ILLINOIS DEPARTMENT OF PUBLIC HEALTH
OFFICE OF HEALTH PROTECTION
DIVISION OF FOOD, DRUGS AND DAIRIES

TECHNICAL INFORMATION BULLETIN

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SUBJECT: Supplement to Frequently Asked Questions – Cottage Food Operations

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The following is a list of additional questions and answers regarding the cottage food operation provisions of the Food Handling Regulation Enforcement Act [410 ILCS 625/4] and the Sanitary Food Preparation Act [410 ILCS 650/11] which allow for the sale of certain food that is not potentially hazardous and produced in a home kitchen.

TYPES OF FOOD PRODUCTS ALLOWED FOR SALE

What products that are made in a home kitchen can be sold under the "cottage food operation" provisions?

Food that is not a potentially hazardous such as baked goods, jam, jelly, preserves, fruit butter, dry herbs, dry herb blends or dry tea blends and that is intended for end-use only, shall be sold by the owner or a family member using safe food handling practices that reduce the risk of contamination.

Question: We have a potential cottage food vendor proposing to make non-potentially hazardous candy under the law. Since candy is not listed as one of the allowed foods, we were going to ask for commercial lab testing to verify it is non-PHZ.

Answer: As the Act specifically lists the food items that can be sold under the "cottage food operation" provisions, food items that are not listed would **not** fall under this exemption.

MARKETING COTTAGE FOOD OPERATION PRODUCTS

Where can "cottage foods" be sold?

Products can only be sold at farmers' markets, which are defined by the Public Act as a "common facility or area where farmers gather to sell a variety of fresh fruits and vegetables and other locally produced farm and food products, directly to consumers."

Question: Can one operator conduct cottage food activities at any site they wish and operate alone as a farmers' market? They might choose a street corner or their own house (in a residential area) or at their farm (where they might sell produce and jams, baked goods, etc.) The other big question that we have been challenged with is what officially constitutes a "Farmers' Market?"

Answer: Currently the only definition is what is in this Act which is stated above. There is another public act, P.A. 97-0394 which sets up a Farmer's Market Task Force. The Department will wait to see what definition comes out of the Farmer's Market Task Force.

Can products be sold through a brokering arrangement?

"Cottage food operation" means a person who produces or packages non-potentially hazardous food in a kitchen of that person's primary domestic resident for direct sale by the owner or a family member, stored in the residence where the food is made.

Question: During our workshop, the question also came up about farmers who work together and sell their produce through some king of brokering arrangement at a farmers' market. I forgot the acronym that they used, but it sounded like the farmer may not be directly selling their product to the consumer. The coordinator wanted to know if cottage foods could be sold the same way as this arrangement with the produce.

Answer: The Act is specific in that is requires the direct sale by the owner or a family member.

COTTAGE FOOD OPERATION REGISTRATION/INSPECTION

Question: Is it the intent of the law that each vendor register only once for a registration fee or can the LHD charge annually like a food permit? If the vendor changes information such as address or phone #, do they need to re-register with the health department?

Answer: You may require that each vendor register annually. It is up to the discretion of each LHD what the requirements are when the vendor changes information during the year. As an address change would be a new location for the Cottage Food Operation, you may want to require notification/registration of any address changes.

What if significant food safety violations are found during a complaint investigation?

If the Department of Public Health or the health department of a unit of local government has received a consumer complaint or has reason to believe that an imminent health hazard exists or that a cottage food operation's product has been found to be misbranded, adulterated, or not in

compliance with the exception for cottage food operations pursuant to this Section, then it may invoke cessation of sales until it deems that the situation has been addressed to the satisfaction of the Department.

Question: What would the state recommend if a complaint is received and significant food safety violations are found at the Cottage Food Operation? The LHD has no way to apply the Food Safety Code in a residential setting.

Answer: The LHD would invoke the cessation of sales until it deems that the situation has been addressed.

Inspecting Farmer's Markets:

Question: When we are inspecting at farmers' markets and we see a cottage food operator, I expect we could at least verify the basics without doing a routine inspection. I would expect we could verify their food manager's certification, look at their list of items for sale, check for placarding and labeling, etc. Do you agree? If we see any violations, we would explain that there are apparent violations of the state law that they must correct. I would also advise the farmers' market management as well. If they don't comply, should we be forwarding the identity of the offenders to IDPH? Who enforces this law?

Answer: The LHD has the right to verify if the Cottage Food Operator is in compliance with the Act. Any local health department that finds a Cottage Food Operator in non-compliance with P.A. 097-0393 would invoke the cessation of sales until it deems that the situation has been addressed as they would not be in compliance with the exception for cottage food operations.

Question: What if a Cottage Food Operation would like to offer samples that are not pre-packaged and properly labeled? Could you please clarify whether a Cottage Food Operation that offers samples that are not prepackaged and labeled would fall under the Temporary Food Permit requirements?

Answer: Yes. As long as your product meets the requirements of the Cottage Food guidance document and is a non-potentially hazardous food, sampling is allowed. Samples must be pre-packaged in your home kitchen (e.g., if you sample bread, you can't cut it at the market, but can cut it in your home kitchen and individually wrap or package the bread samples into sample cups with lids). Although you do not need an individual label for each sample, you must have properly labeled packages of your product on display with the samples so your customer can review the ingredient list. Your product cannot be cooked or prepared in a way that makes it a potentially hazardous food/temperature control for safety food (e.g., you can't add a dried dip mix to sour cream or serve anything that can't be kept safely at room temperature - these examples would require a food license).

If the samples are not prepared at the Cottage Food Operation, a temporary food permit may be required by the LHD.