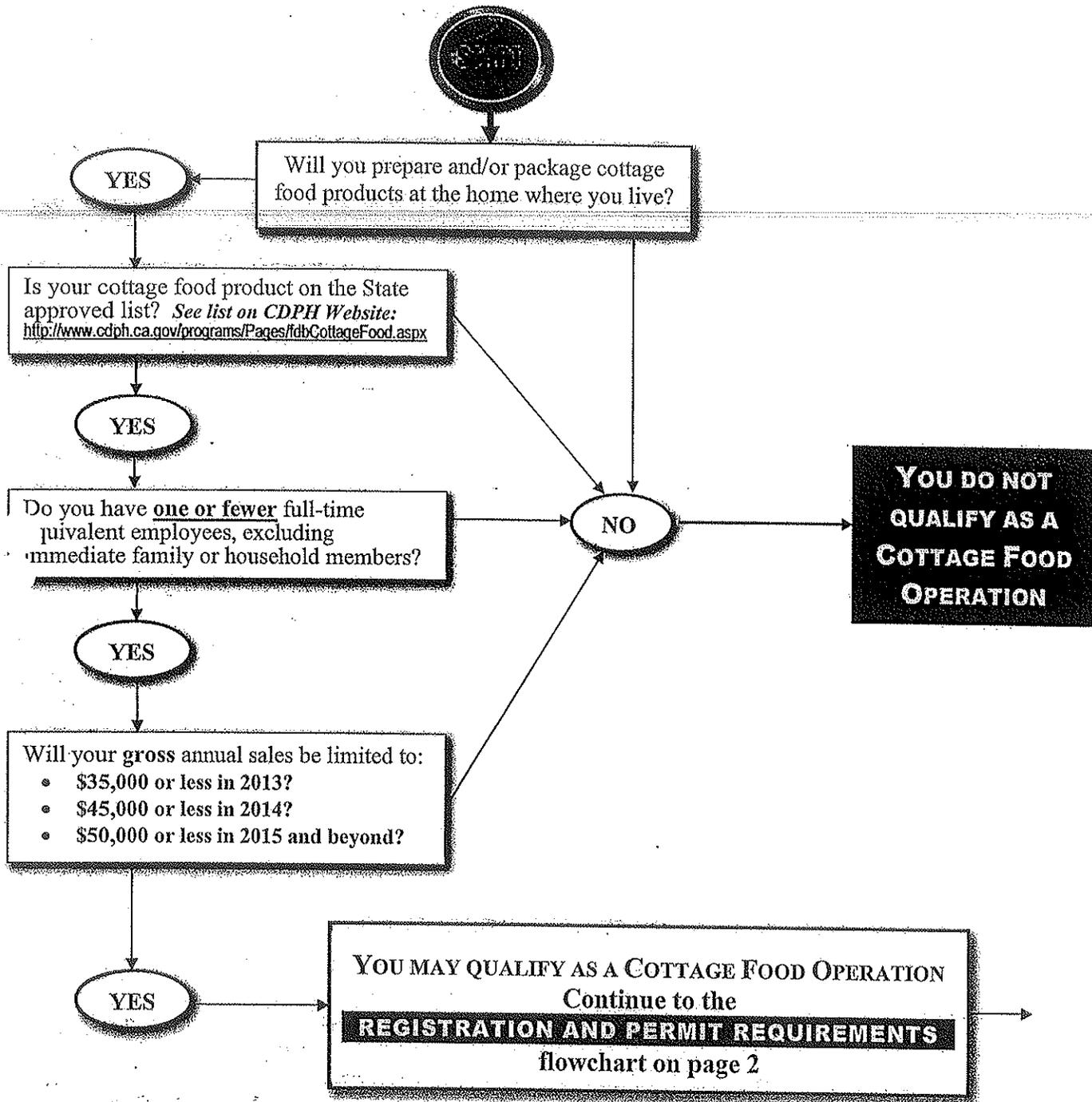
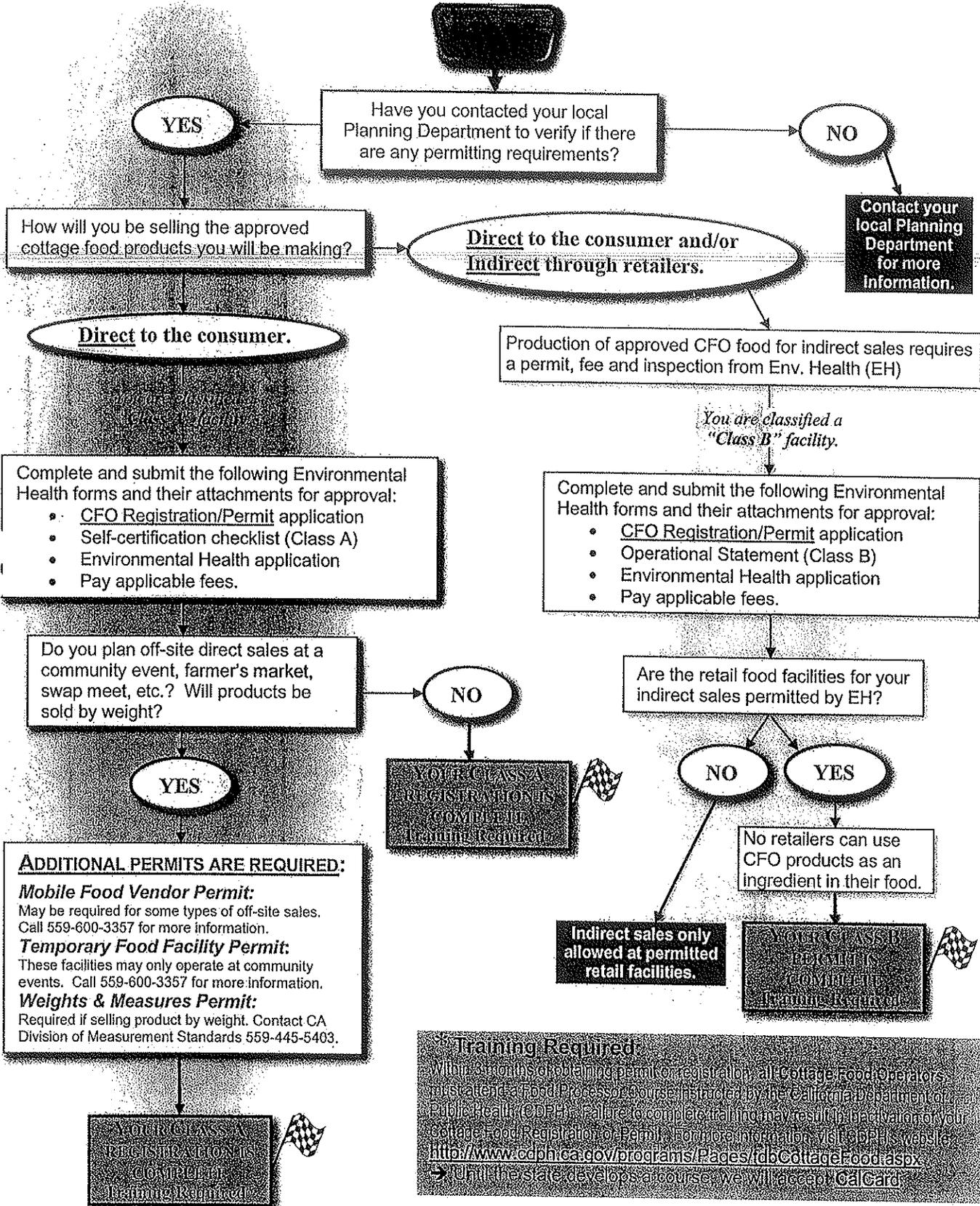


