

PROPOSED COTTAGE FOOD REGULATION SHM #4 (02/12/16)

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Division of Environmental Health and Sustainability

6 CCR 1010-15

**RULES AND REGULATIONS GOVERNING
COTTAGE FOOD PRODUCERS
IN THE STATE OF COLORADO**

This Page Left Intentionally Blank

TABLE OF CONTENTS

15.1	Authority	1
15.2	Scope and Purpose	1
15.3	Applicability	1
15.4	Definitions	1
15.5	General Requirements	4
15.6	Product Labeling	5
15.7	Point of Sale	5
15.8	Tier 1 Cottage Food Producer Requirements.....	6
15.8.1	Registration	6
15.8.2	Training	6
15.9	Tier 2 Cottage Food Producer Requirements.....	6
15.9.1	Registration	6
15.9.2	Training	6
15.9.3	Water Quality Testing	7
15.9.4	Sewage Disposal	7
15.9.5	Process Review	7
15.9.6	Recordkeeping	7
15.10	Enforcement	7
15.10.1	General.....	7
15.10.2	Tier 2 Registration and Revenue.....	8
15.10.3	Training, Process Controls, and Labeling	8
15.10.4	Penalties	8

1 COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

2
3 Division of Environmental Health and Sustainability

4
5 6 CCR 1010-15

6
7 RULES AND REGULATIONS GOVERNING
8 COTTAGE FOOD PRODUCERS
9 IN THE STATE OF COLORADO

10
11 **15.1 Authority**

12
13 These rules and regulations are promulgated pursuant to Section 25-4-1614(10), of the
14 Colorado Revised Statutes (C.R.S.).

15
16 **15.2 Scope and Purpose**

17
18 A. This regulation shall govern the production and sale of foods produced under the
19 Colorado Cottage Food Act, Section 25-4-1614, C.R.S.

20
21 B. This regulation does not apply to:

- 22
23 1. Retail food establishments as defined in Section 25-4-1602(14), C.R.S.;
- 24
25 2. Wholesale food manufacturer or storage facility as defined in Section 25-5-
26 426(2)(f), C.R.S.;
- 27
28 3. Cottage food producers who earn more than ten thousand dollars in net
29 revenue per year for an eligible food product produced.
- 30
31 4. Individuals or business producing food items not allowed by Section 25-4-
32 1614(2)(b)(I), C.R.S.
- 33
34 5. Production of Tier 1 foods as defined in Section 25-4-1614(2)(a)(b)(I)(A),
35 C.R.S..

36
37 **15.3 Applicability**

38
39 A. These rules and regulations shall apply to cottage foods produced as defined in Section
40 25-4-1614(2)(b)(I), C.R.S.

41
42 **15.4 Definitions**

43
44 A. The following definitions shall apply in the interpretations and the enforcement of
45 these regulations unless the context clearly states otherwise:

- 46
47 1. Adulterated means as stated in the *Colorado Pure Food and Drug Act*, Section
48 25-5-4, C.R.S.

- 49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
2. Contamination means the presence of infectious microorganisms or chemicals at levels toxic to human health in or on the body, environmental surfaces, articles of clothing, and/or in food or water.
 3. Cottage Food means food produced in his or her home kitchen or a commercial, private or public kitchen that is nonpotentially hazardous and does not require refrigeration after production and which is sold directly to the ultimate consumer. These foods are divided into tiers:
 - a. Tier 1 Cottage Food means spices, teas, dehydrated produce, nuts, seeds, honey, jams, jellies, preserves, fruit butter, flour, and baked goods, including candies, fruit empanadas, and tortillas. Tier 1 cottage foods include whole eggs, except that a producer may not sell more than 250 dozen whole eggs per month. A person selling whole eggs shall meet the requirements of Section 35-21-105, C.R.S; or
 - b. Tier 2 Cottage Food means pickled vegetables that have an equilibrium pH value of 4.6 or lower.
 4. Department means Colorado Department of Public Health and Environment or its authorized agents or employees.
 5. Drinking Water means water that meets criteria as specified in Section 25-1.5-2, C.R.S., *Colorado Primary Drinking Water Regulations*. Drinking water is traditionally known as “potable water”.
 6. Equilibrium pH means the condition achieved when all components, liquid and solid, have the same pH.
 7. Fermented Vegetables means vegetables that are exposed to conditions that allow acid-producing microorganisms to reduce the pH to 4.6 or lower and includes the foods commonly referred to as kimchi and sauerkraut.
 8. Food-Contact Surfaces means those surfaces of equipment and utensils with which food normally comes in contact, and those surfaces from which food may drain, drip, or splash back onto surfaces in contact with food.
 9. Home means a primary residence occupied by the producer producing cottage food.
 10. Low-acid Vegetables means vegetables have a pH above 4.6. The acidity in these vegetables is insufficient to prevent the growth of the bacterium *Clostridium botulinum*.
 11. Nonpotentially Hazardous means, for the purpose of this regulation, any food that when stored under normal conditions without refrigeration, will not support the rapid and progressive growth of microorganisms that cause food infections or food intoxications.

