

## **Appendix F**

Public Comments 1-22

Association Comments 23-28

- Northwest Sanitarians' Association
- Recommended Structure and Content of Montana's Cottage Foods Program
- Montana Environmental Health Association (MEHA)
- MEHA House Bill 630 Guiding Principles
- Missoula City-County Health Department
- Montana Public Health Association

## **Written Public Comments (Names have been removed from non-group comments)**

### **Comment 1**

Good Morning, Thank you for your time at the Bozeman meeting on Monday. I am happy to see people trying to make sense of current regulations and working to promote local food business. I have spent 3 years trying to make sense of the regulations regarding chicken processing on a small scale as relates to the usda 1000 bird exemption and have received so many conflicting interpretations that it has been extremely frustrating. In your attempt to work through the rules and regulations trying to interpret and streamline them I hope you can resolve this issue as the current regulatory regime is blocking an entire **local food industry that has great public support from existing at all.**

### **Comment 2**

Please note that the information in the following is from the MONTANA DEPARTMENT OF AGRICULTURE FARMERS MARKETS FACT SHEET last modified on February 04, 2014 and the MONTANA CODE ANNOTATED 2013 76-2-902 Definitions.

The Farmers Markets fact sheet reads that Vendors selling honey directly to customers at a Farmers Market or roadside stand are EXEMPT from state licensing requirements. This, like I referenced to in the above paragraph, is the modified document that was dated February 04, of 2014.

Under #2 of the MONTANA CODE ANNOTATED 2013 "COMMERCIAL PRODUCTION OF FARM PRODUCTS it clearly states that if you grow, raise or market plants or animals and you gross income of not less than \$1500 that occurs on land that is classified as agricultural or forest land for taxation purposes that the term includes but is not limited to (l) apiaries among others. We are registered with the state and for tax purposes honeybee apiaries are agricultural farm products.

We purchase FOOD GRADE containers that are sterilized from a well known manufacturing company. We do NOT need to have a Commercial kitchen, because we do NOT cook, heat or use water to market our product. We DO label and place RAW stickers on the containers. It would be like the vegetables that come out of the ground would need a commercial kitchen also...honeybees do the making of raw honey, not the beekeeper..... we as beekeepers harvest the honey. We are just the caretakers of them(which by the way takes lots of time, energy, and money)

The farmers market here in Kalispell, MT will open on the 19th of April 2014 leaving very limited time to get this issue rectified.

Thanks for your time on this very important matter.

### **Comment 3**

We appreciate this valuable opportunity to comment on Montana's Food Safety Regulations. As a food producer we recognize this comment period to be a unique opportunity to voice our needs and wishes in order to more clearly and effectively run our business.

We are a Montana owned and operated beekeeping business. We provide Pollination Services to farmers and produce Honey. We are commenting on the "Streamlining State Food Regulations" with the hope that Food Safety Laws will be changed to more accurately apply to Honey production in Montana. We believe that currently as the food regulations are written they are not practical for the day to day practices of a Honey producer. Because honey is an extracted raw agricultural product with inherent safe properties it is unlike other food categories. We would like to see a specific section in the food laws for Honey. This section could include definitions for "Pure Honey", "Raw", "Packaged", "Prepare, "Prepares", "Prepared", "Unprocessed" and "Processed".

Currently according to the Montana Department of Health under the Food Safety Laws a "Wholesale food manufacturing establishment" does not include "producers or harvesters of raw and unprocessed farm products" (MCA 50-57-102). In the "Food Safety Laws and Rules" there is almost no specific mention of Honey or a definition for unprocessed. This is problematic since Honey does not accurately fit into the definitions presented in the "Food Safety Laws and Rules" for other food products. This leads to conflicting information as one tries to piece together the regulations that may apply to Honey. For example, Honey is considered a "Raw Agricultural Commodity" (MCA 50-31-103) yet we are told by the Flathead County Health Department we are a "Wholesale food manufacturing establishment" which according to definition does not include "raw and unprocessed farm products".

In August of 2012 the Center for Food Safety and Applied Nutrition, Food and Drug Administration and the U.S. Dept. of Health and Human Services published a Qualitative Risk Assessment for low risk farm food products. Identified in the report as a low risk food is Honey. We feel that this type of designation is more accurate and demonstrates that Honey as a uniquely safe food.