DO YOU QUALIFY AS A COTTAGE FOOD OPERATION?



REGISTRATION AND PERMIT REQUIREMENTS



Training Required:
 Within 30 days of obtaining permit or registration, all Cottage Food Operators must attend a Food Processor Course instructed by the California Department of Public Health (CDPH). Failure to complete training may result in the activation of your Cottage Food Registration or Permit. For more information, visit CDPH's website: <http://www.cdph.ca.gov/programs/Pages/tdbCottageFood.aspx>
 → Until the state develops a course, we will accept CalCard.



Approved Cottage Foods

Cottage food operations are allowed to produce certain non-potentially hazardous foods. These are foods that do not support the rapid growth of bacteria that would make people sick when held outside of refrigeration temperatures. The list of approved cottage food categories and their ethnic variations, which cottage food operations are allowed to produce, are listed below. The list will be maintained and updated by the Department on its Internet website as necessary.

The Department may add to or delete food products from the approved products list. Notice of any change, reason for the change, the authority for the change, and the nature of the change to the approved food products list will be posted on the department website and shall become effective thirty (30) days after the notice is posted.

Approved Food Products List (January 1, 2013):

- (1) Baked goods, without cream, custard, or meat fillings, such as breads, biscuits, churros, cookies, pastries, and tortillas.
- (2) Candy, such as brittle and toffee.
- (3) Chocolate-covered nonperishable foods, such as nuts and dried fruits.
- (4) Dried fruit.
- (5) Dried pasta.
- (6) Dry baking mixes.
- (7) Fruit pies, fruit empanadas, and fruit tamales.
- (8) Granola, cereals, and trail mixes.
- (9) Herb blends and dried mole paste.
- (10) Honey and sweet sorghum syrup.
- (11) Jams, jellies, preserves, and fruit butter that comply with the standard described in Part 150 of Title 21 of the Code of Federal Regulations.
*see below
- (12) Nut mixes and nut butters.
- (13) Popcorn.
- (14) Vinegar and mustard.
- (15) Roasted coffee and dried tea.
- (16) Waffle cones and pizelles.

*Jams, jellies, preserves, and fruit butter: Cottage food operations which produce jams, jellies, preserves, and other related products must be sure that their products meet the legal established standards of identity requirements for those products as set forth in **21 CFR Part 150**. The purpose of the regulation is to maintain the integrity of the food product to ensure consumers consistently get what they expect. The product name and ingredients listed on the label must be factual and comply with the legal definitions and standards of identity or the product may be considered misbranded. Products made with other ingredients that are not defined in 21 CFR 150 cannot be produced by cottage food operations. Addition of other ingredients or alteration of ingredient profiles changes the chemistry of the food, which can allow the growth of various bacteria and toxins under the right conditions. For example, addition of peppers (i.e. jalapeno pepper) to make pepper jelly is not supported by 21 CFR 150 and the addition of this low acid ingredient could cause the formation of botulism toxin in the product if the proper controls are not used.



California Homemade Food Act Frequently Asked Questions AB 1616 (Gatto) - Cottage Food Operations

1. **When does the new Cottage Food Law go into effect?** The new law becomes effective January 1, 2013. The law requires the California Department of Public Health to carry out certain tasks associated with implementation, and imposes certain responsibilities on local planning and environmental health jurisdictions. Further information regarding the status of implementation can be obtained from your local environmental health agency.
2. **What is a cottage food operation (CFO)?** A CFO is an enterprise at a private home where specific low-risk food products that do not require refrigeration are prepared or packaged for sale to consumers.
3. **What is meant by a private home?** "Private home" means a dwelling, including an apartment or other rented space, where individuals reside.
4. **Are there limitations on the size of CFO sales?**
 - \$35,000 or less in gross sales annually in 2013
 - \$45,000 or less in gross sales annually in 2014
 - \$50,000 or less in gross sales annually in 2015 and beyond
5. **Can a CFO have employees?** A CFO can have one full-time equivalent employee (not counting family members or household members).
6. **What cottage foods are CFOs permitted to produce?** Only specific foods that are defined as "non-potentially hazardous" are approved for preparation by CFOs. These are foods that do not require refrigeration to keep them safe from bacterial growth that could make people sick.

The California Department of Public Health will establish and maintain a list of approved cottage food categories on their website. The list included in the new law includes:



10. Do I need any special training or certification to make cottage foods? A person who prepares or packages cottage food products must complete a food processor course instructed by the California Department of Public Health within three months of being registered or permitted.

11. Does a CFO need a permit to operate?

- **Planning and zoning:** All CFO's need to obtain approval from their local city or county planning department. The Homemade Food Act gives planning departments several options to consider, so planning department requirements may vary between jurisdictions.
- **Environmental Health:** For "Class A" CFO's (direct sale only), registration with the local enforcement agency and submission of a completed "self-certification checklist" approved by the local environmental health agency. For "Class B" CFO's (either direct and indirect or indirect only), a permit from the local environmental health agency is required.
- **Other requirements:** Check on other state or local requirements that may be applicable, such as Sellers Permits through the Board of Equalization, or Business Licenses through your city or county.
- **Registrations and permits are nontransferable between:**
 - 1) Persons
 - 2) Locations
 - 3) Type of food sales [i.e., direct sales ("Class A") vs. indirect sales ("Class B")]
 - 4) Type of distribution

12. How much will the permit or registration cost the CFO? Each local jurisdiction will establish fees that are not to exceed the cost of providing the service. Additional fees may be charged for inspection and/or enforcement activities if the cottage food operation is found to be in violation of California food safety laws on cottage food operations.

