

INTRODUCTION TO NEW JERSEY'S COTTAGE FOOD RULES

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New Jersey's Cottage Food Rules

- New subchapter @ N.J.A.C. 8:24-11 “Cottage Food Operator Permit”
- Allows NJDOH Cottage Food Operator (CFO) permit holders to sell their home-prepared non-TCS cottage food products directly to consumers.
- No pre-operational or regularly scheduled Inspection of the kitchen required from either the State or Local Health Authority (LHD).
- Permit issued by the NJDOH's Public Health & Food Protection Program
- Permit fee \$100. Valid for 2 years
- Certified Food Protection Manager (CFPM) certificate required

New Definitions

“Cottage Food Operator” means a person who holds a NJ cottage food operator permit

“Major food allergen” means any of the following, and/ or protein derived from the following: Peanuts; Tree nuts; Milk, Egg; Soy; Wheat; Fish; and Crustacean shellfish.

“TCS (Time/Temperature Control for Safety) food” means a food that requires time and/ or temperature control to limit pathogenic microorganism growth or toxin formation

New Definitions

“Cottage food product” means non-TCS food that a cottage food operator prepares and includes:

- Baked goods (bread, rolls, biscuits, cakes, pastries, & cookies)
 - Candy (i.e. brittle & toffee)
 - Chocolate-covered nuts & dried fruit
 - Dried pasta
 - Dried herbs, & seasonings
 - Fruit pies, fruit empanadas
 - Granola, cereal, & trail mix
 - Fruit Jam, jelly, & preserves
 - Popcorn & caramel corn
 - Vinegar & mustard
 - Upon written application to the NJDOH, other non-TCS food.
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|----------------------------|
| Dried fruit; |
| Dry baking mix |
| Fudge |
| Nut Butters |
| Honey & sorghum syrup |
| Nuts & nut mixture |
| Roasted coffee & dried tea |
| Waffle cones & pizzelles & |

Amended Definition

“Retail food establishment” EXCLUDES:

- **A kitchen in a private home that produces food that is non-TCS and:**

(1) Is prepared for sale or service at a function, such as a religious or charitable organization's bake sale....; **OR**

(2) Is prepared and sold, or otherwise relinquished, to the consumer, in accordance with a Cottage Food Operator permit;

11.1 Obtaining a NJ Cottage Food Operator Permit

- Completed NJDOH CFO permit application; AND
- Submit required Prerequisite documentation:
 - Proof of current certified food protection manager's certification
 - Water:
 - Private Well: current (within 60 days) well water analysis for total coliform bacteria; or
 - City water: most recent water bill.
- Application fee: \$100 for 2-year permit

PERMIT APPLICATION FORM

Section III: Cottage Food Product Info

Complete for each Cottage Food Product

- Product Type (1 of 19 Dropdown Options)
- Product Name
- List all Major Food Allergens
- If **OTHER #19** Product Type
 - Required to provide supporting documentation for Approval
 - List of ingredients/ Processing method/ Packaging method, etc

PERMIT APPLICATION FORM

SECTION IV. Applicant Representation & Certification

Attestations by the CFO Permit Applicant

Categories

- Facility
- Sanitation
- Cottage Food Prep & Packaging
- Limitations/ Exclusions During Prep & Packaging
- Prerequisite Information

Section IV. Applicant Representations & Certifications

Facility Requirements:

- Cottage food operation is a private dwelling where I reside.
- All cottage food products prepared in the kitchen in my home.
- Sleeping quarters excluded from areas used for food prep and storage

Sanitation Requirements:

- Handwashing facilities accessible & properly supplied
- Kitchen equipment & utensils clean/good repair
- Food contact surfaces cleaned & sanitized before use.
- Premises maintained free of rodents and insects.

Section IV. Applicant Representations & Certifications

Cottage Food Prep & Packaging Requirements

- Food workers wash their hands as specified
- Food workers do not handle ready-to-eat food with bare hands.
 - Single-use gloves, tongs or other effective means are used.
- If used, single-use gloves are changed as often as handwashing is necessary.