Managing Honey Bees is an agricultural endeavor. Many agricultural crops in Montana require pollination by Honey Bees. The pollination results in the desired crop yield for farmers. The bi-product of pollination is Honey. Among Montana consumers Honey is a desired and sought after product. Most Honey consumers prefer local honey as much as possible. Distribution of Montana produced Honey to Montana consumers can be beneficial to both the agriculture industry and consumers in Montana. Properties of Honey include high sugar content, moderate acidity, as well as being antimicrobial. Honey is widely regarded as a safe wholesome pure food. Considering these factors it seems justifiable if not obligatory for the state to define food regulation specifically pertaining to Honey or to exempt Honey from any regulatory requirements.

Once again we appreciate this opportunity.

#### **Comment 4**

I would like to see a new regulation whereby if I have a restaurant in one county I can cater to another county.

Case in point: I have a restaurant in Park City and I was told by Riverstone Health that I could cater to Yellowstone county because I was just 6 miles outside Yellowstone county all I needed was to pay for the county health certificate, but after I had already signed the lease I was told by Riverstone Health that I would not be able to cater into Yellowstone county because I was in Stillwater county. The only way was for me to have a place in Yellowstone county or have a mobile unit.

The law needs to be changed. I should be able to cater anywhere in the state. I am issued a state health certificate aren't we?

#2 The other has to do with paying the fee. When I opened the café I paid the full price in November and then had to turn around and pay it again in January. Why? Because licenses run from January to December rather than running from when I started the café.

#### **Comment 5**

I would like to make a comment on the issue of raw milk. I supported HB570, Small Herd Exemption, and would hope it is reintroduced next session. Here are the points that I feel are essential to this bill:

-- Consumers have the right to buy food products from local vendors, including raw dairy products such as milk and cheese (Consumers have the "right" to drink alcohol and smoke cigarettes, known to cause major health problems and death. It is illogical to allow this and prohibit the sale of raw milk products. Is it an issue of the consumers' "rights" or is it an industry driven device to limit local competition in the dairy industry, or an issue of public safety?)

--Dairyman wishing to sell raw dairy products should be licensed or certified by the State, specifically to determine herd health and the sanitary conditions of milk collection and storage

--In order for consumers to make informed decisions about the raw dairy products, herd health and sanitary facility certificates should be posted and easily accessible.

In short, as a consumer I would like to have the right to buy raw milk and milk products for my personal use. As a raw milk provider, I would want to know if my herd was healthy and my facility and milk handling was safe. I would want to know this so that I could assure customers that the herd and the facility has met basic health standards. If one were to argue that this is the current regulations and includes pasteurization, I would argue that a non-pasteurized standard should be established. For example, if a pasteurization standard allows for pathogens to be 10K parts per million, that same standard should be applied to non-pasteurized milk as well. I am not aware of a non-pasteurized standard in the dairy industry. (Can non-pasteurized milk products be regulated by its own merit?

#### **Comment 6**

As there was some confusion concerning the Bozeman meeting, (I am sorry I missed it) I am writing you directly to let you know about who Gallatin Valley Botanical is. I'm sure any rules you come up with at the State level will affect my operation. Briefly, I own and operate a 12 acre vegetable farm with my wife Jacy. We now hire 2 folks full time year round, and another 8 to 9 full time for the 6 month growing season. We started farming in 2003 and market directly to consumers via CSA (25%) and farmers markets (8%), to restaurants (40%), and to wholesale (22%). We grow a very diverse array of vegetables and gross roughly 250k, almost half of which goes to labor, and the rest is poured back into the place in various places. Five years from now, we'd like to have doubled our production acreage and gross revenue. There is a lot of cash flow and we are proud to be a part of our local economy. We do it because we love it and can not imagine doing anything else. We have been able to grow to this level partly because of the lack of interest by the state and the federal governments.