13. Will my CFO registration/permit allow me to sell at other retail venues? There may be health permits required to sell at other locations, such as Certified Farmers' Markets, Swap Meets or community events. Please check with your local environmental health department for additional permit requirements.



contact phone number or email address is optional but may be helpful for consumers to contact your business.

- The registration or permit number of the cottage food operation which produced the cottage food product and in the case of "Class B" CFOs, the name of the county where the permit was issued.
 - The ingredients of the food product, in descending order of predominance by weight, if the product contains two or more ingredients.
 - The net quantity (count, weight, or volume) of the food product. It must be stated in both English (pound) units and metric units (grams).
 - A declaration on the label in plain language if the food contains any of the eight major food allergens such as milk, eggs, fish, shellfish, tree nuts, wheat, peanuts, and soybeans. There are two approved methods prescribed by federal law for declaring the food sources of allergens in packaged foods: 1) in a separate summary statement immediately following or adjacent to the ingredient list, or 2) within the ingredient list.
 - The use of the following eleven terms are considered nutrient content claims (nutritional value of a food): free, low, reduced, fewer, high, less, more, lean, extra lean, good source, and light. Specific requirements have been established for the use of these terms. Please refer to the Cottage Food Labeling Guideline for more details.
 - A health claim is a statement or message on the label that describes the relationship between a food component and a disease or health-related condition (e.g., sodium and hypertension, calcium and osteoporosis). Please refer to the Cottage Food Labeling Guideline for more details.
 - If the label makes approved nutrient content claims or health claims, the label must contain a "Nutrition Facts" statement on the information panel.
 - Labels must be legible and in English (accurately translated information in another language may accompany it).
 - Labels, wrappers, inks, adhesives, paper, and packaging materials that come into contact with the cottage food product by touching the product or penetrating the packaging must be food-grade (safe for food contact) and not contaminate the food.
- In a permitted food facility, cottage food products served without packaging or labeling shall be identified to the customer as homemade on the menu, menu board or in another easily accessible location that would reasonably inform the consumer that the food has been made in a private home.

17. What is my legal responsibility as a cottage food operator in ensuring that my food product is safe? Cottage food operators or their employees shall not commit any act that may cause contamination or adulteration of food.

McKencie Contreras

From: Sophia Pagoulatos
Date: Monday, February 04, 2013 11:38 AM
To: Bonique Emerson; Bruce Barnes; Israel Trejo; Jack VanPatten; Joann Zuniga; McKencie Contreras; Mike Sanchez; Sandra Brock; Will Tackett; Edward Paz
Subject: FW: Cottage Food Operations in Fresno City
Attachments: TEMPLATE - CFO Referral Letter to Zoning.docx

Here's the county's take on how the state law interacts with our home occupation rules (see text of email, below). Attached is the county's proposed referral letter.

I have scheduled a meeting on Feb. 15th for us to discuss. Your comments by then would be appreciated.

Thanks!

-----Original Message-----

From: Heinrichs, Richard [mailto:rhenrichs@co.fresno.ca.us]
Sent: Thursday, January 31, 2013 10:13 AM
To: Sophia Pagoulatos
Cc: Kahl, Stephanie; Day, Maryjane; Hultquist, Kim
Subject: RE: Cottage Food Operations in Fresno City

I will attempt to provide quick comments on the Home Occupation document you sent me to point out some of the main items that seem to conflict with the newly passed Cottage Food Operation (CFO) law (2012 AB1616 - Gatto) that impacts city and county Zoning departments with respect to these businesses and modifies CalCode as well. Please understand that this list may not list all apparent conflicts here.

- * 7.a.1-8 - Does not expressly address cottage food operations, but maybe that is not necessary since 7.a. states "may include".
- * 7.b.1 - CFOs are allowed to have 1 or fewer FTE employee that is not a family member or household member.
- * 7.b.2 - CFOs are allowed to bake breads, cakes, cookies, etc. They may be doing this at a large volume in some cases. Therefore, they may decide to use some commercial sized mixers, extra refrigeration units, and other kitchen equipment and/or shelving for storage that may not normally be found in a home.
- * 7.b.4 & 5 - Who really knows what change to normal traffic this will bring about. As we talked about on the phone a couple days ago, CFOs are allowed to have \$35,000 in gross annual sales this year, \$45,000 next year, and \$50,000 in 2014 and following. At \$35,000 this year, that's over \$2900 per month, and over \$1300 per week. And that's just for this year. That sounds like a lot of muffins, cookies, tortillas, trail mix, jars of jam, jelly, etc. I don't know what that means in terms of them bringing in the bulk ingredients. That may even mean weekly Sysco delivery trucks. They can sell from home, but they can also make deliveries, sell at community events, farmer's markets, swap meets, or from a vehicle in neighborhoods and business districts. Some may choose to sell or transport their product and sales equipment, tables; carts, shelving, etc. from their home to their venues or routes via vehicles and/or trailers that may qualify as commercial vehicles that may not fit in their enclosed garage.
- * 7.b.8 - CFOs are allowed to use their kitchens and have another room where they are allowed to use for the storage of food and clean equipment and utensils.
- * 7.b.9 - This is consistent with CFO requirements. It all must be produced and stored in the primary residence.
- * 7.b.10 - Some may remodel their kitchens to accommodate this new CFO use. Not sure if this conflicts here.

In our permitting and registration of these businesses, we will refer to you these businesses for zoning compliance once we determine how these types of businesses will be handled. To that end, we have developed this referral form so that you can keep track of how many of these types of home based businesses there are and what they will be doing. It has not been approved internally here yet so it may change, but I'd like to hear your comments as well.

tly, we are having a staff training on cottage food operations tomorrow at 9AM in our first floor conference room. You or someone from your office is welcome to attend this training to learn more information if you would like.

Rick Heinrichs
Environmental Health Specialist III
Fresno County Environmental Health Division Phone (559) 600-3357 * Fax (559) 600-7629 www.fcdph.org

-----Original Message-----

From: Sophia Pagoulatos [mailto:Sophia.Pagoulatos@fresno.gov]
Sent: Monday, January 28, 2013 3:48 PM
To: Heinrichs, Richard
Cc: Kahl, Stephanie; Day, Maryjane; Hultquist, Kim
Subject: RE: Cottage Food Operations in Fresno City

Here's an excerpt from our code that applies to home occupations. No planning permits are required; the only enforcement is neighbor complaints to our code enforcement division. Once we review the new CFO rules, we may have other feedback about additional code sections that apply.

