



Texas Department of State
Health Services

**COTTAGE FOOD PRODUCTION OPERATIONS FREQUENTLY ASKED
QUESTIONS**

1. What is a cottage food production operation?

A cottage food production operation means an individual, operating out of the individual's home, who: produces a baked good, a canned jam or jelly, or a dried herb or herb mix for sale at the person's home that has an annual gross income of \$50,000 or less from the sale of the food described above; and sells foods produced only directly to consumers from the cottage food production location.

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. A baked good does not include a potentially hazardous food (time/ temperature control for safety foods) (PHF/TCS).

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,
- Fruit pies,
- Canned Jams and jellies,
- Dry herbs and dried herb mixtures,

- Candy,
- Coated and uncoated nuts,
- Unroasted nut butters,
- Fruit butters,
- Popcorn and popcorn snacks,
- Dehydrated fruit or vegetables, including dried beans,
- Cereal, including granola,
- Dry mix,
- Vinegar,
- Pickles,
- Mustard,
- Roasted Coffee or dry tea

5. What types of foods are not allowed to be sold at a cottage food production operation?

- The following foods are examples of food that cannot 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 but not limited to 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
- Fresh fruits dipped or coated in chocolate or similar confections
- Ice and/or ice products
- Barbeque sauces, ketchups
- Focaccia-style breads with vegetables and/or cheeses
- Dried pasta
- Beverages including but not limited to Lemonade, juices, hot chocolate

6. What is a potentially hazardous food/temperature controlled 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?

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. All foods prepared by a cottage food production operation must be

labeled. The label must include the following information:

- The name and physical 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
- The following 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."
- Labels must be legible.

12. Do I need a permit or license for my cottage food production operation?

Cottage food production operations is not a retail food establishment; therefore, a retail food establishment license is not required.

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.texas.gov/foodestablishments/complaint>.

Complaints concerning cottage food production operations that are located under the jurisdiction of a local health authority must be reported to the local health authority.

<http://www.dshs.texas.gov/regions/lhds.shtm>

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. In the event of a foodborne illness outbreak, the department or local health authority may act to prevent an immediate and serious threat to human life or health.

16. Will I need to comply with local zoning or other laws?

Zoning laws may apply as the statute only exempts cottage food production from local health department regulation, not municipal 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 adopted a new rule concerning the regulation of cottage food production operations. 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?

Since the statute does not address the delivery of foods produced by a Cottage Food Production Operation, the Department will not regulate the delivery of these products. However, the sale transaction for cottage foods must take place at the residence where the food was produced.

19. What are pickles?

Pickles are made from cucumbers that have been preserved in vinegar, brine, or 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.

20. Does a cottage food operator have to have a Food handler certification?

An individual who operates a cottage food production operation must have successfully completed an accredited basic food safety education or training program for food handlers.

21. If I have Food Manager Certification, do I also need to have a food handler certification?

The department will recognize a food manager certification from an accredited program in lieu of a food handler certification.