

**HB 630--First Advisory Committee Meeting 11/21/2013**

[Incorporate by reference the meeting agenda created by Joan Miles]

On phone: Joe Russell, Health Officer for Flathead County; Lynne Paul representing the MSU extension service; Shantil Siapera - MT Assn. of Counties.

Advisory Committee members and Agency representatives are introduced.

Committee members in attendance – (in addition to Joe Russell and Dr. Paul on the phone)

Laurel Riek  
Corrine Rose  
Stephanie Potts  
Jan Tusick  
Shorty Hofer  
Joe Waldner  
Andy Hunthausen  
Jim Hart

Committee members absent –

Brent Sarchet  
Brad Griffin  
Dave Prather

Agency representatives in attendance:

Health – Jane Smilie, Shannon McDonald, Jim Murphy, Melissa Tuemmler, Jeff Havens  
Agriculture – Joel Clairmont, Cort Jensen, Collin Watters, Nancy Matheson  
Livestock – Gary Hamel  
Office of the Attorney General – Chuck Munson

Meeting facilitator/consultant:

Joan Miles

AGR = Department of Agriculture  
DOL = Department of Livestock  
PHHS = Department of Public Health and Human Services

We start by reviewing the responsibilities this group has under HB 630. We have to submit a report to the legislative economic affairs committee in May. Outside of that responsibility, Joan suggests we consider a longer-term effort to create a food safety/food business council with a variety of individuals from the stakeholder organizations, producers, state agencies and business people.

Cort gives us a summary of HB 630. There were a number of food related bills this past session and this is reflective of a nationwide trend. States have been reviewing their respective food laws as the federal regulatory landscape changes and consumers desire more local food.

Rep. Williams proposed a study bill—HB 630—but she wanted to make it somewhat unique to other study bills. She assigned responsibilities to the affected departments to come up with a report and recommendations for the committee’s use. Differing duties have been assigned by this bill. The bill direct an evaluation of potential changes in MT law and regulations that would run parallel to compliance with the food modernization act, consideration of the propriety of a cottage food law, and an assessment of the availability of commercial kitchens for use by community members. Any other inconsistencies and inefficiencies in MT food law (broad provision) that are identified are meant to be addressed. Public meetings will start in January. The law puts responsibilities on DOL, AGR and PHHS.

### **“Farm to Fork” food system progression –**

We distribute Joe Russell’s visual—it is a diagram called ‘Farm to Fork.’ [incorporate by reference]

To ground ourselves on the regulatory framework in Montana, we go over the diagram that traces the movement of food from ‘farm to fork.’ The diagram shows a food continuum and we identify agencies that are a part of regulation at each stopover for food product along the continuum. There are different pathways into this continuum.

**Farm level:** DOL, AGR, FED

**Post farm transport:** FED, State and Fed transportation, DOL, AGR

**Processing:** DOL (meat processing, milk), AGR (any commodity buyer, grains, oilseeds, pulses, produce) FED under the food modernization act, FDA (milling, PHHS can do contract work for FDA), AGR (feed).

**Post processing transport to warehouse:** FED, State and Fed transportation, DOL, AGR. PHHS gets involved in food truck accidents, and local health is implicated as well.

**Storage/Warehouse site:** DOL inspects and licenses meat depots; FEDs (USDA meat), PHHS.

**Post storage transport:** FED, State and Fed transportation

**The consumer markets:** primarily PHHS and local health departments; except for grading of produce where AGR does that at the supermarket—however, grading relates to consumer quality concerns, not consumer safety. We are reminded that there are markets that are exempt, for example, bake sales and many of the farmers market participants.

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Moving along from the diagram, Joan focuses the group on the day’s agenda.

Joan suggests that farm to market logistics is a complicated topic, which is why we need to work together.