If you see any conflicts between these rules and the new CFO rules, please point them out! Feel free to use track changes or whatever is convenient. As you know, we are revising our municipal code, so now is a good time to resolve any inconsistencies.

Thanks,

Sophia

-----Original Message-----

From: Heinrichs, Richard [mailto:rhenrichs@co.fresno.ca.us]
Sent: Monday, January 28, 2013 3:42 PM
To: Sophia Pagoulatos
Cc: Kahl, Stephanie; Day, Maryjane; Hultquist, Kim
Subject: Cottage Food Operations in Fresno City

Thanks for chatting with me about cottage food operations (CFO). Here is a copy of the chaptered bill (AB1616 Gatto) and a flow chart to help operators decide how they fit into the CFO law. CFO businesses can only be run from the operator's primary residence and the types of foods are limited to only what is listed on the state's approved food list. I have also included this list and the state's FAQ document. For more information, visit the state's website at:

<http://www.cdph.ca.gov/programs/Pages/fdbCottageFood.aspx>

Thank you for sending me the city's rules for home-based businesses document.

Rick Heinrichs

Environmental Health Specialist III

Fresno County Environmental Health Division Phone (559) 600-3357 * Fax (559) 600-7629

www.fcdph.org<<http://www.fcdph.org/><<http://www.fcdph.org/><<http://www.fcdph.org/>>>

**FRESNO MUNICIPAL CODE
SECTION 12-105 DEFINITIONS**

7. **HOME OCCUPATION** shall mean any use customarily conducted entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the structure for dwelling purposes and which use does not change the character thereof.

a. Such Home Occupations may include:

- (1) Consultive professional occupations, whose function is one of rendering a service and does not involve the dispensing of goods or products.
- (2) The selling or otherwise disposing of agricultural services and products produced in the premises.
- (3) Secondary business offices, where said business has its principal office, staff and equipment located elsewhere.
- (4) Farm management offices, where an agricultural operation on the premises requires such office.
- (5) The giving of music lessons and similar occupations.
- (6) The home office of a salesman, when all sales are done by written order with no commodities or displays on the premises.
- (7) Drafting, designing and the like, using only the normal drafting equipment.
- (8) Beauty operators using portable dryers and equipment subject to requirements for Conditional Use Permit. Section 12-406 when located in residential zones.

b. The following criteria shall apply for the evaluation of a "Home Occupation:"

- (1) There shall be no employment of help other than members of the resident family.
- (2) There shall be no use of materials or mechanical equipment not recognized as being part of normal household or hobby uses, except that such equipment as typewriters, adding machines, portable hair dryers, permanent wave machines, filing cabinets, and desks shall be permitted.
- (3) There shall be no sales of products or services not produced on the premises.
- (4) The use shall not generate pedestrian or vehicular traffic beyond that normal to the district in which it is located.
- (5) It shall not involve the use of commercial vehicles for delivery of materials to or from the premises, other than a vehicle not to exceed one ton, owned by the operator of such home occupations, which shall be stored in an entirely enclosed garage.
- (6) No excessive or unsightly storage of materials or supplies, indoor or outdoor, for purposes other than those permitted in the district.
- (7) It shall not involve the use of signs or structures other than those permitted in the district of which it is a part. See below:

Signs shall be permitted in this District only as herein provided.



County of Fresno

DEPARTMENT OF PUBLIC HEALTH
EDWARD L. MORENO, M.D., M.P.H.
DIRECTOR-HEALTH OFFICER

Date

Office name

Attention: Contact Name

Address

City, State ZIP

Subject: Cottage Food Operation – Home Based Business Referral
Location: Address of CFO Business, City of CFO Business

Dear Mr. Name:

This letter is to notify you that the following cottage food operation (CFO) home based business was recently registered or permitted by this office.

CFO Business Name: CFO Business Name
Class: A (direct to consumer sales) or B (direct & indirect to 3rd party retail facilities)
CFO Home Address: CFO Address, City
CFO Owner Name: Owner Name
CFO Products: Types of products the are making

Attached is a copy of their Registration/Permit Application Form and their Operational Statement/Self-Certification Checklist that they have submitted to this office.

We are referring this business to your office for your appropriate follow-up once your office has determined how these types of home based businesses will be addressed by your office. Please notify us when your office has determined the requirements for CFO home based businesses and what, if any, documentation they will need to receive from your office to be approved by you.

If you have any questions regarding this matter, please contact me at 559-600-3357.

Sincerely,

Inspector Name, REHS
Environmental Health Specialist
Environmental Health Division

Enclosures

Dedicated to Public Health

1221 Fulton Mall / P.O. Box 11867 / Fresno, California 93775 / Phone (559) 600-3357 / FAX (559) 600-7629

Email: EnvironmentalHealth@co.fresno.ca.us www.fcdph.org
Equal Employment Opportunity ❖ Affirmative Action ❖ Disabled Employer

Assembly Bill No. 1616

CHAPTER 415

An act to add Chapter 6.1 (commencing with Section 51035) to Part 1 of Division 1 of Title 5 of the Government Code, and to amend Sections 109947, 110050, 110460, 111955, 113789, 113851, 114021, 114023, 114390, 114405, and 114409 of, to add Sections 113758 and 114088 to, and to add Chapter 11.5 (commencing with Section 114365) to Part 7 of Division 104 of, the Health and Safety Code, relating to food safety.

[Approved by Governor September 21, 2012. Filed with
Secretary of State September 21, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1616, Gatto. Food safety: cottage food operations.

Existing law, the Sherman Food, Drug, and Cosmetic Law (Sherman Law), requires the State Department of Public Health to regulate the manufacture, sale, labeling, and advertising activities related to food, drugs, devices, and cosmetics in conformity with the Federal Food, Drug, and Cosmetic Act. The Sherman Law makes it unlawful to manufacture, sell, deliver, hold, or offer for sale any food that is misbranded. Food is misbranded if its labeling does not conform to specified federal labeling requirements regarding nutrition, nutrient content or health claims, and food allergens. Violation of this law is a misdemeanor.

The existing California Retail Food Code provides for the regulation of health and sanitation standards for retail food facilities, as defined, by the State Department of Public Health. Under existing law, local health agencies are primarily responsible for enforcing the California Retail Food Code. That law exempts private homes from the definition of a food facility, and prohibits food stored or prepared in a private home from being used or offered for sale in a food facility. That law also requires food that is offered for human consumption to be honestly presented, as specified. A violation of these provisions is a misdemeanor.

