



# Montana's Food Laws and Rules

Cottage Food and Farmer's Markets

# Introduction

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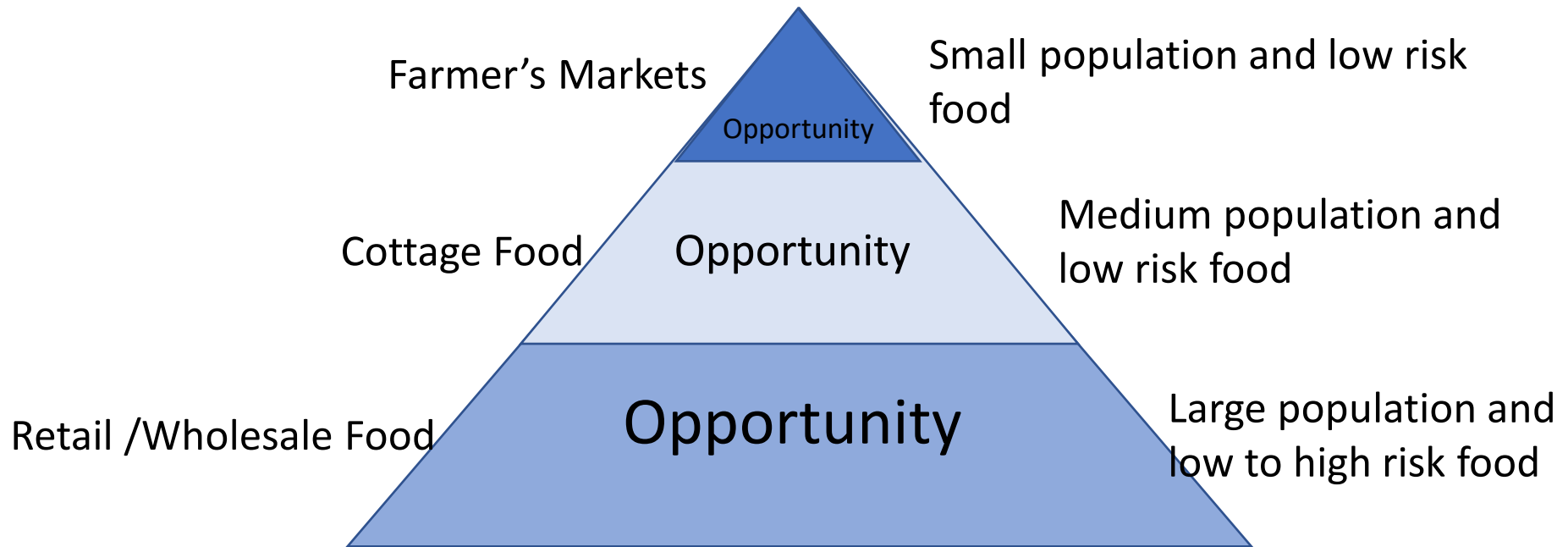
Why? To protect public health

Who? Your local sanitarian and environmental health department

# Objectives:

- By the end of this presentation, the participant will be able to:
  - List foods allowed for sale at farmers markets without licensing
  - Identify requirements for cottage food
  - Discuss the types of products allowed as cottage foods
  - Determine the required parts of a cottage food label

# Montana's Food Industry Opportunities



	Retail	Wholesale	Cottage Food
Recipient	Direct to consumer	Retailers Indirect to consumer	Direct to consumer
Venue	-At establishment such as restaurant, bakery, grocery store, food truck -Temporary event -Online sales with mail or third-party delivery	-At establishment or delivered to retailers	Home, Farmer's market, fair or festival, food stand, in-person delivery to consumer
Food Samples	Allowed	Allowed	Allowed
License, Permit	Annual license; \$85 or \$115 Temporary permit: up to \$85 to \$115	Annual license: \$115	One-time registration: \$40 (must re-register if change in address, add products)
Inspections	Annual	Annual	None unless complaint or outbreak investigation
Plan Reviews or Applications	Facility and Menu Plan review	Facility, Recipe, Process, and Label Plan review	Application with Recipe and Label review
Types of Products	Commercial edible products	Commercial edible products	Home prepared foods not requiring refrigeration such as baked goods, jams, jellies, snack mixes, and candies