We have been providing safe and healthy certified organic produce to our customers for 11 years now, and food safety is a major concern with our operation, more and more every year. When we first started out, (1 acre, and about \$5k savings on rented land) the gallatin county sanitarian handed us the booklet to create a certified

kitchen. We discarded it as much of it was not applicable to direct marketing, and the rest of it was contradictory to making a living. Overkill and stifling. We do believe that at the level we are now at, we are not opposed to and may be able to afford some regulation about how we wash and pack our produce, but please make this a participatory process for us. Because of the low profit margins involved, for those just getting started and on a small scale, much in the way of mandatory facilities for washing/packing will be a deal breaker and financially prohibitive to grow their businesses. I would suggest a sliding scale of regulation that pertains to who the produce is sold to (direct CSA and farmers markets, scaling up to restaurant and wholesale marketing) and how much the farm is grossing (\$0-\$5000, backyard growers; \$5000 to \$25000 getting started; \$25000 to \$150,000, serious grower; and \$150000 and up, professional). Just some ball park, off the cuff estimates from my perspective.

Also, the regulation needs to come in one neat package for cottage industries.

What needs to be included? Water testing. Wash/pack facilities. Refrigeration (All scales of growers need refrigeration). Farmer and Employee education concerning hand washing and safe handling practices. I'm sure more, but the more basic, the better.

How is this to be paid for? We growers in Mt do not generally have the scale of production, the migrant labor, or luxury of a year round growing season to help make our produce farms profitable. We scrape by. Fees might need to be phased in. Perhaps the regs could be voluntary for a number of years to get feedback from the farmers and from the microbiologists and from the regulating agency.

Also, life and health are not guaranteed. It is full of joys and pitfalls. Risk can never be mitigated to zero. I'd hate to live in that boring world. This all needs to be reasonable. Diverse farms have healthy, diverse soil microbiota, and grow the healthiest most nutritious vegetables in the world. Sterilizing the fields and growing under plastic with distilled water and hydroponics is a health nightmare waiting to happen. Just like the over use of antibiotics and over sanitizing of our hands is proving.

Wash up! Eat a little dirt! It keeps us healthy!

#### **Comment 7**

I attended the morning portion of the meeting in Bozeman and while I didn't have a comment at that time, I do now.

I would like to strongly encourage the legislature to consider either participating in the new USDA Cooperative Interstate Shipment (CIS) Program for meat and poultry or, alternatively, to approve meat plant operations under the provisions of the Talmadge-Aiken Federal State Cooperative Act of 1962. Either of these programs would allow small, state inspected, meat processors, such as ours, to sell and ship our products outside the state border. Presently, except for certain exempt categories, the interstate sale and distribution of non-USDA inspected Montana processed meat and poultry is strictly prohibited.

As a point of competitive interest, North Dakota entered the CIS program last year.

#### **Comment 8**

I couldn't make it to the Missoula meeting but do have a comment. I read the comments that Angie said were brought up at the meeting but some of them seemed to skate around the subject so I'm going to say this as blunt as I can.

We own and operate a food business where we manufacture low acid foods. We had to attend a special course at WSU and become certified to continue to cook our products. People that produce salsa's, BBQ sauces and any type of pickled products are all supposed to go through this certification which is a Federal law. I can't tell you how many vendors we have seen in our 13 years of business who are selling these types of food and don't have the certification (we ask). It makes me angry because we spent the money and made the time to do the right thing and so many people don't. There is a huge breakdown between Federal regulations and State or City. i.e. The Sanatarians don't feel they should police this regulation because it is a Federal provision. I think a "hotline" should be set up where vendors could leave a message that someone might need to be checked out to see if they have been certified to process low acid foods. Also, you have to register your products on a Federal data base and be audited by the FDA every other year for your processing records. We feel that this is such an important issue and should be addressed. I would be glad to help in any way I can regarding this issue.

#### **Comment 9**

Thank you for the opportunity in participating in the Billings session, this forum was very informative especially for small innovative companies trying to remain compliant of new by-laws

Thank you for your sharing your expertise.

#### **Comment 10**

I saw your name in an article about cottage food in the Bozeman Chronicle of Jan 13th. I think you will find the article at the link to be interesting. And, the article mentions two resources that I think you will find interesting: <http://www.goodeggs.com/> and the Sustainable Economics Law Center, which has a web site. You might note the role the internet is playing in marketing cottage food.

(My son lives in Eureka, MT, and he and I have been watching developments re cottage food.)