This bill would include a cottage food operation, as defined, that is registered or has a permit within the private home exemption of the California Retail Food Code. The bill would also exclude a cottage food operation from specified food processing establishment and Sherman Law requirements. This bill would require a cottage food operation to meet specified requirements relating to training, sanitation, preparation, labeling, and permissible types of sales and would subject a cottage food operation to inspections under specified circumstances. The bill would require a food facility that serves a cottage food product without packaging or labeling to identify it as homemade. The bill would establish various zoning and permit requirements relating to cottage food operations.

(f) At least 32 other states have passed laws that allow small business entrepreneurs to use their home kitchens to prepare, for sale, foods that are not potentially hazardous.

(g) Even some bake sales are currently illegal in California.

(h) It is the intent of the Legislature to enact a homemade food act specifically designed to help address these challenges and opportunities.

SEC. 2. Chapter 6.1 (commencing with Section 51035) is added to Part 1 of Division 1 of Title 5 of the Government Code, to read:

CHAPTER 6.1. COTTAGE FOOD OPERATIONS

51035. (a) A city, county, or city and county shall not prohibit a cottage food operation, as defined in Section 113758 of the Health and Safety Code, in any residential dwellings, ~~or shall do any of the following:~~

(1) Classify a cottage food operation as a ~~business use~~ of residential property for zoning purposes.

(2) Grant a nondiscretionary permit to use a residence as any cottage food operation that complies with local ordinances ~~prescribing reasonable standards, restrictions, and requirements concerning the following factors: (a) density and concentration of the permit, building and noise zoning, and other factors. All local standards shall be consistent with local noise ordinances implementing the noise element of the general plan.~~ The permit issued pursuant to this paragraph shall be granted by the zoning administrator, or if there is no zoning administrator, by the person or persons designated by the planning agency to grant these permits, upon the certification without a hearing.

(3) Require any cottage food operation to ~~apply for a permit~~ to use a residence for its operation. The zoning administrator, or if there is no zoning administrator, the person or persons designated by the planning agency to handle the use permits, shall review and decide the applications. The use ~~permit shall be granted if the cottage food operation complies with local ordinances, if any, prescribing reasonable standards, restrictions, and requirements concerning the following factors: (a) density and concentration of the permit, building and noise zoning, and other factors. All local standards shall be consistent with local noise ordinances implementing the noise element of the general plan.~~ The local government shall process any required permit as economically as possible. Fees charged for review shall not exceed the costs of the review and permit process. An applicant may request a verification of fees, and the city, county, or city and county shall provide the applicant with a written breakdown within 45 days of the request. The application form for cottage food operation permits shall include a statement of the applicant's right to request the written fee verification.

(b) In connection with any action taken pursuant to paragraph (2) or (3) of subdivision (a), a city, county, or city and county ~~shall do all of the following:~~

SEC. 5. Section 110460 of the Health and Safety Code is amended to read:

110460. No person shall engage in the manufacture, packing, or holding of any processed food in this state unless the person has a valid registration from the department, ~~except those engaged exclusively in the storage, handling, or processing of dried beans.~~ The registration shall be valid for one calendar year from the date of issue, unless it is revoked. The registration shall not be transferable. This section shall not apply to a cottage food operation that is registered or has a permit pursuant to Section 114365.

SEC. 6. Section 111955 of the Health and Safety Code is amended to read:

111955. "Food processing establishment," as used in this chapter, shall mean any room, building, or place or portion thereof, maintained, used, or operated for the purpose of commercially storing, packaging, making, cooking, mixing, processing, bottling, canning, packing, slaughtering, or otherwise preparing or handling food except restaurants. "Food processing establishment" shall not include a cottage food operation that is registered or has a permit pursuant to Section 114365.

SEC. 7. Section 113758 is added to the Health and Safety Code, to read:

113758. (a) "Cottage food operation" means an enterprise that has ~~not more than the amount of gross annual sales that is specified in this subdivision.~~ is operated by a cottage food operator, and has not more than ~~one full-time equivalent cottage food employee,~~ not including a family member or household member of the cottage food operator, within the registered or permitted area of a private home where the cottage food operator resides and where cottage food products are prepared or packaged for direct, indirect, or direct and indirect sale to consumers pursuant to this part. In 2013, the enterprise shall not have more than thirty-five thousand dollar ~~(\$35,000)~~ in gross annual sales in the calendar year. In 2014, the enterprise shall not have more than forty-five thousand dollars ~~(\$45,000)~~ in gross annual sales in the calendar year. Commencing in 2015, and each subsequent year thereafter, the enterprise shall not have more than fifty thousand dollars ~~(\$50,000)~~ in gross annual sales in the calendar year. A cottage food operation includes both of the following:

(1) A "Class A" cottage food operation, which is a cottage food operation that may engage only in direct sales of cottage food products from the cottage food operation or other direct sales venues described in paragraph (4) of subdivision (b).

(2) A "Class B" cottage food operation, which is a cottage food operation that may engage in both direct sales and indirect sales of cottage food products from the cottage food operation, from direct sales venues described in paragraph (4) of subdivision (b), from offsite events, or from a third-party retail food facility described in paragraph (5) of subdivision (b).

(b) For purposes of this section, the following definitions shall apply:

(1) "Cottage food employee" means an individual, paid or volunteer, who is involved in the preparation, packaging, handling, and storage of a cottage food product, or otherwise works for the cottage food operation. An

(8) Vending machines.
(9) Certified farmers' markets, for purposes of permitting and enforcement pursuant to Section 114370.

(10) Farm stands, for purposes of permitting and enforcement pursuant to Section 114375.

(c) "Food facility" does not include any of the following:

(1) A cooperative arrangement wherein no permanent facilities are used for storing or handling food.

(2) A private home, ~~including a cottage food operation that is registered or has a permit pursuant to Section 114365.~~

(3) A church, private club, or other nonprofit association that gives or sells food to its members and guests, and not to the general public, at an event that occurs not more than three days in any 90-day period.

(4) A for-profit entity that gives or sells food at an event that occurs not more than three days in a 90-day period for the benefit of a nonprofit association, if the for-profit entity receives no monetary benefit, other than that resulting from recognition from participating in an event.

