



## **Montana Department of Public Health and Human Services' Cottage Food Rules: Don't Miss Your Opportunity to Submit Comments**

The 2015 Montana Legislature passed [House Bill 478](#) which, among other things, allowed for cottage food production in Montana. This means that small home-based producers can make and sell products such as jams, jellies, baked goods, dry mixes, and other “not potentially hazardous” food products. Under the legislation, cottage food producers have to register with their local county health departments and pay a fee; however, their operations do not require an inspection unless a problem is reported. The bill also included instructions on how cottage food products would need to be labeled.

House Bill 478 charged the Montana Department of Public Health and Human Services (DPHHS) with drafting further rules to ensure cottage food is implemented in a safe way, while making sure the rules are consistent with the legislative intent of the bill. At the end of July 2013, the department [published the rules](#) it is considering adopting.

### **What's In the Rules?**

- List of “Approved Cottage Food Products” (NEW RULE III)
- Example of how cottage food products must be labeled (NEW RULE IV)
- List of health and cleanliness standards for cottage food producers (NEW RULES V-VII)
- Guidelines for the manufacturing of cottage food products (NEW RULE VIII)
- Registration process for cottage food operations (NEW RULE IX)

### **Areas of Concern**

Grow Montana has submitted its official comments to DPHHS, which can be read here [include link when finalized and posted]. The following summarizes the points made by Grow Montana:

- We noted that one of the proposed rules violated the intent of House Bill 478. The rules prohibit cottage food producers from drying and packaging fruit, even though HB 478 included dried fruit in its definition of cottage food products. In discussions with DPHHS staff, Grow Montana learned the agency had done research and obtained information on how cottage food producers could make dried fruit safely. Grow Montana has recommended that DPHHS redraft the rule to list dried fruit as an approved product as long as the producer meets the needed requirements, which we recommended the agency include in the rules. We believe reworking this portion of the rules will accomplish a few goals. First, it will clearly state that dried fruit can be a cottage food product, which matches the language passed in HB 478. Second, by putting the cooking and packaging requirements that make the dried-product process safe into the rules, public health will be protected. Third, by listing the requirements, both producers and local county health departments will know exactly what needs to be done to guarantee the product is safe. The last point addresses one of the purposes for HB 478, which was to cut down on the subjectivity of regulations that led to unequal enforcement from county to county.

- We thanked DPHHS for including both a list of approved cottage food products and the ability for products not listed to be approved on a case-by-case basis by county health departments in consultation with DPHHS. We are glad that DPHHS is not restricting cottage food to just one set list of products.
- We know that many people taking advantage of cottage food production will want to buy ingredients directly from their local farmers or purchase them at farmers markets or from a CSA (Community Supported Agriculture). DPHHS staff told Grow Montana that anything approved for use by a retail establishment could be used by a cottage food operation, including most materials from farms. We encouraged DPHHS to include specific language in the rules that cottage food producers can support local farmers by using local ingredients. We also encouraged DPHHS to include a list of any items from these sources that could not be used.
- We asked DPHHS to clarify some of the language regarding the registration process for cottage food producers. We suggested that using some examples could help both producers and county health departments easily understand when it was necessary for a cottage food producer to re-register with the county. Similarly, we asked DPHHS to make it clear how often water testing for producers using wells would need to be done.

Please see Grow Montana's full comments [link when finalized and posted] for more details on any of the above-mentioned material.

### **Please Submit Your Own Comments**

We hope that you will take the time to read the proposed rules and Grow Montana's comments. We encourage you to submit your own comments on the rules to DPHHS, especially since the agency has been very responsive and open to conversations with Grow Montana about the proposed rules. The agency wants to make these rules work for cottage food producers, but it needs to hear from potential producers in order for that to happen. Please send DPHHS your thoughts! The department is accepting public comment on the rules in two ways:

1. In person at a hearing on Thursday, August 20, 2015 at 1:30 p.m. in Room 107 of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, MT.
2. Written comments may be submitted until Thursday, August 27, 2015 at 5:00 p.m. to Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, PO Box 4210, Helena, MT 59604-4210; by fax at (406) 444-9744; or via e-mail to [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov).

The department plans to have the final rules in place so the new cottage food law and rules will go into effect on October 1, 2015.

### **For More Information**

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