

CALIFORNIA HOMEMADE FOOD ACT

FREQUENTLY ASKED QUESTIONS

COTTAGE FOOD OPERATIONS

Note: The information in this FAQ handout is intended to provide a uniform statewide response to questions posed and will be updated as needed. This information should not be construed as a legal interpretation.

1. What is a Cottage Food Operation (CFO)?

A CFO is an enterprise at a private home where low-risk food products are prepared or packaged for sale to consumers. (See #6 for a list of approved low-risk foods.)

2. What is meant by “private home?”

A “Private home” means a dwelling, including an apartment or other leased space, where the CFO operator resides.

3. Are there limitations on the size of CFO’s sales?

Yes, the limit is \$50,000 or less in gross sales in annually

4. Can a CFO have employees?

A CFO can have one full-time equivalent employee (not counting family members or household members).

5. What are the two classifications of CFOs?

The two classifications are:

- **Class A** CFO’s are only allowed to engage in “**direct sale**” of cottage food.
- **Class B** CFO’s may engage in both “**direct sale**” and “**indirect sale**” of cottage food.

6. What cottage food categories are permitted at a CFO?

Only foods that are defined as “non-potentially hazardous” are approved for preparation by CFO’s. 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](#) and will establish a process by which new foods can be added to the list and other foods can be challenged and removed. The current list includes:

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 fruit
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 pizzelles
17. Cotton Candy
18. Candied apples
19. Confections such as salted caramel, fudge, marshmallow bars, chocolate covered marshmallow, nuts, and hard candy, or any combination thereof.
20. Buttercream frosting, buttercream icing, buttercream fondant, and gum paste that do not contain eggs, cream, or cream cheese.
21. Dried or Dehydrated vegetables
22. Dried vegetarian-based soup mixes
23. Vegetable and potato chips
24. Ground chocolate
25. Seasoning salt
26. Flat icing
27. Marshmallows that do not contain eggs
28. Popcorn balls
29. Dried grain mixes
30. Fried or baked donuts and waffles
31. Dried hot chocolate (dried powdered mixes or molded hardened cocoa pieces)
32. Fruit infused vinegar (containing only high-acid fruits such as: apple, crabapple, nectarine, peach, plum, quince, blackberry, blueberry, cherry, cranberry, grape, huckleberry, gooseberry, loganberry, pomegranate, pineapple, raspberry, strawberry, tomatillo, youngberry, grapefruit, kumquat, lemon, lime, orange).
33. Dried fruit powders
34. Dried spiced sugars
35. Dessert sprinkles (edible) such as sanding and crystal sugars, non-pareils, confetti, sequins, dragees, sugar-shapes, sugar-strands (jimmies), comfits, mini-chocolates, and pralines

*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 CR 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.

7. The food I would like to make is not on the current list. How can I request a food category be added to the list?

Only non-potentially hazardous food categories (foods that do not require refrigeration for safety) that are approved by the California Department of Public Health can be added to the list. If you would like to request a food be added to the list, you can submit a Request to Add a Food Product to the Cottage Food Approved Food List. Submission of an application does not guarantee approval. See link below for the application:

https://www.cdph.ca.gov/Programs/CEH/DFDCS/CDPH%20Document%20Library/FDB/FoodSafetyProgram/CottageFood/fdb_CFOapplication.pdf

8. What is meant by “Direct Sale” of cottage food?

“Direct Sale” means a transaction within the State of California between a CFO operator and a consumer, where the consumer purchases the cottage food product directly from the CFO. Direct sales include, but are not limited to, transactions at holiday bazaars or other temporary events, such as bake sales or food swaps, transactions at farm stands, certified farmers’ markets, or through community-supported agriculture subscriptions, and transactions occurring in person in the cottage food operation. Cottage food items cannot be mailed or shipped to the customer.

9. What is meant by “Indirect Sale” of cottage food?

“Indirect Sale” means an interaction within the State of California between a CFO, a third-party retailer, and a consumer, where the consumer purchases cottage food products made by the CFO from a third-party retailer that holds a valid permit issued by the local environmental health agency in their jurisdiction. Indirect sales include, but are not limited to, sales made to retail shops or to retail food facilities where food may be immediately consumed on the premises. Additionally, CFOs can only sell cottage foods outside their county of residence when the local environmental health agency of the outside county allows it. Cottage food items cannot be mailed or shipped to the customer.

10. What are limitations on Internet sales and delivery of cottage food products?

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

11. Do I need any special Training or Certification to prepare Cottage foods?

A person who prepares or packages cottage food products must complete a food processor course within three months of becoming registered or permitted.

