Regulations and Insurance for Connecticut Food Businesses

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Organization (LSO)
Ludwig Center for Community & Economic
Development
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- Free legal assistance for eligible farmers, food entrepreneurs, and food related organizations in MA, ME, RI, CT, and VT
- Volunteer attorneys can help with business formation, real estate transactions, trademark, contracts, and more
- New Resource Library with easy-to-use legal guides on our website

1-844-LAW-GROW www.legalfoodhub.org

Quick Introduction

- Our team
 - o Bessie
 - o Paul
 - o Emilee
 - o Anika
- You do not need to memorize this information today!
- Please ask us any questions you have.
- We will connect you with resources that can provide you with legal support.
 - Legal Food Hub (pro bono legal network for food businesses, https://www.legalfoodhub.org/)

Sources: Federal Poverty Guidelines, https://aspe.hhs.gov/poverty-guidelines

What we'll talk about today

- 1 Food safety—laws and regulations
- 2 Food business insurance
- 3 Help and resources

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- 1 Food safety—laws and regulations
 - **a** Introduction
 - **b** Food product safety
 - c Employee safety
 - d Facility safety
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Sources of rules



Washington D.C.



Hartford, CT

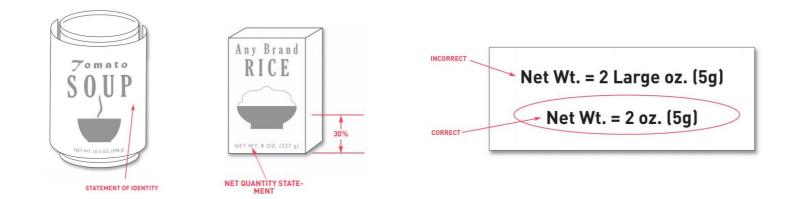


New Haven, CT

- Federal Government Regulates <u>businesses that</u> <u>manufacture and sell wholesale food products</u> through the FDA and USDA. The IRS oversees tax compliance.
- State Government Connecticut regulates <u>businesses that</u> <u>manufacture and sell food products</u> through the Department of Consumer Protection, Department of Public Health, and Office of the Secretary of the State (general business regulations).
- Local Government City departments regulate <u>food</u> <u>establishments (catering, food trucks, restaurants)</u>. In New Haven, this is through the Bureau of Environmental Health (within the New Haven Health Department), and the Office of Building & Inspection Enforcement.

What do the food laws cover?

- Food product safety what you can make (special rules for preserved foods, baked goods, etc.) and how you market it (labelling requirements).
- Employee safety safety requirements for you and your employees.
- Facility safety registration requirements for the facility where you make your food.



Sources: (1) FDA Current Good Manufacturing Practices (https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm?CFRPart=110&showFR=1); (2) FDA PCHF Rule Small Entity Compliance Guide

(https://www.fda.gov/downloads/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/UCM526507.pdf); (3) FDA 2017 Model Food Code (https://www.fda.gov/downloads/Food/GuidanceRegulation/RetailFoodProtection/FoodCode/UCM595140.pdf); (4) CT Uniform Drug & Cosmetic Act (https://www.cga.ct.gov/current/pub/chap_418.htm)

Are you covered by all food safety laws?

- If you are a very small business, you may be:
 - o Exempt from some federal requirements or
 - o Subject to modified federal requirements
 - o Definition of small business differs by rule. E.g., the FDA PCHF (Preventative Control for Human Food) rules are modified if your business is under \$1M in annual sales + market value of food, whereas the FDA Sanitary Transportation of Human and Animal Food Rule exempts businesses under \$500K in annual revenue.