(5) Premises set aside for wine tasting, as that term is used in Section 23356.1 of the Business and Professions Code and in the regulations adopted pursuant to that section, that comply with Section 118375, regardless of whether there is a charge for the wine tasting, if no other beverage, except for bottles of wine and prepackaged nonpotentially hazardous beverages, is offered for sale for onsite consumption and no food, except for crackers, is served.

(6) Premises operated by a producer, selling or offering for sale only whole produce grown by the producer, or shell eggs, or both, provided the sales are conducted on premises controlled by the producer.

(7) A commercial food processing plant as defined in Section 111955.

(8) A child day care facility, as defined in Section 1596.750.

(9) A community care facility, as defined in Section 1502.

(10) A residential care facility for the elderly, as defined in Section 1569.2.

(11) A residential care facility for the chronically ill, which has the same meaning as a residential care facility, as defined in Section 1568.01.

(12) Premises set aside by a beer manufacturer, as defined in Section 25000.2 of the Business and Professions Code, that comply with Section 118375, for the purposes of beer tasting, regardless of whether there is a charge for the beer tasting, if no other beverage, except for beer and prepackaged nonpotentially hazardous beverages, is offered for sale for onsite consumption, and no food, except for crackers or pretzels, is served.

~~SEC. 8.5. Section 113789 of the Health and Safety Code is amended to read:~~

~~113789. (a) "Food facility" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including, but not limited to, the following:~~

~~(1) An operation where food is consumed on or off the premises, regardless of whether there is a charge for the food.~~

(12) Premises set aside by a beer manufacturer, as defined in Section 25000.2 of the Business and Professions Code, that comply with Section 118375, for the purposes of beer tasting, regardless of whether there is a charge for the beer tasting, if no other beverage, except for beer and prepackaged nonpotentially hazardous beverages, is offered for sale for onsite consumption, and no food, except for crackers or pretzels, is served:

(b) Intermediate care facility for the developmentally disabled defined in subdivisions (c), (ii), and (iii) of Section 1250, with a capacity of 25 or fewer.

(c) A health care provider shall report any foodborne illness or outbreak to the local health department and to the State Department of Public Health within 24 hours of the illness or outbreak.

SEC. 9. Section 113851 of the Health and Safety Code is amended to read:

113851. (a) "Permit" means the document issued by the enforcement agency that authorizes a person to operate a food facility, cottage food operation.

(b) "Registration" shall have the same meaning as permit for purposes of implementation and enforcement of this part.

SEC. 10. Section 114021 of the Health and Safety Code is amended to read:

114021. (a) Food shall be obtained from sources that comply with all applicable laws.

(b) Food stored or prepared in a private home shall not be used or offered for sale in a food facility, unless that food is prepared by a cottage food operation that is registered or has a permit pursuant to Section 114365.

SEC. 11. Section 114023 of the Health and Safety Code is amended to read:

114023. Food in a hermetically sealed container shall be obtained from a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant, or from a cottage food operation that produces jams, jellies, and preserves and that is registered or has a permit pursuant to Section 114365.

SEC. 12. Section 114088 is added to the Health and Safety Code, to read:

114088. A cottage food product, as defined in Section 113758, that is served by a food facility without packaging or labeling, as described in Section 114365, shall be identified to the consumer as homemade on the menu, menu board, or other location that would reasonably inform a consumer of its homemade status.

SEC. 13. Chapter 11.5 (commencing with Section 114365) is added to Part 7 of Division 104 of the Health and Safety Code, to read:

(2) (A) A "Class B" cottage food operation shall not be open for business unless it obtains a permit from the local enforcement agency in a manner approved by the local enforcement agency to engage in the direct and indirect sale of cottage food products.

(B) (i) A "Class B" cottage food operation shall comply with the requirements described in clauses (i) to (vi), inclusive, of subparagraph (A) of paragraph (1) in addition to the other requirements of this chapter.

(ii) The local enforcement agency shall issue a permit number after an initial inspection has determined that the proposed "Class B" cottage food operation and its method of operation conform to this chapter.

(C) Except as provided in this subparagraph, a "Class B" cottage food operation shall not be subject to more than one inspection per year by the local enforcement agency.

(i) For purposes of determining compliance with this chapter, a representative of a local enforcement agency, for inspection purposes, may access the permitted area of a private home where a cottage food operation is located only if the representative has, on the basis of a consumer complaint, reason to suspect that adulterated or otherwise unsafe food has been produced by the cottage food operation, or that the cottage food operation has violated this chapter.

(ii) Access under this subparagraph is limited to the permitted area and solely for the purpose of enforcing or administering this chapter.

(D) (i) A "Class B" cottage food operation shall be authorized to engage in the indirect sales of cottage food products within the county in which the "Class B" cottage food operation is permitted.

(ii) A county may agree to allow a "Class B" cottage food operation permitted in another county to engage in the indirect sales of cottage food products in the county.

(b) A registration or permit, once issued, is nontransferable. A registration or permit shall be valid only for the person, location, type of food sale, and distribution activity specified by that registration or permit, and, unless suspended or revoked for cause, for the time period indicated.

114365.2. A cottage food operation that is registered or has a permit issued pursuant to Section 114365 shall be considered a restricted food service facility for purposes of, and subject to, Sections 113953.3, 114259.5, 114285, and 114286. A cottage food operation that is registered or has a permit also shall be subject to Sections 113967, 113973, 113980, 114259.5, 114405, 114407, 114409, 114411, and 114413, and to all of the following requirements:

(a) A person with a contagious illness shall refrain from work in the cottage food operation.

(b) A person involved in the preparation or packaging of cottage food products shall keep his or her hands and exposed portions of his or her arms clean and shall wash his or her hands before any food preparation or packaging activity in a cottage food operation.

(c) Water used during the preparation of cottage food products shall meet the potable drinking water standard described in Section 113869, except

Food contaminated by employee

Use of gloves

Handwashing

Animal Prohibition

Requirements for food

Private home living or sleeping quarters prohibition

Permit required

Notice of Decision

Closure

Interference

living and sleeping area separated from retail

Potable water definition = transient noncommunity water systems

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(11) Jams, jellies, preserves, and fruit butter that comply with the standard described in Part 150 of Title 21 of the Code of Federal Regulations.

(12) Nut mixes and nut butters.

(13) Popcorn.

(14) Vinegar and mustard.

(15) Roasted coffee and dried tea.

(16) Waffle cones and pizelles.