Limitations/ Exclusions During Prep & Packaging

- No domestic activities during food production
 - i.e. family meal prep, dishwashing, clothes washing & cleaning
- Exclusion of children, pets & ill workers/ No smoking
- Potable water used for handwashing/ warewashing/ and cottage food ingredients

Section IV. Applicant Representations & Certifications

Prerequisite Information:

- Confirmation that the home-based food business complies with all local zoning and municipal ordinances.
- Acknowledgment of \$50k gross annual sales limit.
- Required Documents
 - Current CFPM certificate
 - Current well water analysis or city water bill
- Signature & statement that all statements are true.

Current ANSI Accredited CFPM Exams

- | | |
|---|---|
| 1. Prometric Inc. (PROM) | Prometric CFPM Exam |
| 2. Environmental Health Testing | National Registry for Food Safety Professionals |
| 3. National Restaurant Association | ServSafe CFPM Exam |
| 4. 360training.com, Inc. (T360) | Learn2serve CFPM Exam |
| 5. AboveTraining/StateFoodSafety.com | StateFoodSafety Exam |
| 6. The Always Food Safe Co | |

11.2 Authorized Activities

- Cottage food operator's permit authorizes the holder to produce cottage food products in the operator's private residence kitchen without initial or periodic inspection by the health authority.
- CFOs may use the internet and other forms of electronic communication to advertise, accept orders, and receive payments, etc.

11.3 Product Sales Limitations

- Only non-TCS “Cottage Food Products” as defined
 - Shelf-stable; No refrigeration required.
- Gross Annual Sales cap: **\$50k/year**.

Direct to Consumer Sales Only

- Cottage food operator’s home; (Not for onsite consumption)
- Home of the consumer;
- NJ Farmer’s market, farm stand or temporary food establishment

Prohibited Activities

- NO Sales to Wholesale or Retail food establishments.
- NO Interstate commerce. NJ events only
- NO Delivery of cottage food products via common carriers
 - i.e. US Postal Service, FedEx, UPS, etc.

11.4 “Point of Sale” Notification

Cottage Food Operator to provide/ display:

NJDOH CFO Permit

- (i.e. @ a NJ Temporary Food Event/ NJ Farmer’s Market)

AND

Placard Stating: “***This food is prepared pursuant to N.J.A.C. 8:24-11 in a home kitchen that has not been inspected by the Department of Health.***”

11.4(c) Labeling of Prepackaged Cottage Food

- Common name of the food item;
- List of ingredients in descending order of predominance by weight;
- Statement: **Contains:** List all “Major Food Allergens” as defined;
- Business name;
- Cottage Food Operator’s Permit #;
- Municipality of the home kitchen; AND
- Statement: *“This food is prepared pursuant to N.J.A.C. 8:24-11 in a home kitchen that has not been inspected by the Department of Health.”*

11.5 Health Authority Right of Access

- Provides the health authority with the authority to enter the cottage food operator's private residence kitchen to enforce or confirm compliance with health law under the official's jurisdiction.
- To investigate complaints associated with cottage food products
 - i.e. contamination, foodborne illness, misbranding or adulteration.

Current Challenges

Challenges to Operators

- Requires operators to secure a regulated kitchen facility (church hall, incubator kitchen, firehouse, private club, restaurant) as a “Base of Operations” AND
- Requires operator to obtain a retail food license from the municipality.
- Expensive and limits production times.

Regulatory Challenges

- Requires the LHD inspecting the product at the “point of sale” (i.e. farmer’s market or temporary food event) to verify proper licensure and inspection of the “Base of Operations” by the LHD from another jurisdiction.
- Requires the LHD to inspect the “Base of Operations” during the operating hours.
 - Most operations work sporadically (seasonal, variable production days, variable production times).

Benefits for the Operator

- Facilitates those interested in starting a “food business”
 - Not required to rent a separate facility
 - Low overhead.
 - More flexible prep hours
- Allows the business to grow to capacity or to fail.
 - Those that fail, “drop out”;
 - Those that grow, become licensed retail food establishments; or
 - Maintain a steady Cottage food business

Regulatory Benefits

The Cottage Food permit may streamline LHDs inspection of Temporary Food Events & Farmer's Markets.