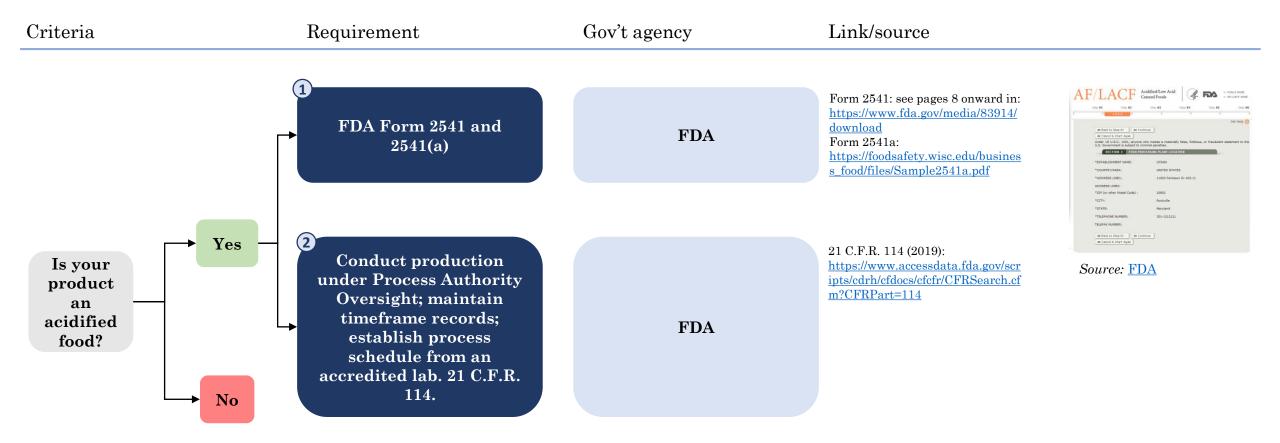
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 - d Facility safety
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Type of food product

- The FDA has other "standards of identity" which regulate ingredients for products with certain names.
- Example: bakery products
 - "Bread" weighs at least ½ lb. after baking, while "rolls" and "buns" weight < ½ lb. after baking.
 - Bakery products containing at least 2.56% egg solids must be labelled "egg bread," "egg rolls," or "egg buns."
- There are similar requirements for frozen desserts (ice cream, sherbet), eggs/fish, food dressings, and some others. You should read the rules for your company's products. See 21 C.F.R. 130-170.
- Today, we will cover acidified foods because they are common are have required processes (versus simply ingredient requirements for other food types, above).

Acidified foods

• Acidified foods are generally pickled or preserved foods, defined as "having a water activity greater than 0.85 and have a finished equilibrium pH of 4.6 or below" (e.g., pickled foods, jams, sauces/condiments). 21 C.F.R. 114.3.



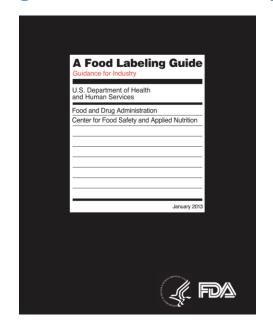
Food Labels (federal government)

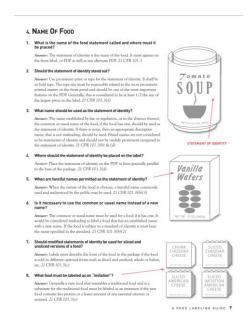
- The FDA regulates what information must appear on food labels.
- Small businesses may be exempt from <u>nutrition</u> label requirements.
 - o "Low-volume products." If you employ <100 employees and sell fewer than 100,000 units of the product per year (must file notice with FDA annually).
 - Exemption does not apply for products making nutritional claims.
 - o "Small businesses." Retailers with annual gross sales < \$500,000 or gross sales of food or dietary supplements <\$50,000 (no need to file notice with FDA).
 - Cannot get exemptions if your product has nutrient claims on it ("sugar-free," etc.).
 - o All other requirements still apply (statement of identity, net quantity of contents, ingredient statement, and name and address of manufacturer, packer or distributor).

Sources: (1) 21 C.F.R. 101.9(j)(1) & (18); (2) FDA, Small Business Labelling Exemption Guide (visited Jan. 28, 2020), https://www.fda.gov/food/labeling-nutrition-guidance-documents-regulatory-information/small-business-nutrition-labeling-exemption-guide; (3) See page 26 in FDA, Guidance for Industry: A Food Labelling Guide (Jan. 2013), https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-industry-food-labeling-guide.

Food Labels (federal government)

Step-by-step instructions in the FDA's Guidance for Industry: A Food Labelling Guide (Jan. 2013), https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-industry-food-labeling-guide





Food Labels (state government)

- <u>Ingredient requirements</u>—Connecticut law has ingredient requirements for bakery products, frozen foods/desserts, cider, olive oil, meat, nonalcoholic beverages, and dietary beverages (link below).
- <u>Labelling</u>—The Dept. of Consumer Protection also publishes a labelling guide (link below), which illustrates its requirements.
- Businesses can verify that their labels are in compliance by sending them to the State's Dept. of Consumer Protection.

