Cottage Food Production Operations

Frequently Asked Questions

1. **What is a cottage food production operation?**
   A cottage food production operation is defined as an individual, operating out of the individual's home, who:
   - Produces a baked good, candy, coated and uncoated nuts, unroasted nut butters, fruit butters, a canned jam or jelly, a fruit pie, dehydrated fruit or vegetables, including dried beans, popcorn and popcorn snacks, cereal, including granola, dry mix, vinegar, pickles, mustard, roasted coffee or dry tea, or a dried herb or dried herb mix.
   - Has an annual gross income of $50,000 or less from the sale of the described foods.
   - Sells the foods produced directly to consumers at the individual's home, a farmers' market, a farm stand, or a municipal, county, or nonprofit fair, festival or event; and
   - Delivers products to the consumer at the point of sale or another location designated by the consumer.

2. **Is a cottage food production operation a food service establishment?**
   No. A cottage food production operation is not a food service establishment.

3. **What is the definition of a baked good?**
   A baked good is a food item prepared by baking the item in an oven, which includes cookies, cakes, breads, Danishes, donuts, pastries, pies, and other items that are prepared by baking.

4. **What are some examples of foods that can be prepared at a cottage food production operation?**
   The following are examples of non-potentially hazardous foods that may be prepared and sold at a cottage food production operation:
   - Breads, rolls, biscuits,
   - Sweet breads, muffins
   - Cakes (birthday, wedding, anniversary, etc.
   - Pastries,
   - Cookies
   - Candy
   - Coated and uncoated nuts
   - Unroasted nut butters
   - Fruit butters
   - Canned jams or jellies
   - Fruit pies
   - Dehydrated fruit or vegetables, including dried beans
   - Popcorn and popcorn snacks
   - Cereal, including granola,
   - Dry mixes

- Vinegar
- Pickles
- Mustard
- Roasted coffee or dry tea
- Dried herbs and dried herb mixtures

5. **What types of foods are <u>not allowed</u> to be sold at a cottage food production operation?**

   The following foods are examples of food that can not be produced by a cottage food production operation.

   - Fresh or dried meat or meat products including jerky
   - Canned fruits, vegetables, vegetable butters, salsas etc.
   - Kolaches with meat
   - Fish or shellfish products
   - Canned pickled products such as corn relish, pickles, sauerkraut
   - Raw seed sprouts
   - Bakery goods which require any type of refrigeration such as cream, custard or meringue pies and cakes or pastries with cream cheese icings or fillings
   - Milk and dairy products including hard, soft and cottage cheeses and yogurt
   - Cut fresh fruits and/or vegetables. Juices made from fresh fruits or vegetables
   - Ice or ice products
   - Barbeque sauces and ketchups
   - Foccaccia-style breads with vegetables or cheeses
   - Chocolate covered pretzels, marshmallows, graham crackers, Rice Krispies treats
   - Dried pasta
   - Sauerkraut, relishes, salsas, sorghum
   - Roasted coffee beans or ground roasted coffee
   - Lemonade, juices, hot chocolate or similar beverages

6. **What is a potentially hazardous food/time and temperature control for safety food (PHF/TCS)?**

   A potentially hazardous food (PHF) is a food that requires time and temperature control for safety (TCS) to limit pathogen growth or toxin production. In other words, a food must be held under proper temperature controls, such as refrigeration to prevent the growth of bacteria that may cause human illness. A PHF/TCS is a food that: contains protein, moisture (water activity greater than 0.85), and is neutral to slightly acidic (pH between 4.6 -7.5).

7. **Where may a Cottage Food Production Operation (CFPO) sell products?**

   A CFPO may sell products at

   - the individual's home;
   - a farmers' market;
   - a farm stand;
   - a municipal fair, festival or event;
   - a county fair, festival, or event; and

- a nonprofit fair, festival, or event.

8. **May a CFPO sell products anywhere else, such as at a state fair or federal event?**
   The statute specifies particular locations where the CFPO may sell products. Privately organized special events and other locations are not allowed under the statute.

9. **Can I use the internet to sell my cottage food products?**
   No. Food produced at a cottage food production operation cannot be sold through the Internet, by mail order or at wholesale.

10. **Can I make cottage food products in another building on my property?**
    No. The law requires cottage food products to be produced in a primary residence that contains a kitchen and appliances designed for common residential usage.

11. **Is labeling required on food items produced by a cottage food production operation?**
    Yes. Foods sold by a cottage food production operation must be packaged and labeled. The food must be packaged in a manner that prevents product contamination, except for foods that are too large and or bulky for conventional packaging. The labeling information for foods that are not packaged must be provided to the consumer on an invoice or receipt. The label must include the following information:
    - The name and address of the cottage food production operation;
    - The common or usual name of the product, if a food is made with a major food allergen, such as eggs, nuts, soy, peanuts, milk or wheat that ingredient must be listed on the label; and
    - A statement: "*This food is made in a home kitchen and is not inspected by the Department of State Health Services or a local health department*."
    - The labels must be legible.

12. **Do I need a permit or license for my cottage food production operation?**
    No. You do not need a permit or license from the Texas Department of State Health Services to operate a cottage food production operation.

13. **Is there a limit as to how much I can earn from my cottage food production operation?**
    Yes. A cottage food production operation is limited to an annual gross income of $50,000 or less from the sale of food produced at the cottage food production operation.

14. **Is there a process for submitting a complaint against a cottage food production operation?**
    Yes. A complaint may be submitted to the Texas Department of State Health Services (DSHS) for cottage food production operations located under DSHS jurisdiction at: http://www.dshs.state.tx.us/foodestablishments/complaint. If the cottage food production operation is located under the jurisdiction of a local health authority, that complaint must be registered with the local health authority.

15. **Will the Department of State Health Services conduct inspections at cottage food production operations?**
    No. The Texas Department of State Health Services does not have authority to conduct inspections at a cottage food production operation. However, the Department may investigate a complaint regarding preparation of potentially hazardous food at a private residence. The Department has authority to act to prevent an immediate and serious threat to human life or health through emergency order, recall orders and delegation of powers or duties.

16. **Will I need to comply with local zoning or other laws?**
    A municipal zoning ordinance may not prohibit the use of a home for cottage food production operations. Please contact the local municipal governmental agency for requirements concerning zoning laws.

17. **Will the Department be required to write rules concerning cottage food production operations in a separate chapter outside the Texas Food Establishment Rules?**
    Yes. The department is in the process of amending the rule concerning the regulation of cottage food production operations to comply with the requirements of House Bill 970. Title 25 of the Texas Administrative Code, Section 229.661 provides definitions for cottage food production operations, labeling requirements, complaint database requirements, and sales location requirements.

18. **Can a Cottage Food Production Operation deliver food produced by the operation to the customer who purchased the food product?**
    Yes. A Cottage Food Production Operation may deliver products to the consumer at the point of sale or another location designated by the consumer.

19. **What are pickles?**
    Pickles are made from cucumbers that have been preserved in vinegar, brine, or a similar solution. Only pickled cucumbers are allowed under the Cottage Food Law. All other pickled vegetables are prohibited. Federal requirements have been established for production of acidified foods such as pickles. If foods are sold across state lines, then the federal requirements would definitely apply. Under the FDA's interpretation of "interstate commerce," the federal requirements might also apply to cottage food producers who purchase supplies from out-of-state. As a precautionary measure, you may wish to take the federal course if you intend to sell pickles under the cottage foods law.