- 97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
12. pH means is a numeric scale used to specify the acidity or alkalinity of a solution or product. Solutions or products with a pH less than 7 are acidic and solutions with a pH greater than 7 are alkaline or basic.
 13. Pickled Vegetables means low-acid vegetables that have been preserved in vinegar, brine, or a similar solution resulting in finished product pH of 4.6 or lower. Pickled vegetables do not include salsas.
 14. Process Authority means person(s) or organization(s) having expert knowledge of pickling processing requirements and having access to facilities for making such determinations.
 15. Process Plan means a plan for the manufacture of Tier 2 foods that includes the product(s) to be produced, standardized recipes, equipment used in the production of these products, along with the products associated labels and lab analysis.
 16. Producer means a person who prepares nonpotentially hazardous foods in a home kitchen or similar venue for sale directly to consumers. A producer may only be:
 - a. An individual who is a resident of Colorado; or
 - b. A limited liability company formed in Colorado, consisting of two or fewer members, and of which all members are residents of Colorado.
 17. Production Kitchen means a home kitchen or commercial, private or public kitchen or similar venue for sale directly to consumers.
 18. Registrant means a producer of Tier 1 and Tier 2 cottage foods.
 19. Registration means the enrollment process required by the Department and completed by a producer to become eligible to produce cottage foods under the *Colorado Cottage Food Act*, Section 25-4-1614, C.R.S.
 20. Relish means a cooked or pickled sauce usually made with vegetables or fruits and often used as a condiment; can contain avocado, mango, etc.
 21. Sanitization means effective bactericidal treatment by a process that provides enough concentration of chemicals, registered with the U.S. Environmental Protection Agency, for sufficient time to reduce the bacterial count, including pathogens, to a safe level.
 22. Single-Use Gloves means gloves used for only one task, discarded when damaged, or when the task is complete. Multi-use gloves are prohibited.
 23. Standardized Recipe means a recipe that has been tested for consistency of product. Standardized recipes shall include the common name of the product;

145 the ingredients; the exact weight or volume of each ingredient; preparation
146 instructions; cooking time and temperatures, if required, time necessary to
147 achieve an equilibrium pH of 4.6 or lower; and serving size or recipe yield.
148

149 24. Venue means the location where a consumer purchases and takes possession of
150 the cottage food product, which includes, but is not limited to, the producer's
151 premises, the producer's roadside stand, a farmer's market, a community
152 supported agriculture organization, , and other similar venues where the
153 product is sold directly to consumers. This does not include internet sales,
154 grocery stores, restaurants, and other licensed retail food establishments and
155 food manufacturers.

156
157 25. Wholesome means food found in sound condition, clean, free from adulteration
158 and otherwise suitable for human consumption.
159

160 15.5 General Requirements

161
162 A. Cottage food producers shall be in good health and be free from communicable
163 disease while preparing cottage food. Reportable communicable diseases and disease
164 outbreaks shall immediately be reported to the Department.
165

166 B. Producers shall not care for children or animals concurrent with the production,
167 packaging, or handling of any cottage food products.
168

169 C. No cottage food preparation, packaging, or labeling shall occur in the production
170 kitchen concurrent with any other domestic activities, including but not limited to,
171 personal cooking, laundry, smoking, eating, and telephone use.
172

173 D. The production kitchen and storage areas used to produce cottage food products shall
174 be maintained free of rodents and insects.
175

176 E. A producer shall wash their hands and exposed portions of their arms for at least 20
177 seconds with soap and warm running water and dry with single-use towels:
178