Food Label Review

Department of Consumer Protection
Division of Food & Standards
Room 165, 165 Capitol Avenue
Hartford, CT 06106



Sources: Connecticut Dept. of Consumer Protection, Labelling—clothing and food: https://portal.ct.gov/DCP/Food-and-Standards-Division/Food--Standards/Labeling--clothing-and-food; Food Labelling Guide: https://portal.ct.gov/-/media/DCP/pdf/foods/Label042915pdf.pdf?la=en

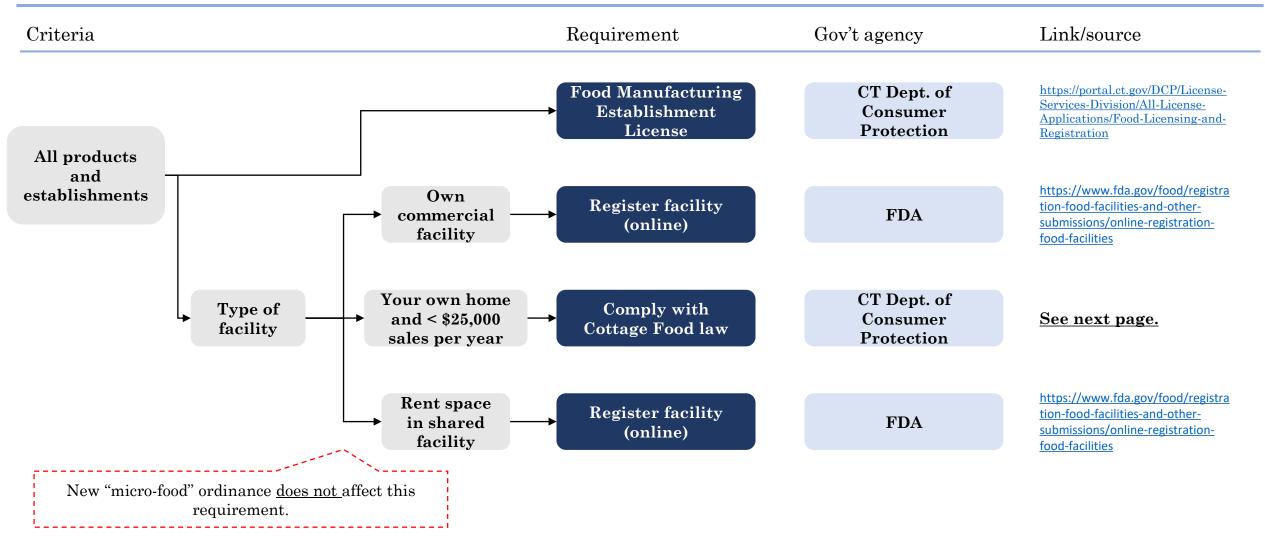
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Qualified Food Operator certification

- Why should you take one?
 - Connecticut requires that each person "owning, operating or managing" a food establishment certify as a Qualified Food Operator. Conn. Pub. Health Code Sec. 19-13-B42, B48 & B49.
- Where can you find a proper certification course?
 - o List of Connecticut-approved courses: http://www.portal.ct.gov/DPH/Food-Protection-Program/Education-and-Training

- 1 Food safety—laws and regulations
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Where can you cook?



Sources: Questions and Answers Regarding Food Facility Registration (Seventh Edition): Guidance for Industry, FDA, https://www.fda.gov/media/85043/download

If you cook at home (1/3)

- Cottage food law allows for direct sale of some non-perishable foods made in your private home kitchen. To be eligible, you must
 - o use your private home kitchen, with no commercial equipment.
 - o sell food <u>directly to consumers</u> (not through a wholesaler, supermarket, or broker).
 - o have yearly gross (total) sales of no more than \$25,000.
 - o make certain kinds of food (<u>can produce</u> breads, certain types of cakes, candies, dried fruits; <u>cannot produce</u> cooked vegetable products, meat/poultry).
 - o label your food,
- You must still comply with <u>all other</u> relevant regulations (e.g., Qualified Food Operator, etc.).

Sources: Cottage Food in Connecticut, CT Dept. of Consumer Protection: https://portal.ct.gov/-/media/DCP/News-Releases-from-the-Department-of-Consumer-Protection/COTTAGE FOOD MANUAL.pdf?la=en; Cottage Food Operator, CT Dept. of Consumer Protection: https://portal.ct.gov/DCP/Food-and-Standards-Division/Cottage-Food/Cotta

If you cook at home (2/3)

- The Connecticut Cottage Food Manual is a great resource for questions about inspection, labeling, and food products.
- It is important to note that you must meet your city's zoning laws to make food in your home. To make sure you are following the laws, you can request a **verification of compliance** from your city's zoning department.

