

Local Food Advisory Committee

September 17, 2018

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| <p>Present:</p> <p>Carrie Rigdon, MDA Alex Cortes, MDA Val Gamble, MDA Annalisa Hultberg, U of MN Extension Natasha Hedin, MDA Nora Shields-Cutler, MDH Jodi Burke, MDA Lolly Occhino, AURI Stephanie Heim, U of MN Extension Anne Sawyer, U of MN Extension Megan O'Hara, Interfaith Power & Light Wayne Martin, U of MN Extension Eric Wilson, The Food Group Jane Jewett, U of MN MISA Lillian Otieno, MDA Emily Reno, U of MN student Taryn Phaneuf, journalist Lisa Wetzel, MDA Brett Olson, Renewing the Countryside Mike Lilja, Sustainable Farming Association Jennifer Stepes, MDA Amanda Karls, Public Health Law Center</p> | <p>Present by phone:</p> <p>Suzanne Driessen, U of MN Extension Jerry Smith, MDH Thom Petersen, MN Farmers Union Lauri Clements, Olmsted County Public Health Kathy Zeman, MN Farmers' Market Association</p> |
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Mythology of Local Food: Beliefs that it is Not Safe, Not Legal

Stephanie Heim

Nearly everyone working on local food – farm to school, farm to grocery store, etc. – has a story about encountering statements that local food is not safe or not legal or both. Where is this coming from?

- Maybe partly from the information provided to food service workers in the past
- Hannah Colby, a SHIP coordinator in Aitkin County, gave a presentation at the MN School Nutrition Association about the farm to school program in Aitkin County. Part of the presentation was about legality of local food. All of the questions from the audience were about the legality part.
- This is a chronic barrier to local food. Food service doesn't have the time to figure out the legalities; they just take the easy route of buying off the distributor truck.
- Some distributors send messages to their buyers that make the buyers believe it's not legal for them to buy local food.

How to address the mythology that local food is not safe and not legal?

- Lauri Clements had some conversation with Jim Topie and Sarah Leach about information provided to inspectors.
 - Jim Topie is now doing the training for new sanitarians at MDH.
 - Local food has been a topic for the Food Safety Partnership, and could be again.
- Kathy Zeman noted that before the farmers' market aggregation model could move forward, we had 18 months of wandering in the wilderness before we could get everyone together and agree on the legality of the model.
 - We have decades of incorrect information to overcome. We need an intervention with everyone in the same room – including buyers.
- The top levels of both MDA and MDH need to be involved or we'll waste a lot of time.
 - Even after all the work on the aggregation model, those involved still had to work with inspectors and supervisors who weren't familiar with the model and had to be educated by higher-level staff.
 - Change needs to come from leadership. Olmsted County saw this: some inspectors on their staff were consistently telling food facilities to buy from major distributors, and the supervisor had to re-train them to tell food facilities that local food is legal to buy.
 - There is a lot of turnover in both inspection staff and food service staff, so training has to happen continuously.
 - If someone isn't getting along with their inspector, asking for a new inspector usually doesn't work. The agencies won't re-assign staff because of personality conflicts. Education and working it out is necessary.
 - There's a power differential between the sanitarian and the food service staff. Fear of challenging or questioning authority is one reason why LFAC started in the first place.
 - Schools and other food & beverage service are regulated by Health, while the sources of local food are regulated by Ag. When an MDH or delegated authority regulator of food & beverage service is asked about local produce, they don't regulate the source so they are not comfortable with it.

- There is now a Cottage Food registration card that Cottage Food producers can show to prove they are registered. Could we have a Product of the Farm registration card?
 - Does MDA do facility inspection of Product of the Farm processing?
 - Consultation with MDA is recommended. Maybe an on-site visit is warranted, and maybe not.
 - Both retail and wholesale food safety program administrators are okay with inspectors doing consultation re: facilities and requirements with farmers selling product of the farm.
 - An inspector always leaves some kind of report, so if a farmer gets an inspection, they will have documentation of it.
- Information about legality of local food is included in MDA trainings. Can MDA do cross-training with MDH?
 - Conversations do cross over between MDA and MDH, but it does get confusing for regulators.
- Is the Department of Education involved in providing information to schools about legality of local food?
 - The MN Dept of Education does a “weekly minute” to provide information to schools. Contact Megan LeClair about including local food information.