# Farmer's Markets

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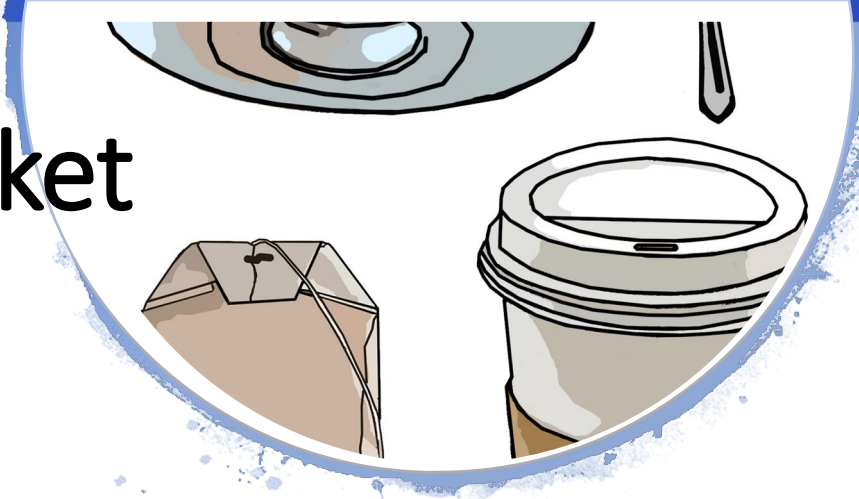
- an organized market
- Certain products allowed with no licensing





# Farmer's Market Products

- Allowed:
  - Hot coffee or hot tea (no fresh milk or cream)
  - Raw agricultural commodities (fruits, vegetables, raw honey)

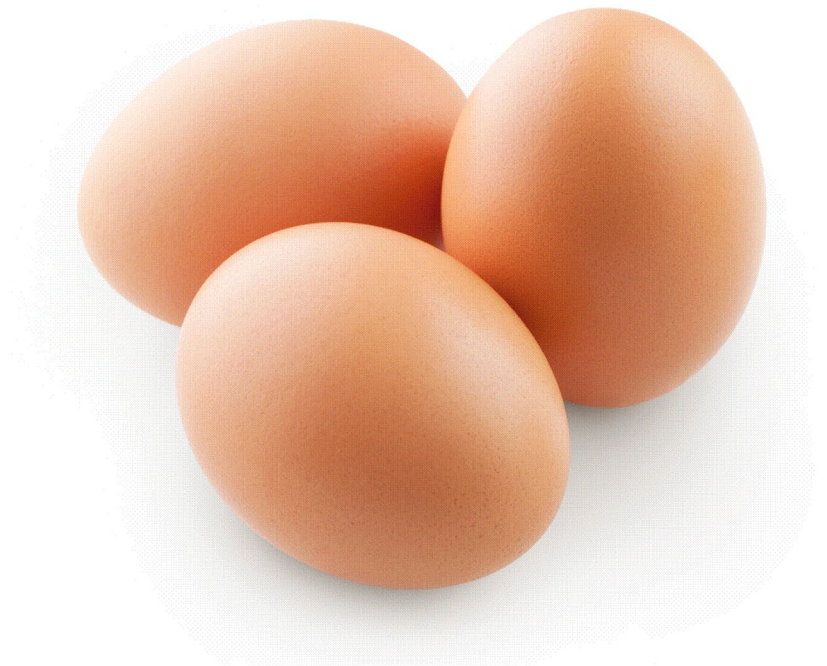




# Farmer's Market Products

- Allowed:

- Whole shell eggs (<45 F)
- Foods not potentially hazardous



# Foods Not Allowed (without License)

- “Potentially Hazardous Food”  
= food that requires time and temperature control for safety (TCS food)



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# Foods requiring License

Examples:

Animal foods (meats, dairy, etc.)

Plant food that is heated

Raw seed sprouts

Cut tomatoes

Cut melons

Cut leafy greens

Garlic in oil



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## **Time/Temperature Control for Safety Food** (formerly “potentially hazardous food” (PHF)).