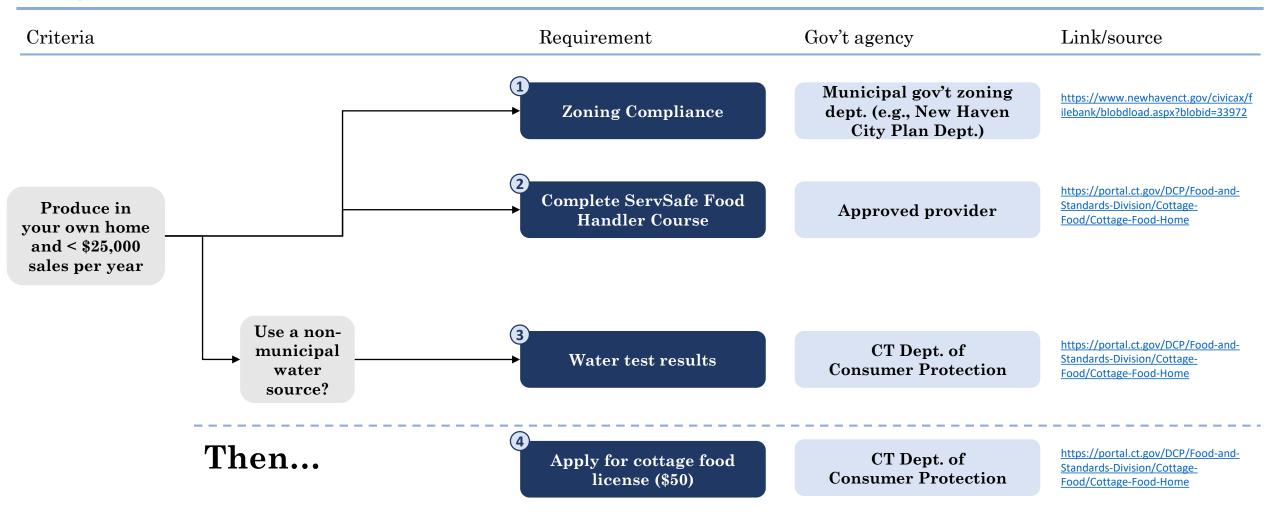
Will I need to meet local zoning or other laws?

Yes. Cottage food operators should contact their municipal government to determine if there are local regulations that will impact their business.



Sources: Cottage Food in Connecticut, CT Dept. of Consumer Protection: https://portal.ct.gov/-/media/DCP/News-Releases-from-the-Department-of-Consumer-Protection/COTTAGE_FOOD_MANUAL.pdf?la=en; Request for Letter of Zoning Compliance, New Haven City Plan Dept.: https://www.newhavenct.gov/civicax/filebank/blobdload.aspx?blobid=33972.

If you cook at home (3/3)



Sources: Cottage Food in Connecticut, CT Dept. of Consumer Protection: https://portal.ct.gov/-/media/DCP/News-Releases-from-the-Department-of-Consumer-Protection/COTTAGE FOOD MANUAL.pdf?la=en; Cottage Food Operator, CT Dept. of Consumer Protection: <a href="https://portal.ct.gov/DCP/Food-and-Standards-Division/Cottage-Food/

Example—catering business in shared kitchen





Source: Sanctuary Kitchen

Example—catering business in shared kitchen

Done?	Requirement	Gov't agency	Action taken
	Qualified Food Operator (QFO) certification	CT Dept. of Public Health	Business owner (manager who will be present art all times) completes QFO training course.
	Food Manufacturing Establishment License	CT Dept. of Consumer Protection	Submits application by mail, with \$20 fee.
	Register facility (online)	FDA	Registers facility online in the FDA's online potal.
	Food label requirements	FDA	Files notice with FDA for small business exemption. Complies with all other requirements on food labels (statement of identity, net quantity of contents, ingredient statement, and name and address of manufacturer, packer or distributor).
	Food type requirements (e.g., acidified food)	FDA	If producing an acidified food, completes Form 2541 and 2541a online and reviews the requirements in 21 C.F.R. 114 (2019), https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm?CFRPart=114 .