Cottage food operators (CFOs), their employee, and any household member that is involved in the preparation or packaging of cottage foods may take one of the American National Standards Institute (ANSI) accredited food handler courses that are currently required for retail food facility food handlers. The courses are available on-line or via a classroom in a variety of languages for a minimal cost. After successfully completing the course, you will receive a food handler card or certificate, which you need to retain as proof that you completed the required training. You must present a copy of this card or certificate for each person involved in preparing cottage foods to your local enforcement agency upon their request, to verify that the training requirement has been completed. The training course shall be completed every three years for the Cottage Food Operation to continue to operate.

You can access a list of available food-handler training courses at the following website:

<https://www.ansi.org/Accreditation/credentialing/certificate-issuers/AllDirectoryListing?prgID=262&statusID=4>

12. Does a CFO need a permit to operate?

It is important to check with the local planning/zoning departments along with contacting the local Environmental Health agency to determine requirements.

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 (direct and indirect), a **permit** from the local environmental health agency is required.

Registrations and permits are not transferable between:

- Persons
- Locations
- Type of food sold
- Type of distribution

Planning/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 and may include limitations beyond those described in the California Homemade Food Act.

Other Requirements

Check on other state or local requirements that may be applicable.

13. How much will the registration or permit 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.

14. 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 Farmer’s Markets or Swap Meets. Please check with your local enforcement agency for additional permit requirements.

15. How often will a CFO be inspected?

- **Class A** CFO kitchens and food storage areas, referenced in the law as the “registered or permitted area,” are not subject to initial or routine inspections.
- **Class B** CFO kitchens and food storage areas are inspected initially during the permit application review, and then annually thereafter.
- **Class A and B (Other Inspections)** The local environmental health agency may access, for inspection purposes, the registered or permitted area 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 is found to be in violation of applicable regulations.

16. What are the CFO’s operational requirements?

All CFOs must comply with the following:

- No domestic activity in kitchen during cottage food preparation
- No infants, small children, or pets in kitchen during cottage food preparation
- Kitchen equipment and utensils shall be kept clean and in good repair
- All food contact surfaces, equipment, and utensils shall be washed, rinsed, and sanitized before each use
- All food preparation and storage areas shall be free of rodents and insects
- No smoking in kitchen area during preparation or processing of cottage food
- A person with a contagious illness shall refrain from working
- Proper hand-washing shall be completed prior to any food preparation or packaging
- Water used in the preparation of cottage food products must be potable. Contact your local environmental health agency for requirements if your water source is a private well. Cottage food preparation activities include:
 - Washing, rinsing, and sanitizing of any equipment used in food preparation.
 - Washing and sanitizing hands and arms.
 - Water used as an ingredient of cottage food.

17. What are food labeling requirements for cottage foods?

All cottage food products must be properly labeled in compliance with the Federal, Food, Drug, and Cosmetic Act (**21 U.S.C. Sec. 343 et seq.**), and the label shall specifically include:

- The words “Made in a Home Kitchen” in 12-point type.
- The name commonly used to describe the food product.
- The name of the cottage food operation which produced the cottage food product.
- The CFO city, state, and zip code. If the CFO is not listed in the current telephone guide for that city, the street address must be listed as well.
- The net quantity in both English and metric units. For example, 8oz (226g).
- The registration or permit number of the CFO which produced the cottage food product and, the name of the local enforcement agency where the registration or permit was issued.
- The ingredients of the food product, in descending order of predominance by weight, if the product contains two or more ingredients.
- Any of the eight major food allergens in the product must be identified on the label. The eight major food allergens are milk, egg, fish, crustacean shellfish, tree nuts, wheat, peanuts, and soybeans.

In a permitted retail food facility (such as a restaurant, market, or deli), 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 or an ingredient in the food has been made in a private home.

18. What is my legal responsibility as a Cottage Food Operator in ensuring that my food product is safe?

Cottage food operators and/or their employees shall not commit any act that may cause contamination or adulteration of food. This would include making foods that are not on the approved food list and or making foods under unsanitary conditions or with spoiled or rancid ingredients. A cottage food operation that is not in compliance with the requirements of the California Retail Food Code (CalCode) would be subject to enforcement action taken by the local environmental health agency and/or the California Department of Public Health.

19. What is my liability as a cottage food business operating out of my home?

You should check with your homeowner insurance company or your landlord if you are operating out of a rental property. Many homeowner insurance policies will not extend liability coverage to liabilities arising out of home-based businesses.

AB 1616 Chaptered Law:

http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1601-1650/ab_1616_bill_20120921_chaptered.pdf

AB 1252 Chaptered Law:

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB1252