(c) (1) ~~The State Public Health Officer may add or delete food products to or from the list described in subdivision (b), which shall be known as the approved food products list.~~ Notice of any change to the approved food products list shall be posted on the department's cottage food program Internet Web site, to also be known as the program Internet Web site for purposes of this chapter. Any change to the approved food products list shall become effective 30 days after the notice is posted. The notice shall state the reason for the change, the authority for the change, and the nature of the change. The notice will provide an opportunity for written comment by indicating the address to which to submit the comment and the deadline by which the comment is required to be received by the department. The address to which the comment is to be submitted may be an electronic site. The notice shall allow at least 20 calendar days for comments to be submitted. The department shall consider all comments submitted before the due date. The department may withdraw the proposed change at any time by notification on the program Internet Web site or through notification by other electronic means. The approved food products list described in subdivision (b), and any updates to the list, shall not be subject to the administrative rulemaking requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) The State Public Health Officer shall not remove any items from the approved food products list unless the State Public Health Officer also posts information on the program Internet Web site explaining the basis upon which the removed food item has been determined to be potentially hazardous.

114365.6. (a) The State Public Health Officer shall provide technical assistance, and develop, maintain, and deliver commodity-specific training related to the safe processing and packaging of cottage food products to local enforcement agencies.

(b) Local enforcement agencies may collect a surcharge fee in addition to any permit fees collected for "Class B" cottage food operations. The surcharge fee shall not exceed the reasonable costs that the department incurs through the administration of the training described in subdivision (a) to protect the public health. The surcharge fees collected shall be transmitted to the department in a manner established by the department to be deposited in the Food Safety Fund. The department shall use the surcharge fees only to develop and deliver the training described in subdivision (a) to local enforcement agency personnel on an ongoing basis.

SEC. 14. Section 114390 of the Health and Safety Code is amended to read:

revoked. A written request for a hearing shall be made by the permitholder within 15 calendar days after receipt of the notice. A failure to request a hearing within 15 calendar days after receipt of the notice shall be deemed a waiver of the right to a hearing. When circumstances warrant, the hearing officer may order a hearing at any reasonable time within this 15-day period to expedite the permit suspension or revocation process.

(c) The hearing shall be held within 15 calendar days of the receipt of a request for a hearing. Upon written request of the permitholder, the hearing officer may postpone any hearing date, if circumstances warrant the action.

SEC. 16. Section 114409 of the Health and Safety Code is amended to read:

114409. (a) If any imminent health hazard is found, unless the hazard is immediately corrected, an enforcement officer may temporarily suspend the permit and order the food facility or cottage food operation immediately closed.

(b) Whenever a permit is suspended as the result of an imminent health hazard, the enforcement officer shall issue to the permitholder a notice setting forth the acts or omissions with which the permitholder is charged, specifying the pertinent code section, and informing the permitholder of the right to a hearing.

(c) At any time within 15 calendar days after service of a notice pursuant to subdivision (b), the permitholder may request in writing a hearing before a hearing officer to show cause why the permit suspension is not warranted. The hearing shall be held within 15 calendar days of the receipt of a request for a hearing. A failure to request a hearing within 15 calendar days shall be deemed a waiver of the right to a hearing.

SEC. 17. Section 8.5 of this bill incorporates amendments to Section 113789 of the Health and Safety Code proposed by both this bill and Assembly Bill 2297. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 113789 of the Health and Safety Code, and (3) this bill is enacted after Assembly Bill 2297, in which case Section 8 of this bill shall not become operative.

SEC. 18. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.



County of Fresno

DEPARTMENT OF PUBLIC HEALTH
EDWARD L. MORENO, M.D., M.P.H.
 DIRECTOR-HEALTH OFFICER

COTTAGE FOOD OPERATIONAL STATEMENT AND SELF CERTIFICATION CHECKLIST

The following requirements are outlined in the Cottage Food Operation (CFO) regulations and are provided as minimum standards of health and safety for the preparation of approved cottage foods in the home.

CFO Business Name:		CFO Owner Name:	
CFO Address:		CFO City:	CFO ZIP:
Phone:	FA	PR	PE

Above bold boxes for office use only.

Class A, Class B

Facility Requirements:

	Yes	No
1. The CFO is located inside a private dwelling where the CFO operator currently resides	<input type="checkbox"/>	<input type="checkbox"/>
2. All food preparation will take place in the private kitchen within that home.	<input type="checkbox"/>	<input type="checkbox"/>
3. No operations will take place in the out-of-doors, garage, out-buildings, or other location that is not the private kitchen or nearby room inside the home used solely for the storage of sealed packaged food and/or ingredients and clean equipment.	<input type="checkbox"/>	<input type="checkbox"/>
4. Additional storage used for the CFO will be within the home.	<input type="checkbox"/>	<input type="checkbox"/>
a. If YES, is the room used exclusively for storage?	<input type="checkbox"/>	<input type="checkbox"/>
b. Specify the room(s) that will be used for storage? _____		
5. <u>Attach</u> floor plans of house identifying areas used for CFO food preparation and storage. You may draw the floor plans yourself. Plans must be to scale (example: one inch = one foot) and include the location of: <ul style="list-style-type: none"> • equipment, sinks, and counters • storage shelving, cabinets, and racks • all rooms in house with one(s) used for CFO storage identified 	<input type="checkbox"/>	<input type="checkbox"/>
6. Sleeping quarters are excluded from areas used for CFO food preparation or storage.	<input type="checkbox"/>	<input type="checkbox"/>

Dedicated to Public Health

1221 Fulton Mall / P.O. Box 11867 / Fresno, California 93775 / Phone (559) 600-3357 / FAX (559) 600-7629

Email: EnvironmentalHealth@co.fresno.ca.us www.fcdph.org
 Equal Employment Opportunity ♦ Affirmative Action ♦ Disabled Employer

Food Preparation Requirements (continued):

Yes No

During the preparation, packaging or handling of CFO products:

- | | | |
|--|--------------------------|--------------------------|
| 20. Domestic activities such as family meal preparation, dishwashing, clothes washing or ironing, kitchen cleaning or guest entertainment are excluded from the kitchen. | <input type="checkbox"/> | <input type="checkbox"/> |
| 21. Infants, small children, or pets are excluded from the home kitchen. | <input type="checkbox"/> | <input type="checkbox"/> |
| 22. Smoking is prohibited in the kitchen and any CFO storage areas of the home. | <input type="checkbox"/> | <input type="checkbox"/> |
| 23. Any person with a contagious illness shall refrain from work in the CFO. | <input type="checkbox"/> | <input type="checkbox"/> |

Labeling Requirements:

Yes No

- | | | |
|--|--------------------------|--------------------------|
| 24. A copy of the label has been submitted to this Department for review and approval. | <input type="checkbox"/> | <input type="checkbox"/> |
| 25. I have <u>attached</u> a sample label. | <input type="checkbox"/> | <input type="checkbox"/> |

By signing below you are certifying that you meet the requirements of the California Retail Food Code, as it pertains to "Class A" or "Class B" cottage food operations and the above information is true and correct. Prior to making any changes to the above certification, I acknowledge that I must notify Fresno County Environmental Health Division in writing of any intended changes to the above statement.