Jan Tusick comments that there is a big responsibility on consumers to practice safe food handling themselves, and that this is unregulated, likely can’t be regulated, but one of the most important levels in Joe’s ‘farm to fork’ continuum. Nobody disagrees; however, it is also suggested that consumers have a certain expectation of safety when they purchase food. The local food movement is a direct response

to the anonymity of the modern food marketplace, and we need to update our regulations to reflect this consumer demand.

A comment on farmers markets is made stating it is easy for produce dealers to sell out of state produce. It is suggested that in-state producers are doing what they can to follow our MT rules, but folks that bring in the out-of-state produce don't have the same level of responsibility and safety concerns and this is an area that exposes the state population to a potential outbreak.

It is suggested that eggs are a good "example commodity" to track farm to table outbreaks. The evidence with eggs is plentiful.

PHHS points out that localized outbreaks are much harder to ID than large, national outbreaks.

On a related note, at Mission Mountain Food Enterprise Center (MMFEC), Jan T. says that the local, state and feds often inspect that facility. Over time, her observation is that these entities are not in communication with each other as to that facility. This doesn't seem like a logical way to regulate, she suggests.

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\*Steering committee members took some time to talk about what they've done to date.

Joan reviewed the landscape of the law, regs and agency collaboration. [Incorporate by reference the overview of priority issues and project goals worksheet]. In that document, the state agencies involved aligned on the priority issues to be addressed, create "HAL" (health, ag and livestock collaboration), and work together to complete the HB630 project.

- Farmer's Markets regulations are very confusing because it is all by exemption
- Cottage Foods – not produced in commercial kitchens/home-cooking entering commercial stream. If legislation proposed - need to address where made, where sold, what, how much, fees/licensures.

The state DPHHS writes the rules, trains the local sanitarians, and processes licenses for food establishments. It is at the county level that the licenses are either substantively approved or denied. What is difficult for merchants is when they see different rules in different counties, but that is the nature of the jurisdiction in MT currently. It is suggested that there could be a better effort to get a uniform interpretation of similar laws, rules and regs. One way to do that would be to enhance the State's effort in encouraging more uniform interpretation by ongoing training of local sanitarians.

At the county level, no rules or regs can be *less* stringent than the state rules and regs. They can be more stringent if that rule or regulation is adequately justified.

It is suggested that not even the "experts in the room" know where the specific differences lie in county to county regulations that exist at the county level. (Gallatin, Missoula and Flathead counties each has

its own food safety regulations; Cascade has some minimal local regulations; unknown if other counties have local regulations.)

Jan T. brings up the example of Flathead Cheese manufacturer that is licensed by DOL. They sell all over Flathead Co., and Lake Co., but cannot sell in Missoula Co. It is suggested by PHHS that if they obtained a retail license they could sell anywhere. However, Jan suggests that we look at the creation of opportunities in the state for a small business like the Flathead Co. Cheese manufacturer. One of the big areas of “need” here is farmers markets. One of the goals here is to simplify the regulations where one can both manufacture and sell, without having to obtain multiple licenses. PHHS says that we should be careful what we wish for (this could require significant uniform requirements and licenses for all involved in the food business – even very small or limited businesses), but Jan reminds the group that part of our task is to simplify and help producers and businesses tap into market opportunities. Having a streamlined process in licensure for cottage food manufacturers who want to sell products in a direct market needs to be explored.

Joe asks about the committee’s awareness of who oversees farmers markets, community to community. It seems there isn’t much awareness because it is different in many of the communities. In order to technically benefit from exemptions, the law requires that the farmers market be an officially recognized farmers market.

Farmers market—codified in MCA §50-50

Everybody agrees that MT needs a cottage food law, separate from the existing laws. We would need to define cottage food, who can produce cottage food, where, how much, how they did it. Also, fees and license fees can be separated without disregarding the licensure requirement.

There may be some tension with allowing too much freedom to cottage food industry when there are a lot of restaurants and retailers who do go through the trouble to get licensed. We should maintain that awareness.