(1) **"Time/temperature control for safety food"** means a FOOD that **requires time/temperature control** for safety (TCS) **to limit pathogenic microorganism growth or toxin formation.**

(2) **"Time/temperature control for safety food"** includes: (a) An **animal FOOD** that is raw or heat-treated; a **plant FOOD that is heat-treated** or consists of **raw seed sprouts, cut melons, cut leafy greens, cut tomatoes** or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, or **garlic-in-oil mixtures** that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation; and

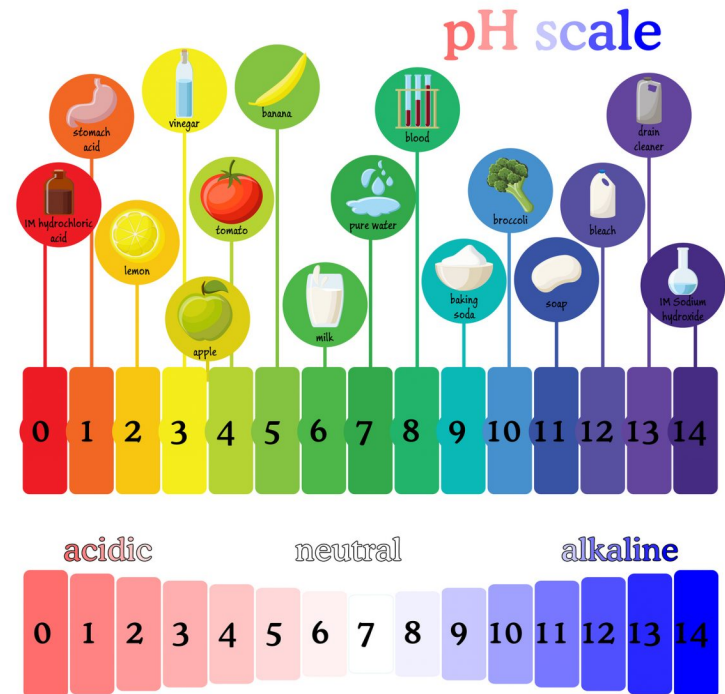
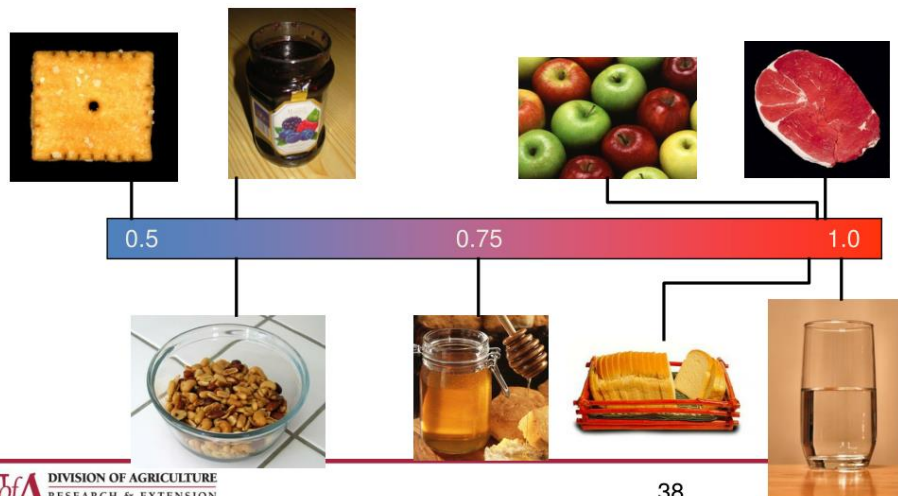
(b) Except as specified in Subparagraph (3)(d) of this definition, a FOOD that because of the interaction of its **AW and PH values** is designated as Product Assessment Required (PA) in Table A or B of this definition:

# pH and Aw (water activity)

- pH—pathogens do not grow when the pH is low enough (acidic)
- Water activity—pathogens do not grow when water is not available (dry foods)

## Controlling Growth

Water Activity of Common Foods





# Cottage Food



- Products produced in a home kitchen; packaged and labelled
- NOT a Retail or Wholesale Food establishment
- Products only sold in Montana
- Direct sales to the consumer

# Question

- *type in the Chat Box*
- What products might be allowed (are not TCS)?



# Allowed Products

- Loaf breads, rolls, biscuits, quick breads, and muffins
- Cakes
- Pastries or scones
- Cookies or pastry bars
- Fruit Pies





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# Allowed Products

- Crackers
- Cereals, trail mixes or granola
- Nuts and nut mixes
- Snack mixes



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# Allowed Products

- Dried fruits
- Jams, jellies and fruit butters
- Fruit preserves

(See guidelines)

# Allowed Products

- Recombining and packaging of dry herbs, seasonings, or mixtures (dry soup, teas, coffees, spice seasonings)
- Popped popcorn, popcorn balls, or cotton candy



# Allowed Products



- Fudge, candies or confections that require a cook step and do not require refrigeration after cooking
- Molded chocolate using commercial chocolate melts





# Not Allowed— require License

- Canned vegetables
- Salsa
- Freezer jams
- BBQ sauce
- Fermented foods



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# Why can't I sell my canned green beans, salsa or homemade sauerkraut?