- Reduce illegal “underground operators”
 - Frequently vendors claim they operate from a business but prepare food from their home anyway
- CFO permit issued by the NJDOH.
- No LHD inspection required of the home-based kitchen.
- Cottage food products are subject to limited inspection by the LHD at the “Point of Sale” i.e. Temporary Food Event/ Farmer's Market

Regulatory Benefits

LHD Assessment at the “Point of Sale” simplified:

- Is the NJDOH cottage food permit displayed/ available?
- Is the product(s) listed on the NJDOH cottage food permit?
- Is the product a non-TCS food?
- Is the product free of visible contamination and/or adulteration?
- Is the product properly packaged?
- Is the product properly labeled?
- Is the required Signage posted: *“This food is prepared pursuant to ... in a home kitchen that has not been inspected by the Department of Health”*.

Review...

Chapter 24 Rule Revisions

- NJAC 8:24 revised to create a new Subchapter 11: “CFO Permit”
- CFO permit issued by the NJDOH’s Public Health and Food Protection Program
- **CFO Permit Application**
 - Identify cottage food products/ major food allergens
 - Attestations regarding Facility, Sanitation, Food Production, and compliance with local zoning and ordinances.
- **Prerequisite documents**
 - Proof of CFPM certification
 - Well water analysis or city water bill
 - \$100 fee for a 2-year permit

...Review...

- CFO permit holders may produce “cottage food products” as defined in their private residence kitchen without inspection of the kitchen by the health authority.
- Allows the limited use of the Internet and other forms of electronic communication for advertising, marketing and receiving orders and payments

Limitations:

- Only non-TCS “Cottage Food Products” as defined
- Gross Annual Sales cap: \$50k/year.
- Direct to Consumer sales only.
 - @ Home/ Consumer’s home/ Temporary food event/ farmer’s market or venue (wedding)
- No Wholesale sales to restaurants, grocery or other retail stores.
- No Interstate sales
- No delivery thru third party or common-carrier (i.e. USPS, UPS, Fed Ex)
No Interstate Distribution.

...Review...

- **Point of Sale Notification**

- CFO must provide his/her CFO permit. and
- Display a placard stating: *“This food is prepared pursuant to N.J.A.C. 8:24-11 in a home kitchen that has not been inspected by the Department of Health.”*

- **Packaged cottage food labeling to include:**

- Common name of the food item;
- List of ingredients in descending order of predominance by weight;
- Statement: **Contains:** List all “Major Food Allergens” as defined;
- Business name; Cottage Food Operator’s Permit #;
- Municipality of the home kitchen; and
- Statement: *“This food is prepared pursuant to N.J.A.C. 8:24-11 in a home kitchen that has not been inspected by the Department of Health.”*

...Review

- **NJDOH Responsibilities:**

- Receive and review the CFO permit applications
- Issue CFO permits
- Maintain database of all CFO permit holders
- Post the pertinent CFO information on Department's website for LHDs
- Investigate food-related complaints & foodborne illness associated with the CFO
- Enforcement including permit suspension, revocation, monetary penalties.

- **LHD Responsibilities:**

- Assess CFO permit holders at the Point of Sale when selling at retail food venues (i.e. temporary food events, farmer's markets)
- Assessment to include: Checking CFO permit/ Display of Placard (This food ...)/ Non-TCS foods only/ Condition of food/ Package integrity/ Labeling.

Cottage Food Rule Making Timeline

- 3/12/20 Notice of Proposal Approved by Public Health Council
- 4/20/20 Rule proposal published in the NJ Register
- 6/19/20 60-day Comment period ends
 - Comments received from more than 700 Commenters.
- 6/26/21 Comment/Response completed with non-substantive changes
- 7/12/21 Notice of Adoption Public Hearing w Public Health Council
- 8/28/21 2nd Public Hearing w/ PHC
- 9/28/21 Awaiting publication in the NJ Register.
- Once published the new rules (Subchapter 11) will become effective.

QUESTIONS?