Overall checklist with links

Done?	Requirement	Gov't agency	Link/source	
	Qualified Food Operator (QFO) certification	CT Dept. of Public Health	$\underline{https://portal.ct.gov/DPH/Food-Protection-Program/Education-and-Training}$	
	Food Manufacturing Establishment License	CT Dept. of Consumer Protection	https://portal.ct.gov/DCP/License-Services-Division/All-License-Applications/Food-Licensing-and-Registration	
	Register facility (online)	FDA	https://www.fda.gov/food/registration-food-facilities-and-other-submissions/online-registration-food-facilities	
	Or comply with CT cottage food law, if applicable.			
	Food label requirements	FDA	FDA, Guidance for Industry: A Food Labelling Guide (Jan. 2013), https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-industry-food-labeling-guide .	
	Food type requirements (e.g., acidified food)	FDA	See 21 C.F.R. 130-170 For acidified foods, see Form 2541: see pages 8 onward in: https://www.fda.gov/media/83914/download Form 2541a: https://foodsafety.wisc.edu/business_food/files/Sample2541a.pdf 21 C.F.R. 114 (2019): https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm?CFRPart=114	

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Insurance terms

- **Policy** A contract between an insurance provider and an individual business that explains the terms and conditions of the insurance plan
- Liability What you or your business are legally responsible for, usually measured financially
- **Coverage** The amount of liability the insurance provider will pay an individual or business
- **Premium or Rate** The amount of money an individual or business must pay to have an insurance plan
- **Deductible** The amount of money an individual or business must pay before the insurance plan starts to pay

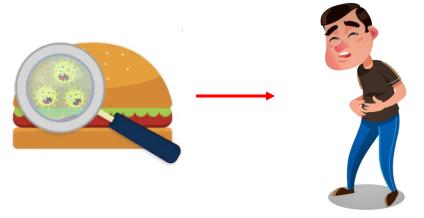
What types of insurance are there?

For all food businesses

- General Liability Coverage for injury or damage caused by direct or indirect actions of the insured person
 - o Example: A customer slips, falls, and breaks their leg in your restaurant
- **Product Liability** Coverage for injury or damage that may arise from your products
 - o E.g., a customer eats your food and it causes them illness or injury







Sources: https://www.shutterstock.com/search/contaminated+food (left), https://www.pinclipart.com/maxpin/ohRRhh/ (right)

What types of insurance are there?

For some food businesses

- Rental coverage
- Commercial property
- Business personal property
- Vehicle coverage
- Manufacturing facility and equipment
- Product recall
- Workers' compensation
- Product liability
- There are others that may apply to your business



Source: <u>Insureon</u>

Why do you need insurance?

- Insurance protects against possible financial loss from accidents, lawsuits, etc.
- Some insurance is **required** to operate.
 - Workers compensation insurance is required.¹
 - This can help cover medical fees and lost wages for employees who suffer from work-related illnesses or injuries.
 - o Auto insurance is required for business vehicles.
 - All vehicles used for business must obtain Commercial Registration with the Connecticut DMV, which requires insurance coverage.² If you already have personal coverage on your vehicle, you don't *need* more (but may *want* more).
 - Certain very heavy vehicles have additional insurance requirements and must report insurance annually (basically semi-trucks, freight vehicles, etc.).³
- · Additional insurance can be beneficial to insure you against other risks!
 - o Some contracts (e.g., a facility lease) require certain kinds of insurance that protects up to a certain amount of money.

Sources: (1) Conn. Gen. Stat. § 31-284; (2) Conn. Gen. Stat. § 14-49(e) & 14-112; (3) Conn. Gen. Stat. § 14-163(a) and 14-163d.

Additional requirements for heavy vehicles: https://portal.ct.gov/DMV/Insurance/Insurance/Connecticut-Insurance-Indentification-Card

How much does insurance cost?

- Your business will pay a monthly or annual rate
- Rates are determined by a number of factors, including
 - Expected revenues
 - Operation type
 - o Production process
 - o Food service experience
- It is possible to find online quotes from different insurance providers you may need to mix and match policies to get everything you need!
 - o Progressive & FLIP include product liability in their General Liability insurance policy, while Insureon does not.
- Very broad estimate (per year) for a food truck.
 - \circ ~\$3,500 per year = ~\$1,600 for commercial auto insurance + ~\$650 for food truck general liability insurance (include product liability) + ~\$1,300 for workers comp.

Sources: How much does business insurance cost for food trucks?, Insureon (visited Jan. 31, 2020), https://www.insureon.com/food-business-insurance/food-trucks/cost.