- Beans = Low acid food (bacteria do not like high acid)
- Salsa = acidified food (add acid to lower pH)
- Fermented foods = must reach low pH to prevent pathogen growth
- Jams and jellies: fruit, sugar
- Canning → *Clostridium botulinum*
- Pressure canning
  - Calibrated pressure gauge
  - Altitude adjustments for process time





# What about my buttercream frosting?

- Maybe, maybe, maybe
- (c) all frostings or glazes must have a cook step or be made with ingredients (such as a large amount of sugar) that when combined are stable at room temperature.
- Large amount of sugar = 66% or higher (due to water activity)
- Tested recipes



# Cottage Food



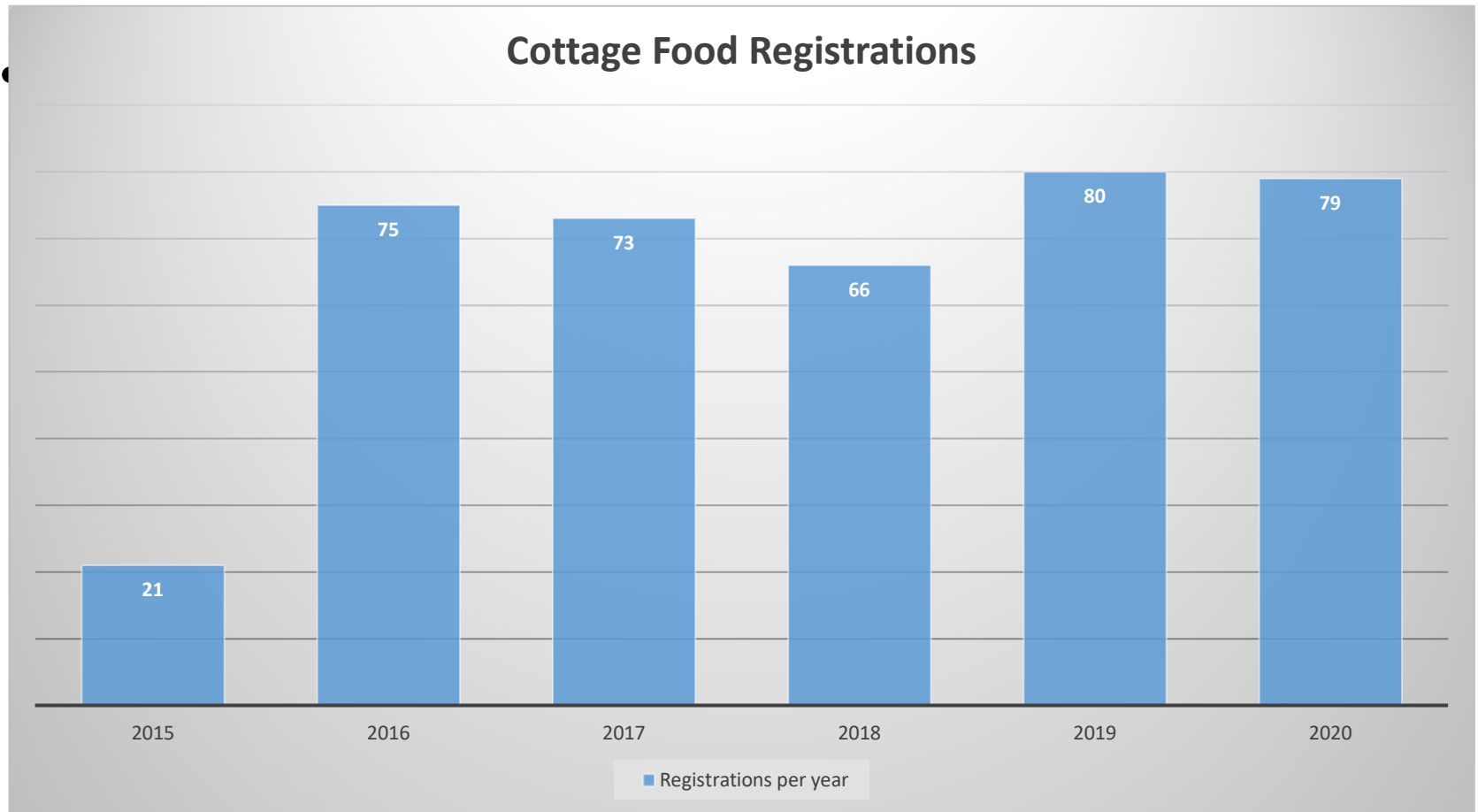
- Products list is **limited to non-potentially hazardous** foods
- Additional non-PH food products may be approved on a **case-by-case** basis by FCS and local sanitarian
- qualified process authority for testing