Another confusing area is the PHHS and DOL effort on the 1,000 bird poultry exemption. There was a federal exemption adopted by DOL. However, when one went to try and sell an “exempt bird” at retail, the interpretation was that the bird’s meat was not inspected from an approved source. Perhaps the law can be changed to assume the inspections have been occurred. PHHS thinks this can be cleared up by a collaborative effort underway with DOL. The suggestion is made that this group is not going to be dealing with the bird exemptions.

Poultry Growers Coop in the state is asking Jan Tusick many questions—she would like more clarity.

In the CFR, there are requirements for potentially exempt poultry producers. However, DOL doesn’t think it is clear enough on the levels of cleanliness. There needs to be some clarification in a MT ARM on how the exemptions will be interpreted. We do want to have this as a committee effort on the HB630 team. (Do we have more conclusions on this issue and how it is to be resolved?)

Pre-break we discuss what’s to come in the meeting:

- Food Safety Modernization Act (FSMA): the rules are out for produce, facilities, import, feed and AGR will be monitoring closely to tell the committee how to address its mandate to update state rules and regs to reflect FSMA requirements.
  - Discuss specific information requested in the bill regarding commercial kitchens and extent to which home kitchens can be used to prepare foods for public consumption.
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Post break—

PHHS reviews ongoing efforts to improve implementation of Montana’s food safety laws outside of HB630 efforts. (These are summarized in the overview of priority issues and project goals document attached to these notes.)

We move to an open discussion for the participants to chime in on what they want to highlight.

Public meetings: Jan. 9, Missoula, Jan. 21, Billings public meetings will be at the extension offices in both communities. We may go to BZN library as well, but no dates. How do we advertise the meetings and what do we ask for? (*Note – Bozeman has been set up for Monday, Jan. 13 at the Public Library*)

- We want to encourage regulated folks to participate, including food businesses and growers. Most everyone agrees that the purpose of the meeting should be open comment. Informal written comments will be encouraged from statewide stakeholders. Concerns and perspectives of food laws and issues and obstacles for farmers, ranchers, and local food businesses doing business in Montana.
- How will we set up a comment forum? Online?
- AGR PIO may write something for a newspaper?
- We will likely announce the week after black Friday.
- Also, we need to look into a webinar for these events to provide remote accessibility.

Discussion then turned to the King amendment to Farm Bill—the group needs to read the amendment and be aware of its impact on 630 and ongoing efforts. For interstate commerce, it just expressly preempts state laws that are more stringent than the federal laws for products that are in interstate commerce. Northern Ag network is going to do some promotion.

The suggestion was made that we include the tribes in the HB 630 discussion. Perhaps involve a tribal sanitarian and an IHS sanitarian. Lynne P. can provide us with a contact list for the tribes’ sanitarians. CSKT may be a good partner to bring in the fold of the committee.

Melissa T. talks about a survey of ‘community based commercial kitchens’ the PHHS recently did. They were looking at the relative availability of local commercial kitchens and their use in MT. They have information on licensed and unlicensed public kitchens. Relative availability of a commercial kitchen that is open and *usable* by the public to get a product to market is very low in MT. There is one in Ronan, one in Billings, and a small facility in Missoula. According to the survey, however, there is some type of facility that may be used by the public like a commercial kitchen in 37 counties, and maybe more.

We need to define a commercial kitchen because right now, there is no consistent definition.

Next steps: PHHS will analyze more of what they found out about licensed kitchens available to the public. We will also meet again after the public meetings. We need to set up a drop box for our materials—Cort will figure something out. Lynne suggests that we define “cottage foods” as well. She thinks a clear understanding of the terminology we are using is important and that we need to come up with a common agreement on definitions. The steering committee should have a call with Rep. Williams to help shape definitions that will ultimately be commonly used by the advisory committee. Joan will get in contact with Rep. Williams. Definitions are key for the Economic Affairs Committee.

Also, follow up on tribal representation on Advisory Committee.

Next meeting will be scheduled following the public meetings.