Montana’s Food Laws and Rules

Cottage Food and Farmer’s Markets
Introduction

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RS/REHS, PhD Microbiology, MS Food Science
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

- Farmer’s Markets
- Cottage Food
- Retail /Wholesale Food

Opportunity

Small population and low risk food

Medium population and low risk food

Large population and low to high risk food

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

- 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)
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
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)
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
Allowed Products

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

Cottage Food Registrations

<table>
<thead>
<tr>
<th>Year</th>
<th>Registrations per year</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>21</td>
</tr>
<tr>
<td>2016</td>
<td>75</td>
</tr>
<tr>
<td>2017</td>
<td>73</td>
</tr>
<tr>
<td>2018</td>
<td>66</td>
</tr>
<tr>
<td>2019</td>
<td>80</td>
</tr>
<tr>
<td>2020</td>
<td>79</td>
</tr>
</tbody>
</table>
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

• 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

- Counties with cottage food: 41

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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

- 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 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
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.

Net Wt. 8oz (227g)

Ashley Bryant
2550 Helena Lane
Helena, MT 59620
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)
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
Thank you!!

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