# Product Testing

- Process Authority
  - Can test the product for pH and water activity
  - Can determine if food is considered low risk
- Contacts and information on Wholesale Foods webpage
- Must be included on the cottage food list (i.e. no beef jerky but a jam variation is okay)

	Farmers' Market	Cottage Food
<b>Types of sales</b>	In person direct to consumer sales	In-person direct to consumer sales
<b>Location</b>	Farmers' Market	Home, Farmers' market, fair or festival, food stand, in-person delivery to consumer
<b>Registration</b>	With Market manager	With county sanitarian on state form Cost: \$40 (must re-register if change in address, add products)
<b>Labeling</b>	Required if packaged or in container	Must be packaged and labelled
<b>Allowed Products</b>	Hot tea or coffee (no cream) Whole shell eggs (< 45 degrees F) Raw agricultural commodities Home prepared foods not potentially hazardous (see list below)	Home prepared foods that are not potentially hazardous (do not require refrigeration for safety) such as jams, jellies, dried fruit, dry mixes, and baked goods (See list below)

# Statistics for Cottage Food



# Products

- Total: 6415



- Highest number for one operator: 343
- Operators over 100 products: 8
- Operators with 1 product: 51



# Cottage Food Products

- Most common products:
  - Baked goods—cookies, cakes, breads, pies
  - Candies
  - Jams and jellies



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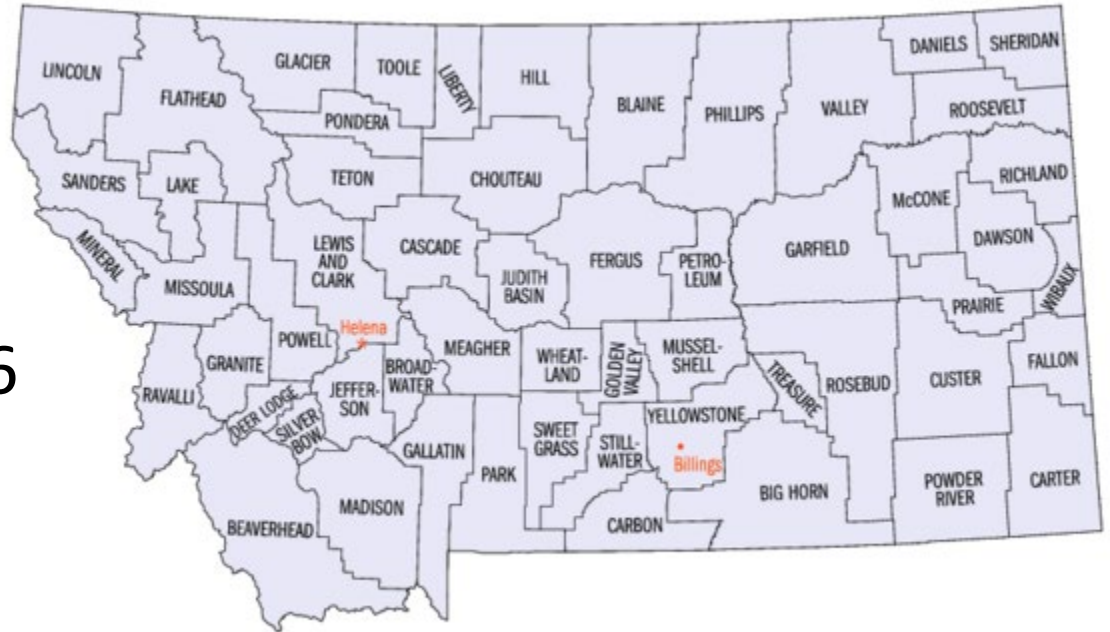
# Cottage Food Products

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- Most common products:
  - Seasoning blends
  - Teas, coffee, blends
  - Honey (processed)

# Registrations by County

- Flathead: 63
- Yellowstone: 45
- Missoula: 37
- Lewis and Clark: 36
- Gallatin: 34
- Cascade: 23



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- Counties with cottage food: 41

# Cottage Food Application

- Administrative Rules of Montana (ARM) 37.110.5
- Product, Process, Sanitation, Label review