Food Regulatory Training for Local Food Leaders in Counties

Jane Jewett, Kathy Zeman

Showed the slide set about local food regulations created for the MN School Nutrition Association presentation. This is being adapted for future purposes, including the SARE-PDP grant that will fund MISA, Renewing the Countryside, and MN Farmers’ Market Association to do workshops about local food regulations in every county in Minnesota.

- Question about honey and product of the farm status:
 - The hive is the “farm” for the honey producer.
 - Hives owned by a honey producer and located on a host farm are still the “farm” of the honey producer, not the host farmer. The host farm owner can’t sell the honey as product of their farm, unless the host farmer is leasing the hives and in control of the management of the hives.
 - Commingled honey from multiple locations is still product of the farm for the honey producer who owns the hives that were placed in the locations.
 - Commingled honey from multiple honey producers would not be product of the farm. A honey seller who commingles honey from other producers would need to be licensed.
- Question about Current Good Manufacturing Practices (CGMPs) for processing and packaging of foods. What if a home kitchen meets CGMPs?
 - This is a tricky area because home kitchens are being defined as not food facilities.
 - A kitchen in or attached to a private residence needs to be physically separate from living quarters, must have a separate entrance, and not be used for personal family

cooking, in order to be used for licensed food processing or product of the farm food processing.

- Add a slide about donated venison. Donated venison can go only to a food bank, food shelf, or feeding program. It cannot go to a food facility.
- What about wild foraging of foods other than mushrooms?
 - This is minimally regulated.
 - There isn't much in statute to fall back on.
 - No license is needed if the foraging happens on the forager's own property. License and possibly other permitting is needed to forage and sell food from other public or private property.
- Question about farmers selling shell eggs to institutional buyers. There's a registration form for small-flock producers, but no stamp on the product like there is for inspected meat.
 - It's good if farmers can get educated on the requirements for storage and transport of shell eggs, and the registration is the way MDA can get in touch with egg producers to do that.
 - There's no requirement for the registration, so if a potential buyer contacts the MDA to ask about a farmer who wants to supply eggs, there may not be anything the MDA can tell them. This is a potential barrier to local egg sales.
- Megan O'Hara suggested doing a webinar about legality of local food, featuring school food service directors like Carrie Franks (Dover-Eyota) and Bertrand Weber (Minneapolis). It could be a conversation about local food between food service directors who know how to source it.
 - Funding could be available for this
 - Olmsted County has a video specialist who might be able to help
 - Maybe the Farm to School Leadership Team could coordinate the webinar
 - Need to include small schools that do their own purchasing directly from farmers
 - A video featuring key people from MDA and MDH would be really helpful for schools.
- Fact sheets from MISA, MFMA, MDA, and MDH will be included in binders and flash drives of resources for people in counties. We need to make sure materials are up to date.
 - Two triggers for updating fact sheets: 1) General schedule of updating; 2) Legislative change.
 - MDH's Special Event Food Stand fact sheet is being revised right now.
 - Annual review would be ideal. Is that feasible? Funding is an issue.
 - Errors and omissions that are discovered could be revised at any time.

2019 Legislative Session

- Agencies are currently in the "Cone of Silence."
- MFMA and MFU can push legislative priorities.
- Funding for meat processing? There is always demand from existing meat processing plants to have more inspector staffing, but at this point the MDA Dairy & Meat Inspection program isn't saying no to any new plants.
 - The number of Equal-To inspected plants has stayed pretty stable at 55 to 60 plants for the past 5 to 10 years.
 - Custom-exempt plant numbers have remained stable also.

- MDA isn't seeing demand for multiple shifts at its inspected plants. That isn't the way the Equal-To inspection program works.
- There are seasonal and part-time meat processors that the MDA tries to accommodate with inspection services.
- It's easier to add extra processing days than extra slaughter days.
- The metro area and I-94 corridor are the main locations for inspected plants. SW and NE MN have very little processing capacity. Processors have to build up a clientele in order to have a viable business.
- Poultry processing has to have its own space or time, separate from red meat processing. Equal-To poultry processing is seasonal in MN.
- MDA Dairy & Meat still doesn't have the 50% match for inspections from the USDA, but there are some positive changes that are speeding up the process of getting funds from USDA.