179 1. Before and during food preparation, as necessary; and
180

181 2. After engaging in any activities that contaminate their hands and or exposed
182 portions of their arms including but not limited to before leaving the
183 restroom, after handling soiled equipment or utensils, after caring for animals
184 or children, before putting on single-use gloves.
185

186 3. Hand antiseptics/sanitizers may be used in addition to but not in place of
187 proper handwashing.
188

189 F. All food contact surfaces, equipment, and utensils used for the preparation,
190 packaging, or labeling of any cottage food products shall be maintained in good repair
191 and washed, rinsed, and sanitized before each use.
192

- 193 1. Sanitizers shall have a U.S. Environmental Protection Agency registration
194 number and designation as a food contact surface sanitizer, be registered with
195 the Colorado Department of Agriculture, and used in accordance with labeled
196 instructions and 40 CFR 180.940 including concentration, contact time,
197 method, and surfaces.
198
- 199 2. Household bleach used shall be free of compounds to enhance the scent or
200 other compounds that may adversely affect its use as a sanitizer.
201

202 **15.6 Product Labeling**

- 203
- 204 A. Cottage foods shall be labeled in accordance with the requirements outlined in Section
205 25-4-1614(3)(A), C.R.S., and include an affixed label that includes:
206
- 207 1. Identification of the product;
 - 208
 - 209 2. The producer’s name and current telephone number or electronic mail address;
 - 210
 - 211 3. The address at which the food was prepared;
 - 212
 - 213 4. Registration number as issued by the Department;
 - 214
 - 215 5. A complete list of ingredients; and
 - 216
 - 217 6. The following disclaimer: “This product was produced in a home kitchen that is
218 not subject to state licensure or inspection and that may also process common
219 food allergens such as tree nuts, peanuts, eggs, soy, wheat, milk, fish, and
220 crustacean shellfish. This product is not intended for resale.”
221
- 222 B. Labels shall conform to standard labeling guidance.
223
- 224 C. Eggs sold under Section 25-4-1614(2)(b)(II), C.R.S., shall be labeled in accordance with
225 Section 35-21-105, C.R.S.
226

227 **15.7 Point of Sale**

- 228
- 229 A. Products produced under 25-4-1614(2)(b)(I), C.R.S., must be sold from an appropriate
230 venue directly to the ultimate consumer and shall not be sold or distributed outside of
231 Colorado.
232
- 233 B. A producer shall not in any way display, convey or infer that the products produced
234 and offered for sale or distribution are endorsed, approved, or certified by the
235 Department or its authorized agents or employees.
236
- 237 C. A producer selling cottage foods shall conspicuously display a placard, sign, or card at
238 the point of sale with the following disclaimer:
239
- 240 1. “This product was produced in a home kitchen that is not subject to state

licensure or inspection. This product is not intended for resale.”

15.8 Tier 1 Cottage Food Producer Requirements

- A. Cottage food producers producing Tier 1 foods as defined in Section 15.4(A)(3)(a), shall meet the following additional requirements.

15.8.1 Registration

- A. Tier 1 cottage food producers shall register with the Department by no later than 60 days after the effective date of these regulations, and on or before January 1 of each year thereafter on a form supplied by the Department. Tier 1 cottage food producers that begin production after January 1, shall register with the Department immediately upon beginning production of cottage foods.

15.8.2 Training

- A. Tier 1 cottage food producers shall take a food safety course that includes basic food handling training and is comparable to, or is a course given by, the Colorado State University extension service or a state, county, or district public health agency.
- B. Proof of food handler training shall be provided at the time of registration and at least once every five years thereafter.

15.9 Tier 2 Cottage Food Producer Requirements

- A. Cottage food producers producing Tier 2 foods as defined in Section 15.4(A)(3)(b), shall meet the following additional requirements.

15.9.1 Registration

- A. Tier 2 cottage food producers shall register with the Department by no later than 60 days after the effective date of these regulations, and on or before January 1 of each year thereafter on a form supplied by the Department. Tier 2 cottage food producers that begin production after January 1, shall register with the Department immediately upon beginning production of cottage foods.