# Product Information

- Name of product
  - Ingredients (listed with weights in same units)
  - Preparation directions
- 
- HINT: Type these in a separate document and attach to application

# Processing and Packaging

- Any steps not listed in recipe
- Special equipment i.e. water bath canner
- Types of packaging used





# Labeling

MADE IN A HOME KITCHEN THAT IS NOT SUBJECT TO RETAIL FOOD  
ESTABLISHMENT REGULATIONS OR INSPECTIONS

## Chocolate Chip Cookies

Ingredients: Enriched flour (Wheat flour, niacin, reduced iron, thiamine mononitrate, riboflavin and folic acid), butter (milk, salt), chocolate chips (sugar, chocolate liquor, cocoa butter, butterfat (milk), soy lecithin as an emulsifier), walnuts, sugar, eggs, salt, artificial vanilla extract, baking soda.  
Contains: Wheat, eggs, milk, soy, walnuts.

Ashley Bryant  
2550 Helena Lane  
Helena, MT 59620

Net Wt. 8oz (227g)

- Submit one label for each recipe
- Contain required information
- HINT: Make one label with all the necessary information except name and ingredient then use as template; leave line to fill in net weight

# Cleaning

- Details on how you will clean and sanitize
- How you will you separate allergens





# Cottage Food Application

- Reviewed at county level
- One time registration fee - \$40.00
  - Must reregister for change of location, new products



# Food Safety in the Home Kitchen

- Personal Health
- Personal cleanliness
- No eating, drinking, pets
- Good manufacturing practices

No bare hand contact



MADE IN A HOME KITCHEN THAT IS NOT SUBJECT TO RETAIL FOOD ESTABLISHMENT REGULATIONS OR INSPECTIONS

**Chocolate Chip Cookies**

Ingredients: Enriched flour (Wheat flour, niacin, reduced iron, thiamine mononitrate, riboflavin and folic acid), butter (milk, salt), chocolate chips (sugar, chocolate liquor, cocoa butter, butterfat (milk), soy lecithin as an emulsifier), walnuts, sugar, eggs, salt, artificial vanilla extract, baking soda.  
Contains: Wheat, eggs, milk, soy, walnuts.

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This is the only statement that must be in 11 point on the label.

Name (identity) of Product

Ingredients listed from highest weight to the lowest weight. Also include sub-ingredients.

Name, address, city, zip code of producer

Net quantity, weight, or volume. Cannot be approximate. List in both English and metric units.

Allergens must be listed as shown. Allergens include wheat, eggs, milk, soy, peanuts, tree nuts (almonds, pecans, walnuts, etc.), fish, crustacean shellfish.

MADE IN A HOME KITCHEN THAT IS NOT SUBJECT TO RETAIL FOOD ESTABLISHMENT REGULATIONS OR INSPECTIONS

**Chocolate Chip Cookies**

Ingredients: Enriched flour (Wheat flour, niacin, reduced iron, thiamine mononitrate, riboflavin and folic acid), butter (milk, salt), chocolate chips (sugar, chocolate liquor, cocoa butter, butterfat (milk), soy lecithin as an emulsifier), walnuts, sugar, eggs, salt, artificial vanilla extract, baking soda.  
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# Labels

MADE IN A HOME KITCHEN THAT IS NOT SUBJECT TO RETAIL FOOD ESTABLISHMENT REGULATIONS OR INSPECTIONS

This is the only statement that must be in 11 point on the label.

## Chocolate Chip Cookies

Name (identity) of Product

Ingredients: Enriched flour (Wheat flour, niacin, reduced iron, thiamine mononitrate, riboflavin and folic acid), butter (milk, salt), chocolate chips (sugar, chocolate liquor, cocoa butter, butterfat (milk), soy lecithin as an emulsifier), walnuts, sugar, eggs, salt, artificial vanilla extract, baking soda.  
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# Samples

Retail Food License not required for provider of free samples to the public

—IF the provider is a:

- licensed wholesale food establishment
- cottage food operation
- seller at a farmer's market



# Tribal Regulations

- Tribes are regulated by their own health departments
- Work with local health department and tribal health department in these situations



# Resources

- Food and Consumer Safety Webpages and staff
- Your local sanitarian (licensing, permits, registrations)
- Ag Development Centers, Mission Mountain Food Enterprise Center in Ronan
- Small Business Development Centers



[fcss.mt.gov](http://fcss.mt.gov)





# Thank you!!

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