

CONSISTENT HEALTH CODE ENFORCEMENT? YOU BET!

I started my day early, boarding a plane knowing that after a full day of flying and meetings I would eventually end up in the gambling capital of the world later that evening – Las Vegas. Now, I am not a big gambler. It seems that every time I place a bet, I lose. This is probably a good thing, as losing consistently makes it hard for me to even envision the possibility of winning at the tables and likely has saved me a lot of money over the years. But despite my limited affection for betting, recently I have found myself spending more and more time at the tables gambling – the drafting table, that is.

Go Fish!

In the game of poker, as is the case with many other card games, a key aspect of the game's strategy is to anticipate or determine the cards held by the other players. This is even the case with some of the most basic card games, like "Go Fish" which I play with my six-year-old son. "Do you have any Twos," he may ask. "Go Fish," I respond. Why do I bring this up? Because designing kitchens for restaurants, hotels, country clubs, universities, health care facilities, and other such facilities these days to comply with local health departments often resembles a game of "Go Fish." It has become very difficult to anticipate the requirements of the local health inspector.

Code compliance seems like it should be something that is pretty cut and dry, but this is unfortunately not the case. I am not even talking about the differences in code requirements from one jurisdiction to another. Rather, I am focusing on interpretation of the code which is often left to the individual inspector at the local level, and can result in inconsistent enforcement. This may not be the case all of the time, but it does seem to be a growing problem that can impact the design process and, in the end, the owner's bottom line. While our designs comply with the FDA regulations, interpretations at the local level have become the "X" factor, more frequently resulting in additional costs to the owner and construction delays.

A Sinking Feeling

So, why am I fired up about this? Well, let me give you a few tangible examples. First let's look at the required locations for a hand sink, which should be relatively simple to figure out. In my experience, however, there is little consistency in the enforcement of hand sink locations. The code talks about hand sinks needing to be "readily accessible" but what does that mean? The way the code is drafted leads to a variety of interpretations. Some say that there needs to be a hand sink, generally speaking, within twenty feet of a food handling area. Others, however, have told me that it is fifteen feet, not twenty feet. On one project, the inspector's review revealed that we were short five hand sinks in a restaurant kitchen of about 1,800 square feet. This did not include the seven hand sinks that had already been provided. By the time the restaurant opened, there were more hand sinks than kitchen staff. Seriously.

In another instance, I had a hand sink strategically located between two adjacent areas in a hotel kitchen. These two areas were split by a walkway. Upon review, the inspector determined that the aisle would be subject to significant traffic (even though it was not a primary access in the kitchen), and therefore the single hand sink was not "readily accessible" to both areas. In the inspector's opinion, the "constant traffic" would deter the culinary staff from washing their hands as frequently as was required. Based on this interpretation, the owner was forced to provide two hand sinks, one on either side of the aisle – just five feet apart.

In yet another hand sink interpretation conflict, I had what I believed to be a sufficient number of hand sinks for a restaurant kitchen, all with fifteen feet or less of the prep areas. The comments following this submission, however, revealed that not only did this inspector want the hand sinks to be "readily accessible," but they also had to be within a clear, unobstructed line of sight from anywhere within the food preparation areas. In one instance, a hand sink was only 24" from a cooking line, but, in the inspector's opinion, did not comply because it was around a corner and not visible from all of the food preparation area. This was yet another interpretation of the code which resulted in a cost

impact to the owner. Hand sinks were relocated and added to meet the demands of the inspector.

What Else is in the Cards?

These types of instances are by no means limited to hand sinks. There are plenty of other examples. Upon submitting an outside bar for approval, I was recently informed by one particular inspector that three compartment sinks were no longer permitted in outside bars. Surprised by this new regulation, I called the state's main office to confirm the requirement, only to receive differing feedback from two different officials. Finally, I reached the head of the department who confirmed the new ban. She could not, however, point me to a single document that identified this new regulation. After inquiring why a method for sanitizing wares in a remote location had been prohibited, I learned that the ban resulted from a concern about keeping the three compartment sink sanitary in an outdoor environment. The health department officials were worried that bugs and vermin might contaminate the very vessel that was intended to sanitize glasses, plates, and utensils. The concern seemed reasonable, but the resolution was short sighted.

"Instead of eliminating a three compartment sink, why not require that all three compartment sinks located outside have covers when not in use," I inquired. This code interpretation would also have impacts elsewhere in a foodservice establishment. If the three compartment sink was banned outdoors, what about the hand sink? Isn't the hand sink also designed to sanitize? And then there was the impact on inside bars. Some inspectors have indicated that a dish machine is sufficient within a bar area, while others have required a three (or four) compartment sink. But if the three compartment sink was not required outside, why would it be required inside? My line of questioning was not well received. These are the inconsistencies which leave owners and designers baffled.

The challenges in meeting the expectations of an inspector are not limited to the design phase. A client of ours who recently opened a central catering

commissary ran into problems with his local health official during an opening inspection. The commissary was designed with three dish machines and an oversized three compartment sink – plenty of capacity to clean, rinse, and sanitize the soiled wares that would be produced. During the inspection, however, it was revealed that one of the purveyor supplied dish machines was not reaching the proper temperature. The inspector threatened to fail the owner because of the problems with this one dish machine, despite the fact that the other machines were working just fine. The owner even offered to disable the machine so that no one could use it, but that was not good enough for the inspector – at least initially. With a full slate of catering events over the next three days, the owner was over a barrel. He begged and pleaded, and eventually the inspector allowed him to open, provided that the machine was disabled until it was repaired. With sufficient ware washing capacity elsewhere in the same facility, why was this even an issue?

We Are All on the Same Team

There are countless other examples I can share, but this installment is already running long. It is my belief that the inspectors, owners, designers, and contractors are all on the same team. We all want the same thing – to ensure that foodservice facilities are developed to best protect the interests of the general public. In some instances, the codes are ambiguous. In other instances, interpretations by the inspectors are just that – interpretations. What we need is consistency based in practical, real-world scenarios. It would be advantageous for the health inspectors to set up an advisory panel comprised of foodservice operators. This would have several important benefits, including operator buy-in and input, which in turn would lead to better understanding and application of the principles behind the codes. Until that time, I will be at the table gambling – the drafting table, that is – to figure out what is in the inspector's hand.