#### **Comment 11**

I would like to give my support of the "cottage food" movement or industry, HB 630. I would like to be able to buy meat, eggs, milk, vegetables, jams, pies, etc from local providers. I live within 3 miles of multiple ranchers and believe it should be legal for them to sell products too me, and for me to buy it legally.

I know as with all issues there are proponents and opponents. So I'm sure it isn't a 10 minute conversation but I also know that other states are doing it and it works! States such as Vermont have built an entire industry by letting individuals run a small business and either succeed or fail. I don't believe it should be done unchecked but it also shouldn't have so many hurdles that it can't be done,

certifications, testing, licensing, taxing etc. Some sort of simplified streamlined approach as anyone in the food industry would follow. It must be safe but not smothering.

Montana prides itself on it's history of agriculture, let's support that. Let's find a way for the people of our great state to eat food that we can trace back to the field!

Thanks and please work hard to make this a reality.

### **Comment 12**

On behalf of the Montana Co-op members, our input is about creating a more collaborative effort with the government in meeting the values of the people.

Process: Survey the people and find out what they need and help create action steps that meet our goals as a state of people in cooperation.

We would like to share with you our survey we performed with 400 regional responses (MSO, Kalispell, Ronan, Polson, etc.), and our plans of growing and producing more of our own local healthy food. We were involved in the Polson Heart & Soul Project in Polson, MT that took our community through a process of discovering the peoples values and developing actions steps out of those values. I chaired the committee that coordinated 19 neighborhood gatherings (each with 3 hr. meeting and local food dinner).

So, once you know what the people want, then work to create or change regulations that benefit those needs. This often means thinking outside the box on solutions. Whatever regulation issue is causing the problem, additional safety measures could be implemented.

What we can you do to assist local businesses and individuals to make our state food laws work more effectively is become a hands-on partner in the immediate need of strengthening our local food economy.

### **Comment 13**

I have now specific comment for the new Food Regulations, but in general I have found that amongst the farmers and ranches looking to serve the local markets in Montana, many of them are looking as ways to develop small scale processing and value added operations on their farm or at congregate facilities. So many are excited to hear that the State is working on good and clear rules to provide opportunities for small scale producers to be allowed to produce or process products for local markets. As you may remember, I teach multifunctional agriculture in the Flathead and now also in Lake County, Missoula and the Bitterroot (about 50 Montana farmers and ranches have been engaged in the classes so far); the trends are the same across the board.

Be it a cottage food law, or another set of rules, people want to find ways to produce or process foods in small scale affordable settings; especially regarding processing of fruit or vegetables for chutneys, jams, etc.

At the same time, people are realistic about the use for rule to safeguard food safety. Especially when meat or eggs are involved.

So that is what I hear.

Good luck on that.

Are people also working on rules to include farm based activities in the assumption of risks scheme, like rafting and rock climbing companies are?

#### **Comment 14**

In regards to HB630 I would like to see Montana adopt food rules, regulations, and guides on producing non-traditional sources of protein such as insects.

I was encouraged to see the United Nations promoting insect production as a source of sustainable protein. It's wise for Montana to take a proactive stance on encouraging it's citizens to look at all forms of farming as a way of encouraging economic growth that has high returns and low environmental impact. I can imagine the problems if people tried to produce and sell without any guidelines..

Links to supporting data:

<http://www.un.org/apps/news/story.asp?NewsID=44886#.Ut8ckhYQGM4>

<http://news.nationalgeographic.com/news/2013/13/130514-edible-insects-entomophagy-science-food-bugs-beetles/>

<http://www.neontommy.com/news/2014/01/will-america-embrace-insect-eating>

Best regards and thanks for doing what you do.

#### **Comment 15**

Thank you for the opportunity to comment on the Montana food laws as assigned by House Bill 630. The Northern Plains Resource Council is a grassroots family farmer and rancher organization that works to protect the water, air and unique quality of life. One of our particular interests is the success of family farmers and ranchers, and the importance of agriculture to our state and rural economies. One issue of particular interest is interstate meat shipment, an opportunity that was authorized in the 2008 Farm Bill, and USDA issued final rules in 2011. Since that time, only Ohio has been approved to participate in the program.