New MDA Website

Lisa Wetzel

MDA's new website is more focused on the website user's experience. MDA divisions tend to be fragmented. In the past each division put all of its information up in its own spot, so related topics from different divisions weren't found together. The new website organization is more topical.

- Lisa Wetzel and Natasha Hedin have editor privileges. If any broken links or errors are found, send that information to Lisa or Natasha.
 - The website is meant to be a living document, so updating will be ongoing.
 - The Food & Feed Safety Division will be making more updates in the future to its online material.
- Why are Food and Feed together in the MDA structure?
 - The federal Food Safety Modernization Act views these with a similar lens.
 - There is a lot of connection between food makers and pet food makers.
- Data on MDA website usage showed that one of the most popular areas was the Venison Donation Program. That is now easy to find on the MDA website.
 - Meat processing plants in the Venison Donation Program have to register every year to be in it. Before starting, the plant has to contact the MDA directly and receive training before getting the application to join the program.
- Noted that there is no heading for Livestock on the MDA home page. MDA regulates meat processing and sales, but doesn't really regulation livestock directly. Livestock are regulated by the Board of Animal Health. Livestock production systems are regulated by the MN Pollution Control Agency and county-level regulation of feedlots.
- Links from U of MN websites to MDA website all need to be updated.
- We could also do a walk-through of Extension's new website at a future LFAC meeting.
- The MDA's Food Licensing Wizard is in the updating process. It's currently being translated into Hmong, Somali, and Spanish. Contact Natasha Hedin for more information about the Wizard.
 - Question: Are videos included in the Wizard? Not now; there are written or audio versions of the questions.

Honey and Maple Syrup Sales

- Maple syrup production must follow basic CGMP requirements, found in 21 Code of Federal Regulations 110 and 117; but not 21 CFR 117 Subpart C, which is about HACCP plans.
 - Maple syrup producers might need to be registered with FDA for processing, packaging, and holding activities.
 - Maple syrup producers might fall under the Bioterrorism Act.
- Raw honey must meet the standard of identity
- Labeling: both honey and maple syrup must be labeled
 - A notice on honey labels that honey should not be fed to infants under 12 months of age is recommended, but not required.
- Does an anti-foaming agent used in maple syrup production “count” as an off-farm ingredient, taking maple syrup out of product of the farm status?
 - It’s a processing aid; analogous to pan release for baked items, a vegetable oil coating on meat grinding or cutting equipment, or sanitizer used in washing of raw vegetables or on food contact surfaces.
 - Whether it counts as an off-farm ingredient would depend on what the anti-foaming agent is and whether it remains in the finished product.
 - Organic maple syrup producers used to use organic butter as an anti-foaming agent. Now they use organic safflower oil.
- Some maple syrup producers are commingling sap from multiple sources. That would be a licensed situation, not product of the farm.
- Are there any laws regulating honey production?
 - Sanitation of honey houses is covered in MN Rules Chapter 1550.

Food Donation

Lisa Wetzel, Sarah Leach

There is a draft document that received a lot of good input from reviewers last November. It should be able to get finished in February or March. The older document will be removed from the MDH website on January 1, when the new Food Code becomes effective.

Food Code Update

Sarah Leach

The new Food Code has been adopted!

- This won’t change licensing. The process of getting a license is in statute.
- The Minnesota Food Code is in Minnesota Rules Chapter 4626. The Food Code is about implementation of food safety statutes and federal law at the retail level.

- The Food Safety Partnership is holding webinars and pushing out information about the new Food Code.
- The revision process will start again in February 2019. The FDA revises the Food Code every four years. Minnesota is going to try to get on the same schedule.

Variations from Food Code

Amanda Karls

The Public Health Law Center (PHLC) at Mitchell-Hamline Law School is working on a resource to help food businesses navigate the process of getting a variance from the Food Code.

