

**Food Innovation Team
Meeting Minutes
March 15, 2022**

Today's meeting was held via Microsoft Teams.

Members present included: Jane Grimsbo Jewett, Shelley Erickson, Joe Jurusik, Lolly Occhino, Noelle Harden, Jodie Burke, Jane Knott

Visitors present included: Amy Illg (ND Dept. of Health), Julie Wagendorf (ND Dept. of Health) Bjorn Solberg (Red River Harvest Cooperative), Alida Sorenson (MDA), Natasha Hedin (MDA)

The meeting started at 9:00 a.m.

1. Upcoming Dates

The next Food Innovation Team (FIT) Meeting will be Tuesday, May 17th via Microsoft Teams.

2. Welcome and Acceptance of November Meeting Minutes

The January meeting minutes were accepted without edits.

3. Case Review – Red River Harvest Cooperative – Presented by Bjorn Solberg (Vice President of the Board; Director of Wholesale Operations)

- Bjorn pointed participants to their cooperative website for more information: www.redriverharvest.com.
- He also shared the administrative email for any communications or inquiries: admin@redriverharvest.com. The Red River Harvest Cooperative (RRHC) is a food producers' cooperative in the Fargo-Moorhead area. Existing on the border presents some regulatory challenges. This case is like the cross-border Wisconsin/Minnesota case we heard last year.
- The goal of the RRHC is to bring together local food producers to create an online food marketplace. Customers from MN and ND can shop online for a variety of items that are then consolidated in a facility in ND and brought to a pick-up site (delivery is also available). RRHC technically takes ownership of the product in this process during the consolidation process. They are insured as a coop and require producers to have insurance, too. Products sold currently include meat, produce, soap, yarn, etc. from local producers.

Cottage Food

Bjorn was seeking out more details re: selling cottage food over state borders or as a part of the cooperative. Cottage food products are not currently sold as a part of the cooperative. The regulatory representatives specified that cottage food must be sold from the producer directly to the consumer with no middleman – this is the case in both ND and MN. Additionally, cottage food operators in ND cannot cross state lines (in accordance with NDCC 23-09.5-02-03). The only way they can sell products in MN would be under a MN Cottage Food registration with a production location in MN. Honey may be considered a cottage food product in ND; however, it is also considered a raw agriculture commodity (i.e., remove the wax seal and spin the honey out of the honeycomb, then bottle the honey on the farm). Honey is under “product of the farm/garden” licensing exclusion in MN. The “transaction” taking place in ND is handing off the product, not the payment.

ACTION ITEM: ND will further research honey and whether honey producers need a license to sell through the coop. ND follows similar guidelines as the FDA for food processing of honey whereas licensing is not required if extracted and bottled on the farm. If further processed, such as

pasteurization, added ingredients, whipped, etc., then a food processing license would be required for products that are wholesaled. If further processing occurred and the product was sold at retail, direct to the end consumer, then it would be viewed as a cottage food and no license would be required. However, cottage foods cannot be sold over state lines or wholesaled. The operator should call the NDDoH Food and Lodging for license requirements 701.328.1291 or email foodandlodging@nd.gov.

ACTION ITEM: Bjorn can reach out to Shelley Erickson with any questions about Cottage Food in MN at 612-385-1356 or shelley.erickson@yahoo.com.

Eggs

Currently the RRHC is not repackaging any eggs for farmers, they are maintaining each farmer's ownership and integrity of the packages of eggs. The coop is facilitating the order, payment, aggregation, and delivery of products. In ND, eggs may be sold directly from the consumer, either off the farm or at a farmers' market. Eggs sold to consumer through institutions or via retail must be licensed by the ND Dept. of Agriculture. Candling, grading, and packaging of eggs in MN requires a license if done by an entity other than the farmer.

ACTION ITEM: ND will check with their Dept. of Agriculture on more details around an egg license. If not regulated by the FDA, egg dealers can contact the NDDA with any questions about what sales are allowed under the license. Call 701.328.2231 or 1.800.242.7535 or email ndda@nd.gov. In general, ND will accept a MN egg dealer license for point of sale and deliveries into ND. It would be up to MN to decide whether they would accept an ND egg dealer license.

Licensing of the RRHC. The coop was working under regulatory discretion for aggregation during COVID and was told that they didn't need a license. They were not aware that this exemption for aggregation was no longer in effect.

ACTION ITEM: Bjorn to work with Jodie on acquiring a Retail Food License for operations taking place in MN at the Moorhead facility (mda.foodlicensingliaison@state.mn.us).

ACTION ITEM: Work with Fargo-Cass if looking to get a license for a location or vehicle in Fargo or West Fargo.

Produce

In ND, whole, unprocessed fruits or vegetables that are harvested at the stalk are not regulated if exempt from federal FSMA produce safety rule and provided produce is not adulterated or misbranded. In MN, produce would fall under the "products of the farm/garden" licensing exclusion. As long as there are not any added "off-farm" ingredients, produce would meet this definition. Produce in MN can be processed (frozen, cut up, etc.) and still fall under this licensing exclusion.