15.9.2 Training

- A. Tier 2 cottage food producers shall take a food safety course that includes basic food handling training and comparable to, or is a course given by, the Colorado State University extension service or a state, county, or district public health agency.
- B. Tier 2 cottage food producers shall complete additional course work that concentrates on the pickling and fermentation of vegetables.
- C. Proof of food handler training shall be provided at the time of registration and annually for registration renewal.

290 **15.9.3 Water Quality Testing**

- 291
- 292 A. Tier 2 cottage food producers shall provide proof of available safe drinking water in
- 293 the production kitchen used to produce the Tier 2 Cottage Food. Proof may consist of:
- 294
- 295 1. Municipal/city water bill from a Colorado public water system; or
- 296
- 297 2. Annual well water testing results for total coliforms and nitrates from a
- 298 certified water testing laboratory.
- 299
- 300 B. Proof of water quality shall be provided at the time of registration and with each
- 301 annual registration renewal.
- 302

303 **15.9.4 Sewage Disposal**

- 304
- 305 A. Tier 2 cottage food producers shall provide proof of appropriate sewage disposal in the
- 306 production kitchen used to produce the Tier 2 cottage food. Proof may consist of:
- 307
- 308 1. Municipal/city wastewater disposal bill from a Colorado public wastewater
- 309 system; or
- 310
- 311 2. Current septic permit or septic inspection results.
- 312
- 313 B. Proof of sewage disposal shall be provided at the time of registration and with each
- 314 annual registration renewal.
- 315

316 **15.9.5 Process Review**

- 317
- 318 A. At the time of registration, Tier 2 cottage food producers shall provide a process plan
- 319 to the Department for review prior to the production of any Tier 2 foods. Process plans
- 320 may include, but are not limited to:
- 321
- 322 1. A public domain of standardized recipes or pH test results from a laboratory to
- 323 assure an equilibrium pH of 4.6 or lower.
- 324

325 **15.9.6 Recordkeeping**

- 326
- 327 A. Finished pH values and equilibrium pH values shall be recorded for every five hundred
- 328 jars or at minimum once a year for Tier 2 cottage food produced. Copies of all records
- 329 shall be maintained and available to the Department for three years from the date of
- 330 the batch.
- 331

332 **15.10 Enforcement**

333

334 **15.10.1 General**

335

- 336 A. A food product produced pursuant to the regulation is subject to food sampling,
- 337 inspection, and seizure by the Department or a county, district, or regional health
- 338 agency pursuant to Section 25-5-406, C.R.S. of the Pure Food and Drug Law, if it is

339 determined that the food product is misbranded or if a consumer complaint has been
340 received or if the product is suspected in an injury or foodborne illness outbreak.

341
342 **15.10.2 Tier 2 Registration and Revenue**
343

- 344 A. Tier 2 cottage food products produced and entered into commerce without
345 registration may be confiscated and destroyed by the Department. In such cases,
346 subsequent production of the cottage food is not allowed until the producer registers
347 with the Department.
348
- 349 B. Tier 2 cottage food producers earning net revenues in excess of those allowed under
350 Section 25-4-1614(2)(e), C.R.S. will have their cottage food registration revoked. Such
351 producers shall immediately cease cottage food production activities and contact the
352 Department for further instructions on registering as a wholesale food manufacturer or
353 retail food establishment operator in accordance with Section 25-5-426(4)(a) and 25-4-
354 1606 C.R.S.

355
356 **15.10.3 Training, Process Controls, and Labeling**
357

- 358 A. Cottage food producers which fail to secure and maintain current training as required
359 in Sections 15.9.2 and 25-4-1614(2)(C), C.R.S. are not eligible for registration and/or
360 annual registration renewal.
361
- 362 B. Tier 2 cottage foods produced and entered into commerce without following process
363 controls detailed in their registration application may be confiscated and destroyed by
364 the Department. In such cases, subsequent production of the cottage food is not
365 allowed until the amended registration is reviewed by the Department.
366
- 367 C. Cottage food products entered into commerce without proper labeling may be
368 confiscated and destroyed by the Department. In such cases, subsequent production of
369 the cottage food is not allowed until all required labeling is affixed to the cottage
370 food products and reviewed by the Department.

371
372 **15.10.4 Penalties**
373

- 374 A. If the Department finds that a person is not in conformance with these rules and
375 regulations or the provisions of 25-4-1614 *et. seq.*, C.R.S., the Department may assess a
376 civil penalty of five hundred dollars (\$500).