California Conference of Directors of Environmental Health

COMMUNITY FOOD PRODUCTION

FREQUENTLY ASKED QUESTIONS

AB 1990 – GORDON

Note: The information in this Frequently Asked Questions (FAQ) handout is intended to provide a uniform statewide response to questions posed and will be updated as needed. The answers were evaluated by the CCDEH Ad Hoc AB 1990 Implementation Workgroup. This information should not be construed as a legal interpretation. **Text of AB 1990 Chaptered Law:** http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB1990

1. When does this new law go into effect?

This new law becomes effective on January 1, 2015. Unless prohibited by a local ordinance (Section 114376(a)), the new law authorizes a Community Food Producer or a Gleaner, as defined, to sell or provide whole uncut fruits or vegetables and up to 15 dozen unrefrigerated shell eggs per month if they meet specified requirements. Community Food Producers and Gleaners may only sell directly to the public, to a permitted restaurant, or to a Cottage Food Operator. The law authorizes a city or county health enforcement agency to require a Community Food Producer or Gleaner to register and to provide specified information.

While the law does not require routine inspections, it authorizes an enforcement officer to inspect the operations of a Community Food Producer or Gleaner in response to a food safety recall or food safety complaint, issue a cease and desist order for violations to the provisions of the law, conduct re-inspections to verify violations are corrected before operations resume, and to recover reasonable costs associated with these inspections.

Failure to meet the requirements of the law is a crime, and Community Food Producers have a legal obligation to implement the best management practices. Some jurisdictions require Community Food Producers to register and complete a self-certification stating they are in compliance with applicable local land use and zoning restrictions and that they use best management practices, as described in the Food Safety Guidelines for Small Farms published the Department of Food and Agriculture (http://www.cdfa.ca.gov/is/i_&_c/sffsg.html), to grow, harvest and distribute the community foods they are producing.

2. What is a "Community Food Producer" (CFP)?

"Community Food Producer" means a producer of agricultural products on land that is not zoned for agricultural use but is otherwise in compliance with applicable local land use and zoning restrictions, including, but not limited to, restrictions governing personal gardens, community gardens, school gardens, and culinary gardens (California Retail Food Code (Cal Code), Section 113752).

3. What is a "Gleaner"?

"Gleaner" means a person who legally gathers remnants of an agricultural crop or harvests part of, or all of, an agricultural crop made available by the owner of the agricultural crop (Cal Code, Section 113796).

PERMITTING REQUIREMENTS

4. What agencies should I contact to ensure I have all the information and permits needed for my Community Food Operation?

- **Land Use and Zoning approval:** Contact your local Planning / Community Development Agency to verify compliance with applicable local land use and zoning restrictions (Cal Code, Section 113752).
- **Sales permit/license:** Contact your local jurisdiction to obtain a business license or peddling permit, if required
- **Local registration as a Community Food Producer:** Call your Local City or County Health Enforcement Agency to find out if registration is required in your jurisdiction (Cal Code, Section 114376 (b))
- **Egg Sales registration:** Register with the California Department of Food and Agriculture's Egg Safety and Quality Management Program. Registration information can be found at: http://www.cdfa.ca.gov/ahfss/mpes/esqm.html.
- **Pesticide use:** Contact the local Agricultural Commissioner's Office if you are planning to use pesticides.

5. How do I register to become a Community Food Producer or a Gleaner

Registration requirements vary depending on the jurisdiction where you operate. Check with your local City or County Health Enforcement Agency to find out if Registration is required in your jurisdiction (Cal Code, Section 114376(b)).

6. What permits do I need to sell eggs as a Community Food Producer?

A Community Food Producer may raise chickens and sell up to 15 dozen unrefrigerated shell eggs per month. To sell eggs, you must:

- Comply with the local land use and zoning restrictions (Cal Code, Section 114376(b))
- Register with the local Health Enforcement Agency as a Community Food Producer (if required)
- Register with the Egg Safety and Quality Management Program. Registration information can be found at: http://www.cdfa.ca.gov/ahfss/mpes/esqm.html

7. Will my property be inspected if I become a Community Food Producer or a Gleaner?

No, your property will not receive a routine inspection by your local city or County Health Enforcement Agency. Inspections of Community Food Producer or Gleaners will only be conducted in response to a food safety recall or food safety complaint (Cal Code, Section 114376.5). The law allows local health enforcement agencies to recover costs from the Community Food Producer or Gleaner that are associated with complaint investigations.

FOOD DISTRIBUTION

8. What type of community food products from my garden can I sell?

You can conduct direct sales of the following community food products from your garden:

- Whole uncut fruits and vegetables, including unshelled nuts
  - Cutting beyond that required during harvesting is considered food processing and will require further permitting
- Unrefrigerated shell eggs (up to 15 dozen per month)
- Certain high-risk products (such as sprouts and mushrooms) may require further evaluation and be subject to additional requirements. Check with your Local Enforcement Agency.

