



COTTAGE FOODS ACT

Samantha Peaslee

PRESENTED IN CONNECTION WITH:

North Metro Small Business Development Center

City of Westminster

Polaris Law Group

SAMANTHA PEASLEE

Samantha is a partner with Polaris Law Group in Northglenn, Colorado. She serves as external general counsel for small to medium-sized businesses. Within that practice, Samantha specializes in intellectual property, data privacy, and international business transactions.

Samantha is an SBDC Consultant with the North Metro and Larimer SBDCs. She is also a member of the Great West and Pacific Better Business Bureau and World Trade Center Denver.

Samantha is the author of “Own It!”, an online program designed to help small business owners understand the ins and outs of creating their business through following an invented business.



MAYOR NANCY MCNALLY



Mayor Nancy McNally was elected as Mayor of Westminster for her third elected term (fourth total full or partial term) in 2021. She has served the community in various ways over three decades, including but not limited to teaching leadership development, serving on the Jefferson County School Board, serving on the Westminster City Council, and serving on the CSU Extension board. Nancy and her husband Larry have raised three children, many pugs, and bulldogs.

Nancy is an eleven year small business owner in Westminster. She teaches the software one uses to digitize machine embroidery designs. Nancy was honored as the North Metro Chamber Small Business Owner of the Year in 2016. She also sells foods under the Cottage Foods Act, including six types of nut brittles, caramels, and dried fruits.

LEGAL DISCLAIMER

This presentation and any materials provided with it are intended for educational and informational purposes only. Neither these materials, the spoken presentation, nor any comments or answers given by Ms. Peaslee or anyone from Polaris Law Group are legal advice. The materials, presentation, and comments or answers are not to be relied upon for your individual situation or business. Polaris Law Group, their attorneys, and employees, and the SBDC do not assume responsibility for any reliance on the information presented in association with this presentation. Each individual attendee should seek professional, personalized, legal advice before using this information.

CFA DISCLAIMER

This course is NOT a food safety training course that satisfies the requirements for the Cottage Food Act. It is informational only.

C.R.S. 25-4-1614 AND RELATED RULES



Allows for small businesses who are making and selling limited but safe foods to be able to enter into business more easily without the same stringent requirements as general food-service



Designed to encourage direct agricultural sales of fresh products



Provide Colorado citizens better access to healthy foods when safe and from known sources

PROS AND CONS

PROS

- Opens food sales opportunities to small businesses
- Allows for different or additional income streams
- Permits the sharing of family or traditional recipes
- Allows locals to support neighbors by eating healthy, safe foodstuffs

CONS

- Requires some training
- Requires maintaining records and some business requirements
- Can be confused with businesses who are not selling foods correctly
- Is limited to certain foodstuffs
- If you grow too big, can't fall under the Act anymore

STARTING A COTTAGE FOOD BUSINESS

Determine if your food qualifies under the CFA

Start a business (mybiz.Colorado.gov)

Take a qualified food safety training course

Determining your location of production

Obtain insurance (we will skip this today)

Packaging and labelling

Selling

Maintain business and training requirements

THREE RULES OF ELIGIBILITY:



SAFETY



SIZE

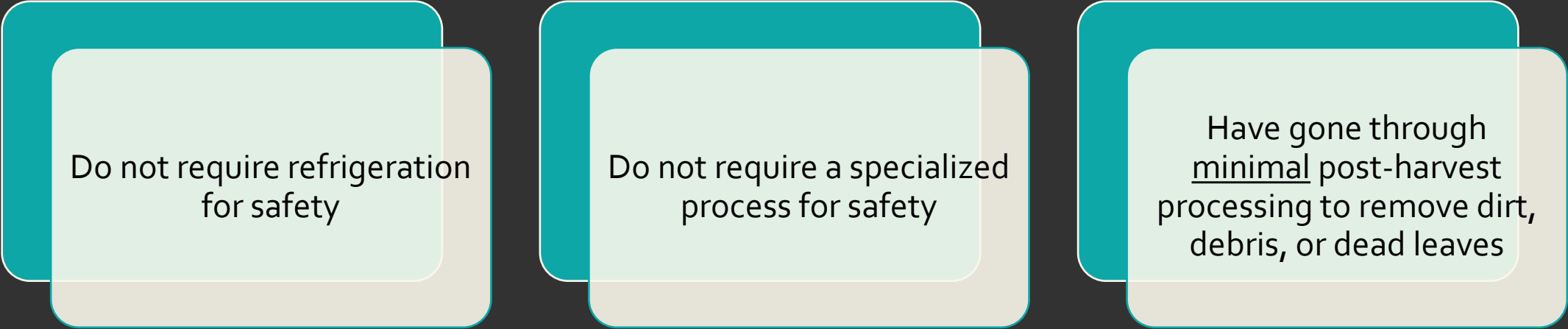


SALES



STEP 1: DETERMINE IF YOUR FOOD QUALIFIES

ELIGIBLE FOODS



Do not require refrigeration
for safety

Do not require a specialized
process for safety

Have gone through
minimal post-harvest
processing to remove dirt,
debris, or dead leaves