Meat and poultry products from 38 foreign countries can be shipped and sold anywhere in the United States. State inspection programs undergo annual audits on more than 125 pages of compliance procedures. By comparison, USDA's audit document for evaluating foreign inspection systems is a one-page checklist. By streamlining our state inspection process, local businesses will be afforded the opportunity to access bigger markets.



Under the new program, USDA will designate a federal employee as a state coordinator for each state agency that has a state meat or poultry inspection program. Although the meat and poultry are inspected by state-employed inspectors, the federally-employed state coordinator will oversee the training and inspection activities of state agency personnel, assure that meat and poultry processing plants are in full compliance with the Federal Meat Inspection Act and the Poultry Products Inspection Act, and report to USDA on the status of the processing operations. USDA is required to reimburse the states for at least 60% of the costs related to inspection of the meat and poultry processors selected for the new inspection program.

In Montana, we are waiting for our state to come up rules on how we will comply with federal Cooperative Meat Shipment. Currently this law is logistically not feasible. Many processors have shown great interest in this opportunity but current hurdles make it impossible for them to consider this. In Montana, as we understand the language, the law would require both Federal and State inspectors to be present for inspections, which would make the state inspectors moot. Also, once a processor is signed up for this program, if they want out, there is no option to return to a simple state inspected plant. Instead, they must become federally inspected. Among these few instances are several other obstacles in the law that could be simplified while still maintaining the high safety standards of the state inspection program.

Thanks again for taking the time to hear some of our hopes for a successful interstate meat shipment program in Montana.

Sincerely,

Northern Plains Resource Council, Ag Task Force

#### **Comment 16**

In my capacity as the Executive Director for the Association of Montana Public Health Officials (AMPHO), please accept the following comments relative to H.B. 630, which established the Montana Food Policy Modernization Project. AMPHO is a leadership and policy development organization composed of City-County Health Officials representing departments of all sizes from across the state.

AMPHO contributed to the development and passage of H.B. 630 during the 2013 legislative session and has also provided testimony on numerous food safety bills over the years. We are encouraged by the opportunity that H.B. 630 offers to help provide consistency, simplification, and modernization in this area. The Public Health and Safety of Montanans and visitors to the state should be the first priority as potential changes to MCA 50-50 are considered. We believe this priority can be met while at the same time assuring opportunities for the business community as the cottage food industry continues to expand.

AMPHO has met regularly over the past several months with the Montana Environmental Health Association (MEHA) and the Montana Public Health Association (MPHA) to build unified feedback within

the public health community regarding food safety. As such, AMPHO fully endorses the guiding principles submitted by MEHA and would encourage their adoption.

Specific to the Cottage Food industry, AMPHO concurs with the comments submitted by MPHA and MEHA on the following points:

- The health and safety of Montana residents and visitors needs to remain first and foremost
- The best available scientific research must be utilized
- The Farmer's Market standards and cottage food standards need to be combined for simplification
- The Department of Public Health and Human Services should be allowed to develop rules regarding cottage food operation
- Cottage food rules should include:
  - o Annual registration with a regulatory authority (with an associated fee)
  - o No high-risk foods, procedures or packaging
  - o Clear labeling indicating that food was not produced in a licensed facility
  - o Required food safety training
  - o Limiting of sales to public events
  - o Allow the regulatory authority the right to inspect and investigate as needed

Please contact me with any questions. Please also add me to the H.B. 630 interested parties list and let me know if I can be of any assistance throughout the remainder of the interim legislative process.

Sincerely

Erin McGowan Fincham  
AMPHO Executive Director

#### **Comment 17**

I'd like to comment on the food safety laws. I am the food service manager at a small critical access hospital in SW Montana. We have been purchasing a variety of foods for use in our hospital kitchen for 7 years now. I purchase the bulk of our products from Sysco and FSA, but reserve an average of 25% of our food dollar for Montana produced foods. I also try to prioritize products from our tri-county area Park, Sweet Grass and Gallatin. I know that some of the food service managers at CAHs in other counties are unable or unwilling to purchase from anyone other than their commercial food service vendor such as Sysco for fear of food safety violations. Some don't think they have the authority to purchase from producers other than their primary vendors d/t constraints from their administration, their county

sanitarians or some may be bound by contracts from their primary vendors. I think we have been so successful at LHC b/c my administration and my county sanitarian allows me the autonomy to purchase from whomever I choose knowing that the risk falls on me to make sure my staff follow appropriate food handling practices with all food purchased. If the food service manager or director does not have the autonomy or authority to purchase food locally, this could be a major barrier.