How do you find the right insurance?

- Look for an agent who knows your type of business.
 - Ask friends and mentors.
 - o Have an initial conversation and see if they seem reliable and helpful.
 - o Local insurance brokers include Abbate Insurance Associates, North Haven Insurance, L.H. Brenner.
 - Find quotes online on national websites: FLIP, Progressive, Insureon, GEICO, Farmer's
- Once you have identified an agent,
 - Work closely with them to find the right products.
 - Ask about specific actions to prevent losses.
 - o Keep agent informed as your business changes.



Sinsureon

Image sources: FLIP logo: https://www.fliprogram.com/, Insureon logo: https://www.insureon.com/food-business-insurance/food-trucks.

How do you find the right insurance?

Business type	Testimonial
Food product	"I was referred to a few insurance providers by the commercial kitchen / co- packer we work with. I went with the provider that would give us insurance. We had a few that turned us down given the nature of our business risks."
Food product	"When finding insurance I googled insurance for bakers. Before I purchased I sent it to a friend who is an insurance agent and she told me it was sufficient coverage for what I needed. So I purchased it."
Catering	"I knew a good friend who worked for an insurance broker. Brokers are typically better to reach out to because they can shop around for multiple insurance companies to find the best fit for the lowest price. It really depends on what kind of business or even what category of a certain type of business you are."
Food product	One local food business owner was referred to a list of insurance agents, called them and chose one, and then realized she needed more coverage and bought more, but she found the process cumbersome. She then switched to FLIP (Food Liability Insurance Program) insurance, which is digitally-based, and found it to be more affordable and easy.

Sources: Interviews conducted with 2018 CitySeed business mentors.

- 1 Food safety—laws and regulations
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Contact info for local health departments

Talk to your local Health Department about food safety requirements and food safety certification.

New Haven Health Department – Bureau of Environmental Health

- 54 Meadow Street, 9th Floor, New Haven, CT 06519
- (203) 946-8174
- https://www.newhaven ct.gov/gov/depts/enviro nmental_health_/defau lt.htm

Quinnipiack Valley Health District – Bethany, Hamden, North Haven, Woodbridge

- 1151 Hartford Turnpike, North Haven, CT 06473
- (203) 248-4528
- http://www.qvhd.org/p age/contact-us

Hartford Health Department – Environmental Health Division

- 131 Coventry Street, Hartford CT, 06112
- (860) 757-4760
- http://www.hartford.go
 v/hhs/environmental-
 health

Resources

- Starting a Food Based Business, Connecticut Dept. of Consumer Protection: http://www.portal.ct.gov/DCP/Businesses/Starting-a-Food-Based-Business
- U.S. FDA Food Code 2017
 - $\circ \underline{https://www.fda.gov/downloads/Food/GuidanceRegulation/GuidanceDocument}\\ \underline{sRegulatoryInformation/UCM526507.pdf}$
 - o https://www.fda.gov/Food/GuidanceRegulation/RetailFoodProtection/FoodCode/ucm595139.htm
 - o https://www.fda.gov/Food/ResourcesForYou/Industry/ucm322302.htm
- USDA Food Safety and Inspection Service:

 https://www.fsis.usda.gov/wps/wcm/connect/e6658a9c-915f-4283-beaf-a827b35e906a/Fed-Food-Inspect-Requirements.pdf?MOD=AJPERES
- Insuring Your Business: Small Business Owners' Guide to Insurance, Insurance Information Institute: https://www.iii.org/publications/insuring-your-business-small-business-owners-guide-to-insurance/small-business-insurance-basics

Forms

- Acidified foods
 - o Form 2541: see pages 8 onward in *Instruction for Submitting From FDA* 2541, FDA: https://www.fda.gov/media/83914/download
 - o Form 2541a: https://foodsafety.wisc.edu/business_food/files/Sample2541a.pdf
 - o 21 C.F.R. 114 (2019): https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm?CFRP art=114
 - FDA Low-Acid Canned Foods contact <u>LACF@fda.hhs.gov</u>; (301) 436-2411.
- Qualified Food Operator Education and Training, CT Dept. of Public Health: https://portal.ct.gov/DPH/Food-Protection-Program/Education-and-Training
- Commercial Vehicle Insurance, CT Dept. of Motor Vehicles: https://portal.ct.gov/DMV/Insurance/Insurance/Commercial-Vehicle-Insurance/