To confirm if your product is eligible, contact cdphe_mfgfd@state.co.us

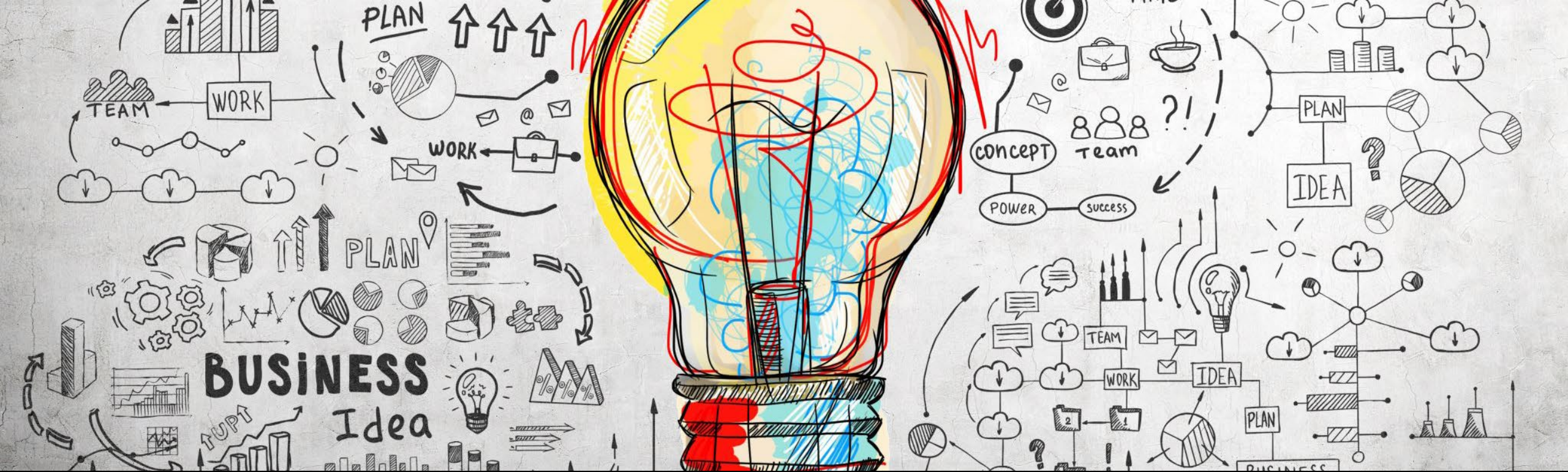
ELIGIBLE AND INELIGIBLE FOODS HIGHLIGHTS

Eligible Highlights

- Pickled produce with pH of 4.6 or below
- Dried, dehydrated, freeze-dried and plant-based
- Preserves, jams, chutneys, honey, syrup, fruit butter (with exceptions)
- Dry mixes
- Baked goods WITHOUT dairy-based fillings or toppings
- Flavored vinegars

Ineligible Highlights

- Meat and fish products
- Dairy products
- Sauces, condiments, canned pickles
- Cut fresh produce, fresh juices, fresh puree
- Flavored oils and salsas
- Anything with CBD, THC, +5% alcohol



STEP 2: START YOUR BUSINESS

Visit North Metro SBDC for more in-depth presentations on starting your own business

BUSINESS REQUIREMENTS



Sole Proprietor or LLC (limited to 2 or fewer members, but unlimited number of employees)



Colorado registered and all members residents



Licensed with local city/county

Home Use permit

<https://www.westminsterco.gov/513/Business-Licenses>



Sales Tax License

NET REVENUE REQUIREMENTS



Less than \$10,000 net revenue
per product

E.g., Each muffin flavor different
product



“Net revenue”

Revenue from sale – (COGs + standard
costs)



STEP 3: TAKE A QUALIFIED FOOD SAFETY TRAINING

Reminder: This session is not qualified

FOOD SAFETY TRAINING FOR COLORADO FOOD PRODUCERS

Colorado State University Extension

Online (in-person when sufficient interest), 3.5 hours

English or Spanish

\$55.20 (may vary based on location)