#### **Comment 18**

I read in the Missoulian where you are taking public comment about food regulations. I feel strongly that there needs to be some major changes in the regulations. It is getting so bad that many community organizations, who are often made up of volunteers, cannot offer food at any gathering or event unless it comes from a licensed caterer, or go through some lengthy, expensive process that drains the vitality and efforts of the community. Time and time again we are told we can't serve food at any of our functions without all the red tape, hassle, and expense. I have lived all my life in the country (60 + years) and have until recent years enjoyed many healthy, delicious potluck meals, community spaghetti dinner fundraisers for a worthy cause, chuck wagon cookouts, etc. Now it seems we can't do anything without a lot of hassle. In our small rural community it seems ludicrous that we have to bring in an outside food caterer at great expense when the area is full of great cooks willing to volunteer to throw a delicious meal together for a worthy cause or fundraiser. Get somebody with a bit of common sense to re-write the regulations.

#### **Comment 19**

I know this will not fly with the super clean crowd who have prevented us from attaining childhood and adolescent immunities by preventing us from coming in contact with germs early in life.

But this thing about wearing gloves while serving or handling food has gone overboard. Education and common sense has been replaced by regulations.

When we were slicing bologna in the 50th , we used a paper to hold under the cuttings and stacked them without ever touching a slice, I still hold on to using paper towels when handling solid foods and never touch the product. I see slices handled individually and stacked on the pile albeit with gloves, which have touched the wrapping and boxes. Now I am required to use gloves and on exhibitions and have to have a hand washing facility within my booth when serving samples.

The use of hand sanitizer is more convenient and sanitary than gloves which can touch any surface and then handle food the next moment. This is done mostly subconsciously, if you watch food handlers. Using paper towels makes you definitely more aware of your touch.

Some of the regulations are enforced even at times when they are not necessary or not appropriate. Like washing your hands, and then--- drying them on a contaminated towel.

To have a regulation that the served food is not to be touched in unsanitary ways, should suffice , rather than micromanaging every aspect of food preparation.

This is just to vent my frustration Thanks for reading

#### **Comment 20**

When I first got involved as a manufacturer of a food product, I had no idea what would be required. I jumped through all the hoops, use a commercial kitchen that I rent, which is much less clean than my home kitchen, and did everything the state required. There were long delays in all processes regarding state licensing, and becoming a certified organic producer. Making the application process simpler, and offering a more concise guideline for new manufacturers would be very helpful. In the case of licensing, I am thankful I went through that process since it allowed me to be involved in some shows, etc. that would not have allowed me entrance without it. I also think getting established as a new product is often more difficult than people imagine.

I have completed HACCP training, because I wanted to be sure the product I was offering was up to safety standards, and am very glad some of the current controls are in place, because of my own consumption of foods.

I am unhappy when I see other producers working and still in business, yet not following label requirements, etc. Some of the requirements I think are justified, others not so much.

I am glad I introduced a new product in Montana, since there are lots of entities in place to help assist with growth and education for new producers. My sister started up a business in Michigan at the same time, where the state is much less helpful and is already not doing business.

#### **Comment 21**

Montana is home to many small local farms. This is good. More small local farmers are also getting into growing. This is also good.

With more and more Montana grown crops, fruit and vegetables transported across the state to be sold in another county, it would be beneficial that any modernization establish a statewide approach. Fruit, crops and produce grown in one county in Montana should be under a consistent modernization standard as those grown in another county.

Thank you for your consideration and your service to the great people of the state of Montana. Please feel free to contact me if you have questions

The Following Comments were included as pdfs and are included as well

#### **Comment 22 – (by phone summarized)**

Please make sure any label that is used for cottage food makes clear no inspection took place and include a warning to eat at your own risk.

**Comment 23- Northwest Montana Sanitarians Association**

**Comment 24- Northwest Montana Sanitarians Association Recommendations**

**Comment 25- Montana Environmental Health Association**

**Comment 26- Montana Environmental Health Association Guiding Principles**

**Comment 27- Missoula City-County Health Department**

**Comment 28- Montana Public Health Associations**