Follow-up with ND:

Question: Does ND state law accept processed fruit and vegetables grown and processed in MN to be received in ND and then sold as cottage food in ND?

Answer: No this is prohibited by law.

Question: Can a ND licensed retail food store or food service establishment accept processed produce from MN for use or sale to the end consumer?

Answer: This wholesaled product must come from a licensed food processor; either state or federal.

Dairy

Bjorn mentioned one company, Cows and Company Creamery, which is looking into milk and cheese crossing state lines. In order for these items to be sold in MN, they need to meet dairy requirements and be considered an approved source. These would not be “product of farm/garden” exempt because they contain other ingredients sourced off the farm. The operator located in ND should contact NDDA with questions about milk and other dairy products and ensure proper licensing.

ACTION ITEM: Bjorn should reach out to the MDA dairy program at:

<https://www.mda.state.mn.us/food-feed/dairy-plants> to inquire about requirements for dairy products.

Alcohol

An off-sale liquor license would be required from the Department of Public Safety in MN.

Meat.

In ND, in order to sell meat by the package, it must come from a USDA or State inspected facility. In MN if off-farm ingredients are added, the producer would need a license in MN (typically a Retail Food Handler license) to sell to the coop or at a farmers’ market.

ACTION ITEM: ND will reach out to Meat Program within ND Dept. of Agriculture to discuss the difference between retail vs. wholesale and what is required for licensing. All meat producers should call NDDA to determine what laws apply to them or if any exemptions apply. In general, only USDA-stamped meat products can cross into ND for point of sale or deliveries.

ACTION ITEM: If a meat producer is selling to the coop rather than directly to the customer, what type of meat licensing would they need. The meat producer should call NDDA to determine what laws apply for wholesaling and what, if any, exemptions apply. In general, producers located in ND and processing meat in ND, either state- or USDA-marked and inspected products, can be sold at retail in ND. Retail is limited to the site for which it is processed. The coop would need to be licensed for retail meat to process inspected meat further. Otherwise, meat products must be pass-through only, i.e., not removed from marked and labeled packages.

Follow-up with ND:

In ND if meat is sold, the animal must be slaughtered under federal or state inspection. The coop must receive fully inspected meat, at which point the coop can sell as it is packaged, or they can further process it.

- A producer cannot sell/donate meat (direct to the consumer or to a coop) unless it was slaughtered AND processed under inspection.
- Custom exempt – live animals are sold and the resulting meat must go to the owner of the animal. The coop cannot receive, with intent to sell, anything that is not previously inspected.
- In ND a facility that sells meat directly to the end consumer, may process meat and sell it without inspection, if they are licensed by the ND Department of Health and the meat came in as fully inspected.

Raw Milk. In ND, no restrictions on advertisements. Sales of raw milk can only take place under cow shares. In MN, raw milk sales can only happen on-farm.

4. Administrative – Review of FIT Documents

Comments from Blake Nordin (absent, FIT Member) were shared with the group.

I will not be able to attend the FIT committee meeting on March 15th, but I wanted to let everyone know my thoughts on the proposed SOP changes. I know the committee will be voting on these changes on Tuesday and I wanted everyone to know that I am not in favor of the changes. As you know, the FIT committee was created to help answer questions and assist Food Business Owners (FBOs) in navigating Minnesota's food licensing and regulatory environment. The FIT website states, "However, some FBOs may encounter challenges in licensing, or in situations of exclusion or exemption from licensing, due to a number of factors that may or may not be easily resolved without assistance". The proposed language in 7.2.1.1 opens it up so any licensing situation at all can be brought to the FIT committee and while it may be interesting, it's not why the committee was formed. I propose the following language change:

7.2.1.1 When an FBO has been working with the licensing agency and has encountered a barrier to licensing, or to operating with an exemption or exclusion from licensing, that has not been able to be resolved through regular channels, the FBO may submit a request to the FFSD Director or their designee to convene FIT to review the case in an attempt to clarify regulatory requirements and assist in identifying potential resolutions.

The SOP is being reviewed again to address comments and approve or edit suggested changes.

- Background Section: No issues
- Definition Section:
 - o Add in full statements for the Tennessen and Exclusion of Liability
 - o Make sure "non-binding review" language is in all other documents
- Responsibilities Section:
 - o Update the FIT Chair to be in sentence format versus bulleted.
- Procedure Section:
 - o Several FIT members supported Blake's proposed language and the emphasis that a business should be given a chance to first work with the regulatory agency. If there is still an issue, they should be referred to FIT as a case.
 - o There was some concern around the term "regular channels".

The SOP discussion had to be cut short due to time. The group agreed to holding a special meeting in April to continue the discussion so the SOP could be updated and shared by the May FSDTF meeting.

✓ **ACTION ITEM:** Natasha will identify a date for the next meeting after surveying FIT members.

5. Potential agenda items for May

- None currently