Good for 3 years from date of completion

Can take an online course to renew

FOOD HANDLERS CARD



Variety of
Providers



All online



Price varies based
on provider (as
low as \$11 per
user)



Multi-lingual
depending on
provider



Good for 3
years



STEP 4: DETERMINE LOCATION OF PRODUCTION



PERMITTED SPACES



Home kitchen



Commercial kitchen



Private kitchen

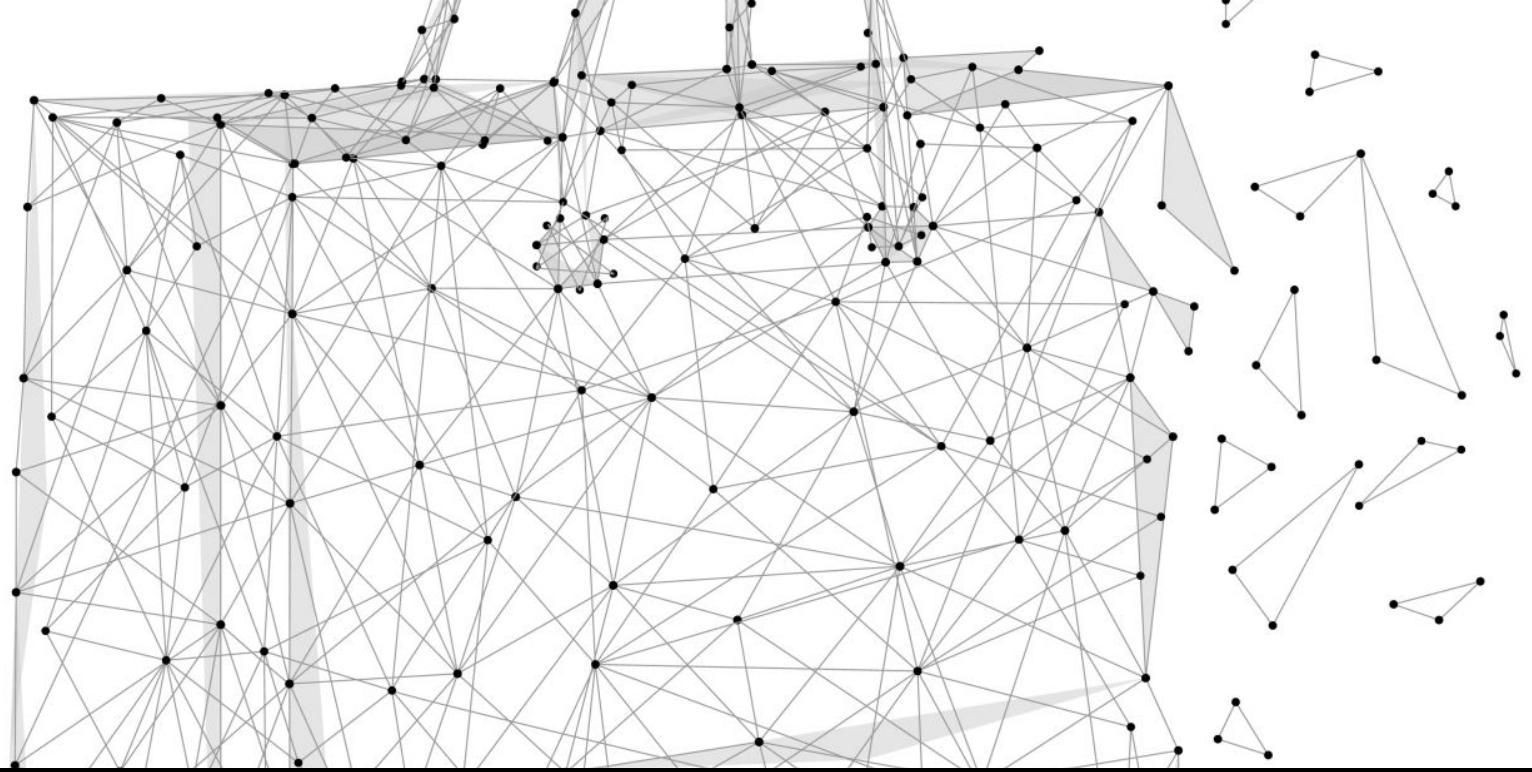


Public kitchen



YOUR TRAINING WILL GO OVER SPACE CLEANLINESS AND SANITATION

Key point here: **No pets** in production area



STEP 6: PACKAGE AND LABEL

Remember, we skipped Step 5: Insurance today

PACKAGING

ALL COTTAGE FOODS MUST BE PACKAGED AND LABELED
ACCORDING TO ACT*

CANNOT SELL UNLABELED FOOD TO CUSTOMERS

MUST BE PRE-PACKAGED

MUST BE FOOD GRADE MATERIAL

LABEL REQUIREMENTS

"This product was produced in a home kitchen that is not subject to state licensure or inspection and that may also process common food allergens such as tree nuts, peanuts, eggs, soy, wheat, milk, fish, and crustacean shellfish. This product is not intended for resale.