Cottage Food Operator Self-Certification Checklist / Operational Statement completed and submitted by:

Signature

Print Name

Date

*Don't forget to attach any required support documentation noted at the above attachment (📎) reminders.



County of Fresno

DEPARTMENT OF PUBLIC HEALTH
 EDWARD L. MORENO, M.D., M.P.H.
 DIRECTOR-HEALTH OFFICER

CALIFORNIA HOMEMADE FOOD ACT AB 1616 (GATTO) REGISTRATION / PERMITTING FORM

CFO Business Name:			Date:
CFO Address:		CFO City:	CFO ZIP:
Owner Name:	Owner Phone:	Owner Cell:	FA
Mailing Address (if different):	Mailing City:	Mailing ZIP:	PR
Email Address:			PE
Website:			CT

Office Use Only

1. Categories:

- Class A: CFO business selling directly to the people consuming the CFO food product.
- Class B: CFO business that sells to other retailers who will sell to the people consuming the CFO food product. Class B facilities may also sell directly to the consumer.

Class A (Direct Sales Only)

Class B (Direct & Indirect Sales)

2. Prohibited Items:

Initial if you agree to abide by the following: _____

Foods containing cream, custard, or meat fillings are potentially hazardous and are not allowed. Only foods that are defined as "non-potentially hazardous" are approved for preparation by a Cottage Food Operation (CFO). These are food items that do not require refrigeration to keep them safe from bacterial growth that could be a cause of food-borne illness.

Dedicated to Public Health

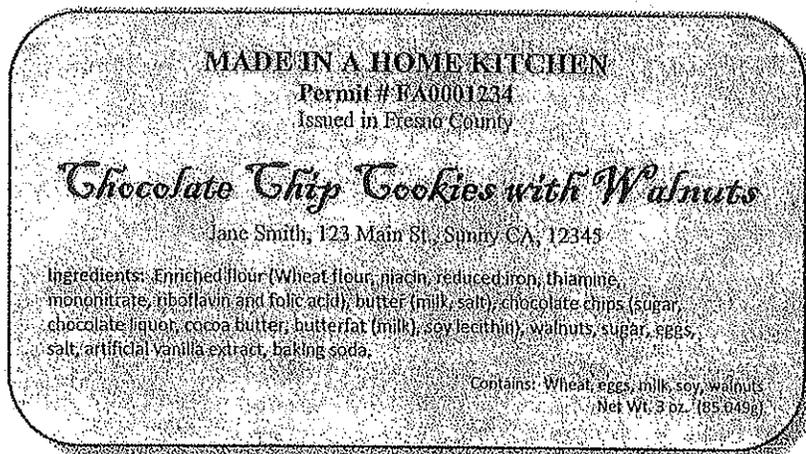
1221 Fulton Mall / P.O. Box 11867 / Fresno, California 93775 / Phone (559) 600-3357 / FAX (559) 600-7629

Email: EnvironmentalHealth@co.fresno.ca.us www.fcdph.org
 Equal Employment Opportunity ♦ Affirmative Action ♦ Disabled Employer

street address must also be declared. (A contact phone number or email address is optional but may be helpful for consumers to contact your business.)

- The registration or permit number of the cottage food operation which produced the cottage food product and in the case of "Class B" CFOs, the name of the county where the permit was issued.
- The ingredients of the food product, in descending order of predominance by weight, if the product contains two or more ingredients.
- The net quantity (count, weight, or volume) of the food product. It must be stated in both English (pound) units and metric units (grams).
- A declaration on the label in plain language if the food contains any of the eight major food allergens such as milk, eggs, fish, shellfish, tree nuts, wheat, peanuts, and soybeans. There are two approved methods prescribed by federal law for declaring the food sources of allergens in packaged foods: 1) in a separate summary statement immediately following or adjacent to the ingredient list, or 2) within the ingredient list.
- If the label makes approved nutrient content claims or health claims, the label must contain a "Nutrition Facts" statement on the information panel.
 - The use of the following eleven terms are considered nutrient content claims (nutritional value of a food): free, low, reduced, fewer, high, less, more, lean, extra lean, good source, and light. Specific requirements have been established for the use of these terms. Please refer to the Cottage Food Labeling Guideline for more details.
 - A health claim is a statement or message on the label that describes the relationship between a food component and a disease or health-related condition (e.g., sodium and hypertension, calcium and osteoporosis). Please refer to the Cottage Food Labeling Guideline for more details.
- Labels must be legible and in English (accurately translated information in another language may accompany it).
- Labels, wrappers, inks, adhesives, paper, and packaging materials that come into contact with the cottage food product by touching the product or penetrating the packaging must be food-grade (safe for food contact) and not contaminate the food.

Example:



Note: For the "Issued in County" – Identify the county where you are obtaining approval.

10. Gross Annual Sales:

Initial if you agree to abide by the following: _____

I understand that I will lose my CFO status and will need to become permitted in a commercial facility if my CFO business exceeds the following gross annual sales figures for the calendar years in the following table:

Calendar Year	Gross Annual Sales
In 2013.....	\$35,000
In 2014.....	\$45,000
In 2015 and in subsequent years.....	\$50,000

Provide your previous year's gross annual sales: \$ _____

Previous year: Calendar: _____ Fiscal (From-To): _____ - _____

11. Delivery Limitations:

Initial if you agree to abide by the following: _____

I understand that I may accept orders and payments via the internet, mail, or phone. However, all "Class A" and "Class B" CFO products must be delivered directly (in person) to the customer. The CFO products may not be delivered via US Mail, United Postal Service, FedEx, or using any other indirect delivery method as this is regulated/subject to CDPH registration and state and federal requirements.

12. Operating Days/Times:

I am producing and/or packaging my CFO products(s) at my home during the following times (include times with AM/PM):

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
From:							
To:							

13. Distribution of CFO Product (include a separate sheet of paper if necessary):

Describe all of the ways you will distribute your CFO product to the consumer. Write all that apply including ways that may not be in this list. (Examples: sales to customer from home, sales at farmer's markets, sales at community events, sales at swap meets, delivery per order, etc.)