- A variance is official permission to deviate from what the Code says
- PHLC gets lots of questions about sampling of food; particularly from food shelves that want to do cooking demonstrations but don't have the triple-wash sinks or other types of equipment required for restaurants.
 - M.S. 28A.151, the Food Sampling Law, allows for sampling at a "community event." Could that cover food shelves?
 - What could MDA do in the way of defining the meaning of "community event?"
 - Could there be a license for food sampling at a lower cost than a regular food & beverage service license? It could relieve one burden, to have a less-expensive option for getting a license.
 - Carrie Rigdon noted there are a couple of legal definitions involved: "Community Event" and "regularly engaged in the business of selling food."
 - Recommended that PHLC get in touch with Carrie to talk about this.
 - MFMA requested to stay in the loop on anything that touches food sampling law or the definition of a community event.
- Food shelf operators are afraid to reach out and push boundaries; they are not sure what would happen if they do something wrong and don't want to jeopardize their service to the community.
 - Eric Wilson from The Food Group verified that there is a lot of gleaned produce they don't take because they can't cut it up and offer samples to get their clients familiar with it.
 - The Food Group works with a commercial kitchen to make soup out of gleaned vegetables, and sells or distributes the frozen soup.
 - Can The Food Group serve the soup as samples? They don't do it because they're not sure.
- There are also other areas of the Food Code where variances can help food businesses. PHLC is in an exploratory process to find out what the needs are. There are a lot of questions that need answers from regulators.
- Dispelling myths about donated food is a whole other conversation.

Hemp Products in Food

Questions have come up from individuals who grow hemp under Minnesota's industrial hemp program. The markets for the crop are very limited; people are looking at value-added options.

- Can people sell hemp-infused essential oils?
- Can hemp oil be added to Cottage Food items?

There are a variety of legal issues.

- Food safety – products from hemp seed are allowed if there is no detectible tetrahydrocannabinol (THC) or cannibidiol (CBD) in the product.
 - FDA ruling that THC and CBD are regulated drug products, and considered drug additives if present in food. The FDA ruling prevents presence of either of these substances in dietary supplements or food.
<https://www.fda.gov/newsevents/publichealthfocus/ucm421168.htm>
 - Anything containing THC or CBD is considered a drug. If a medicinal product contains these substances, then it is only legal if sold by one of the two licensed medical cannabis companies in MN.
 - MDA is looking into a broad range of issues around hemp. We need to get answers from a broader suite of agencies before allowing hemp products in Cottage Food or other food.

AURI has expertise in Minnesota's industrial hemp initiative and hemp value chain.

- There will be a hemp panel at the Food | Ag | Ideas Week in October, featuring MDA's Industrial Hemp Program director.
- Hemp oil from seeds typically does not contain CBD. CBD oil is pressed from the flowers.
- Processing can reduce CBD. A Canadian processor has a hemp oil listed as GRAS (generally recognized as safe.)
- Lolly Occhino noted that marijuana and industrial hemp are not the same. Industrial hemp has very low threshold limits for THC in order to be defined as "industrial hemp."
 - Industrial hemp in MN has to be tested. If it has greater than the allowed amount of THC, it has to be destroyed. If it tests in the allowed range for THC, it should be allowed to be used in food, right?
 - The MDA doesn't want to get ahead of itself on declarations re: hemp in food. It is studying the issue.
 - Takeaway for farmers' markets: hemp products would be okay in edibles if there is no THC or CBD.
 - "No detectible level" of THC or CBD is a poor standard because test sensitivity is a moving target. That is why there is a defined threshold for allowed level of these substances in industrial hemp.
 - What about beauty products that are not ingested? We don't know.

- CBD has lots of purported health benefits. CBD is being marketed as a “supplement,” so that’s how people are getting around the restrictions.
[but see FDA ruling on dietary supplements containing THC or CBD:
https://www.fda.gov/newsevents/publichealthfocus/ucm421168.htm#dietary_supplements]
- Some food products are already being sold; for example, whole hemp hearts for addition to cereal.
- Who should convene a working group about regulations for hemp in food products?
 - MDA is already working with the State Pharmaceutical Board.
 - AURI and MDA’s Industrial Hemp program should be involved.

Food Innovation Team

Natasha Hedin

The Food Innovation Team (FIT) is now established as an active subcommittee of the Food Safety and Defense Task Force (FSDTF.) FIT and FSDTF meet on the same day; FIT in the morning and FSDTF in the afternoon. The FIT team will officially meet for the first time on September 20. There are 8 members, each serving 2-year terms.

Objective: Untangle difficult food licensing issues.

How is FIT different from LFAC? To some degree that remains to be seen. FIT will focus pretty narrowly on specific difficult licensing cases. LFAC can take a broader look at local food systems and float ideas that aren’t necessarily tied to specific cases.