Product identification (e.g. blueberry muffin, pineapple chutney)

Producer name

Full location of production address

Producer's current email OR phone number

Production date

Complete list of ingredients, in descending order of weight



STEP 7: SELLING

SALES PERMITTED UNDER ACT

- Only directly to an informed end consumer
- Only in Colorado
- No resale
- No intermediate sales person (must be producer's designated representative)
- No sales to restaurants or food trucks
- No sales to grocery stores
- Clearly display disclaimer at point of sale: **"This product was produced in a home kitchen that is not subject to state licensure or inspection. This product is not intended for resale."**
- Can be online, so long as not interstate
- Have copy of certificate posted or available at point of sale (best practice, not required)
- Don't forget your sales tax!

MARKETING YOURSELF

- “Cottage Foods” means something to people in Colorado
- Distinguish yourself from the unlabelled stand next to you
- Behind-the-Scenes videos have strong impact
- Encourages collaboration with other limited small businesses
 - Co-Promotion
 - Yard Sales
 - Holiday marketplaces
 - Gifts
- Put a sign up in your yard
- Requirements are easy to display for online and social media presence
 - Notify neighbors you have a batch ready – first come first serve!



STEP 8: MAINTAIN YOUR REQUIREMENTS

MAINTAIN YOUR RECORDS

- Business records
 - (minutes, foundational documents, filings, contracts)
- Production records
 - (recipes, names, amount prepared, amount sold, date prepared, date and location of sale, pH test results, source of ingredients)
- Financial records
 - (gross sales receipts, sales tax collected, sales tax paid, taxes)
- Internal processes and procedures
- Training records
 - Take ongoing training; maintain status of good standing

OPERATIONAL BENEFITS OF CFA

- Works well with smaller business models
- Lower insurance costs
- Lower operational costs
 - No full-time space requirement
 - Limited kitchen
 - Limited to no staffing
- Generally reduces barrier to entry
- Access to additional funding
 - <https://cdphe.colorado.gov/dehs/cottage-foods> - "Where Can I Find Small Business Development and Funding Resources"

NON-COMPLIANCE





WHEN MAY BE TRIGGERED

CONSEQUENCES OF NON-COMPLIANCE

Food sampling and inspection by state, county, district, or regional health agency

Product may be embargoed and then condemned at your expense

- Also costs, fees, storage, and other expenses
- Misbranding is also a criminal misdemeanor

Found to be operating food establishment without license

- Assess unpaid license fees and fines and penalties
- Injunction

CITES AND ADDITIONAL RESOURCES

- CRS 25-4-1614
- <https://cdphe.colorado.gov/dehs/cottage-foods>
- Cottage Foods checklist (in English and Spanish):
 - <https://drive.google.com/file/d/1btln2baezWeXzkmQtsZFXaSFhFv5Uoq2/view>
 - <https://drive.google.com/file/d/1ZncDVEclsJkvgqqVOIUveEnLc75C4T8w/view>
- Sample Labels:
 - https://drive.google.com/file/d/1dtoGZGC_Jw_oDGrFGsiSxgRF9opBAA-o/view
- Trainings
 - <https://extension.colostate.edu/offering/cottage-food-safety-training/>
 - <https://www.statefoodsafety.com/>
 - <https://www.cofoodhandlers.com/StateRegulations?Site=coFoodhandlers&County=Adams#:~:text=Getting%20Your%20Food%20Handlers%20Card,options%20for%20every%20learning%20style.>
 - <https://aaafoodhandler.com/>
- <https://adamscountyhealthdepartment.org/licensing-inspections/retail-food/>
- This Presentation will be provided to attendees within one week after conclusion



QUESTIONS?

REACH OUT TO US

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Ownitprogram.thinkific.com

Reach out to the SBDC for a free consult on business requirements.

North Metro SBDC

<https://sbdc.colorado.gov/northmetro>



City of Westminster

<https://www.westminsterco.gov/>

