accurate and complete farm inventory. The goal will be to get a really good understanding of the Wisconsin produce landscape and be sure that those farms who are covered are getting inspected.

Jay asked what the best avenue is for the group as a whole. How do we solidify all positions and get everything nailed down? What is the best long term strategy? Steve said in the short term, the team has to

do a fantastic job at meeting the CAP expectations. Then the council can look at what the team has done and analyze how to “Wisconsinize” it. While DATCP did submit a Specialty Crop Block Grant to get additional funding outside of the cooperative agreement, it is very important that we are not straying from CAP and delivering that. Concerning long term strategies, Steve indicated that legislation is key and if we are going to go to the secretary to discuss need for legislation, we need to be able to articulate our program and change requests clearly.

Funding-request submissions – Specialty Crop Block Grant, FDA Cooperative Agreement

Troy stated that the team will most likely hear back on the Specialty Block Grant starting in November. Our team will be able to share information on the grant. Additionally, it will overlap slightly with the farm inventory by increasing the number of voluntary registrations.

Troy stated that the purpose and objective of the FDA Cooperative Agreement is to establish a produce safety program and rule in Wisconsin. The second five year grant cycle has new primary objectives on covered farms and inspections. Troy discussed the two funding bands. As the group is identifying farms, the team will have to complete 20% annual inspection rate of covered farms. Troy discussed that funding bands are based on the number of verified covered farms and stated how we need final verification for many of the farms because our funding depends on it.

Troy stated that as far as deliverables go, every year we have to update a strategic plan that is specific to the CAP. This outlines education and outreach plans. Troy then discussed the Jurisdictional Self-Assessment, which we will review every six months.

Staffing plans, including introduction of new Supervisor

There are currently five project employees, but one will not be renewed at the beginning of the next grant cycle. The other four project positions will be funded until January 25, 2025. Krystal Martin is partially funded under the program revenue as a permanent, full-time employee. Krystal introduced herself to the group. The group welcomed Krystal.

Inspection Plan Update / Farm Inventory

For the current fiscal year, we need to submit 15 completed inspections to FDA to meet the outlined assignment. We have done four and are on target to complete the remaining 11. The team has done a lot of great work over the last couple of months on the farm inventory. We have redoubled efforts to identify and verify covered farms. Wayne said that he would like DATCP to put together an overview of the program on PowerPoint to introduce the program to the council and anyone that joins during the next project period. The presentation would outline our focus, program structure, and project funding. Hsing-Yi asked about the strategic plan, there was one sent in 2019, but is that the same? Troy said for the next five years there will be a slightly new strategic plan. This will look like a completely new document.

Outreach Update

Mike Mosher provided an update on two recent grower trainings in April for the Plain Community in Platteville and Withee. At the Platteville training, we had 116 participants and nearly 80 at Withee. Mike stated that these were potentially the largest Plain Community grower trainings in the country, and

emphasizes there is a need for more trainings with the Plain Community. The produce team plans to conduct a new training for folks up in western Wisconsin. Lastly, Mike thanked Wisconsin Farmers Union for covering the cost of the certificates, even after the attendance rose way above what was anticipated.

On Farm Readiness Reviews are resuming. The team has 20 planned this year and will probably see 40-60 total by the end of the year. Mike is working with FDA to conduct a biological soil amendment workshop which would be done in person. Mike is looking for a facility in Wisconsin that does their own composting for the training. If anyone knows a facility, please reach out to DATCP.

Mike discussed the NIFA workshops, which will happen outside of tribal territory. WTCAC has letters of support from Wisconsin, Michigan and Minnesota for these trainings. Mike stated that we will continue to support the First Nations in building their program to meet federal standards.

Member Updates and Issues/Further Discussion

Subcommittee Updates

Wayne asked how we can better formulate or structure the work of the subcommittees to meet the deliverables. Wayne stated that for the compliance subcommittee, he was thinking that Krystal could be the lead. Steve also stated that Wisconsin Apple Growers grant applications have been sent out to all growers.

Statute and Rule subcommittee – Julie stated that we haven't had a meeting. Julie updated that the letter she had suggested writing to express concerns regarding the new Traceability rule was not sent since so few members responded to her request. Julie noted that, looking forward, it would be a good idea to evaluate the committee and decipher what is needed in order to address concerns. Additionally, Julie thinks a part of the legislative process will be challenging if there isn't an outcry of concern for it to move forward. Steve said that Julie summed it up well and wondered if the Statute and Rule committee could merge with the Strategic Planning committee.

Outreach and Education subcommittee - Jerry stated that there haven't been any meetings. Jerry stated that they have been busy with many tribes interested in the meat and slaughter initiative. Dan stated he has an exciting update: there has been an immense amount of food coming to tribes and a lot of funding collaborations with USDA to get more. Recently the Intertribal Agriculture Council was awarded \$400,000 to do a tribal elder food box distribution, and had the opportunity to buy from vendors that have it available. That opened up an opportunity to partner and collaborate with growers to accomplish the important work of developing healthy food infrastructure.

Wayne asked if Krystal could take that lead on what the subcommittees should be. Krystal is more than happy to do so, but will defer to Troy. Troy stated that we need to get a one page document that summarizes the purpose and goals of the cooperative agreement. This will help inform what subcommittees could be merged or change in priority.

Summary of Action Items, Person/s Responsible, and Adjourn Meeting

Some of the action items include:

Approved August 18, 2021

- Joanna and Troy to create visual representation of the Council's term limits
- DATCP to complete orientation and program description resource
- Krystal and Troy will put some documentation together for what the landscape would look like late June to help shape the direction of subcommittees. This would tell us what spending authority we have and will list what deliverables it is supporting within the program

Dan said that he is planning three workshops at Silverwood Family Park in August and mid-September. Dan will reach out to Mike Mosher to share information and details.

Adjourn

Dan Cornelius motioned to adjourn the meeting, Hsing-Yi seconded the motion. With none opposed, the motion was approved at **11:41 am**.