9. Are there limitations on what Community Food Producers (growers) or Gleaners can sell under the Community Food Production law?

Community Food Producers or Gleaners can sell whole agricultural products, including uncut fruits and vegetables, and up to 15 dozen unrefrigerated eggs per month, provided that all food is grown according to the Food Safety Guidelines for Small Farms published by the Department of Food and Agriculture. These guidelines provide Best Management Practices (BMPs) to protect food safety and can be found at: http://www.cdfa.ca.gov/is/i_&_c/sffsg.html.

10. Where can Community Food Producers and Gleaners sell the produce they glean or grow in their gardens?

Community Food Producers and Gleaners may sell the products they acquire or grow **directly** to:

- The public
- Permitted restaurants
- Cottage Food Operators (Cal Code, Section 114376(a))
- On premises controlled by the producer (Cal Code, Section 113789(c)(6))

They may need to register as Community Food Producers with their local Health Enforcement Agency where they operate and comply with other local licensing requirements, including business licenses and land use/zoning approval. The local Health Enforcement Agency can provide information regarding any registration requirements (Cal Code, Section 114376 (b)).

11. I understand that I can sell my whole uncut fruits or vegetables and unrefrigerated shell eggs to a restaurant. Can I also sell them to a market?

You may sell your community food products directly to a restaurant but not to a market. As approved, the law only allows for direct sales of community food products. You may not conduct indirect sales such as selling to a market that will then sell your community food products to their customers. You may, however, sell your community food products directly to the public at a Community Event.

12. Can a Community Food Producer donate produce and eggs to a nonprofit organization such as a food bank?

While not specifically included in this new law, the local jurisdiction may allow food banks to receive these products if they are grown according to the best management practices and the producer is registered with the local Health Enforcement Agency, when required. Additional clarification may be required in future law amendments. Verify local requirements with your local Health Enforcement Agency.

13. Can a group of community producers sell from one common location in a neighborhood without health permits?

Yes. The new law authorizes individuals to sell their products via "direct" marketing venues (Cal Code Section 114376(a)). Be advised that other local land use and zoning requirements, such as special event permits may apply. Verify the local requirements with your local Health Enforcement Agency (Cal Code, Section 113752).

14. Can I sell my community food products in other Counties?

Yes, you may sell community food products in other Counties in California if no local ordinances prevent it and you meet their local requirements (Cal Code Section 114376 (a)).

15. Can I use the produce from my garden to make foods to sell, such as pie or jam?

Yes, as long as the product meets the state and local requirements applicable for the type of product being sold (such as a Cottage Food Operation or otherwise prepared in a permitted kitchen).

16. Can a Community Food Producer sell other products?

Yes, but a separate permit may be required. Check with your local Health Enforcement Agency.

17. What are limitations on Internet sales and delivery of community food producer products?

A community food producer may advertise as well as accept orders and payments via Internet or phone. However, a community food producer must deliver (in person) to the customer. A community food producer may not deliver any products via US Mail, UPS, FedEx or using any other third-party delivery service. A community food producer may not introduce products into interstate commerce.

APPROVED SOURCE OF FOOD

17. Can any garden be considered an approved source of community food products?

Yes, any garden can be considered an approved source of community food products if the following conditions are met:

- Community food BMPs are used for the safe production, and handling of the produce.
- The producer is registered as a Community Food Producer, if required by the jurisdiction where the produce is grown.
- The producer only conducts direct sales to the public (such as at Community Events), restaurants or cottage food operations. At this time, Community Food Producers and Gleaners cannot sell their produce to retail markets, such as grocery stores.

18. I would like to sell the produce grown in my Community Food Operation to a restaurant. How can I demonstrate that my produce comes from an approved source?

There are a couple ways to demonstrate your produce comes from an approved source:

- If your jurisdiction requires a Community Food Producer registration, you may provide your customers with a copy of your local registration.
- If your jurisdiction does not require registration or self-certification, you could provide your customers with a copy of "Food Safety Guidelines for Small Farms" and some form of self-certification to document that the required best management practices are used to grow, harvest and distribute your produce.

19. As a Gleaner, how can I be assured that the produce I glean is safe?

By gleaning products from agricultural operations that are meeting best management practices and have any required registrations/licenses, such as, but not limited to:

- Farms registered and in good compliance with the local Department of Agriculture
- Community Food Producers that meet all local registration and best management requirements

20. Are there specific labeling requirements for the agricultural products I sell?

Yes. Agricultural products must be labeled with the name and address of the community food producer. If the agricultural product is being sold by the Community Food Producer on the site of production, conspicuous signage must be provided in lieu of a product label. At a minimum, the signage shall include the name and address of the Community Food Producer (Cal Code Section 114376(a)).