

MICROENTERPRISE HOME KITCHEN OPERATIONS (MEHKO) FREQUENTLY ASKED QUESTIONS (FAQs)

The California Health and Safety Code (i.e. California Retail Food Code) was recently amended to establish a “Microenterprise Home Kitchen Operation” as a new type of retail food facility. A MEHKO is a mini-restaurant in a home kitchen that is operated by the resident. Recently, in Imperial County a resolution approving local residents to operate a MEHKO in their homes was passed. Below please find some of the most frequently asked questions (FAQs) about MEHKO’s:

Permitting

1. Q: What is a Microenterprise Home Kitchen Operation?

A: It is a type of food service operated by a resident from a private home where food is prepared, cooked and served to consumers on the same day. Food is to be consumed onsite, picked up or be delivered to the consumer within a safe time period (i.e. 30 minutes without hot holding equipment).

2. Q: When does the MEHKO law go into effect?

A: Imperial County Board of Supervisors has opted-in to accept MEHKO operations in Imperial County effective January 2, 2020.

3. Q: Do I need a permit to operate a MEHKO?

A: Yes, a permit shall be obtained from Imperial County Public Health, Division of Environmental Health prior to operating a MEHKO.

4. Q: How do I obtain a permit?

A: To obtain a permit, submit a permit application, proposed menu, Standard Operational Procedures (SOP) and payment to Imperial County Environmental Health. The submitted packet will be reviewed and an inspection of the MEHKO will be scheduled. If approved, a permit will be issued. MEHKO permit fees will be based on time and material spent reviewing the application and standard operating procedures, consultation with the applicant, and inspection of the home kitchen.

5. Q: How long does the application process take for a MEHKO?

A: The application process is determined by the level of detail and completeness of the application package.

6. Q: I have a MEHKO permit for my current residence and am moving. Is my permit still valid for my new residence?

A: No, permits are not transferable to other people or other locations. Permits that are issued by Imperial County Environmental Health are only valid for the person, location and type of food service initially approved. In the event that the food permittee moves, changes their menu or type of food service, a new permit application will need to be submitted for approval by Imperial County Environmental Health.

7. Q: Can two MEHKO permits be issued for two residents that would like to operate a MEHKO out of the same residence?

A: No, only one MEHKO may operate from a private residence. Permits are specific for the person, location and type of food service to be offered.

8. Q: What information is required in MEHKO’s standard operating procedures (SOP)?

A: The MEHKO’s standard operating procedures shall include:

- All food types or products (e.g. menu items) that will be handled.
- The proposed procedures and methods of food preparation and handling.
- Procedures, methods, and schedules for cleaning utensils, equipment, and for the disposal of refuse.
- How food will be maintained at the required holding temperatures, pending pickup by the consumer and during delivery.

- Proposed days and times when the home kitchen may potentially be utilized as a MEHKO.
- Whether the food will be served on site, delivered, picked up or all of the above.

9. Q: Can a permitted Cottage Food Operator (CFO) also operate as a MEHKO?

A: No, a CFO is restricted to non-potentially hazardous foods and cannot serve foods from a private home.

10. Q: What is the difference between a Cottage Food Operation (CFO) and a Microenterprise Home Kitchen Operation (MEHKO)?

A: A CFO is restricted to preparing and selling only non-potentially hazardous foods that have been approved (see link below for the approved food list) by the California Department of Public Health, which may be sold directly or indirectly to the consumer. A MEHKO allows the limited preparation of potentially hazardous foods for onsite consumption or delivery when permitted by Environmental Health.

<https://www.cdph.ca.gov/Programs/CEH/DFDCS/CDPH%20Document%20Library/FDB/FoodSafetyProgram/CottageFood/Approved%20Cottage%20Food%20List%20for%20Web%20July%201%202018.pdf>

11. Q: Who is the “local enforcement agency” for MEHKOs?

A: The local enforcement agency for food facilities, including MEHKOs, in Imperial County is the Imperial County Public Health, Division of Environmental Health.

12. Q: How often will a MEHKO be inspected by the local environmental health jurisdiction?

A: After the initial permitting inspection, a MEHKO will be subject to one routine inspection per fiscal year. Additional inspections may be conducted in response to a consumer complaint, or reason to suspect that adulterated or otherwise unsafe food has been produced or served.

13. Q: What areas of the MEHKO will be permitted and inspected?

A: The areas of a MEHKO that will be permitted and inspected include the home kitchen, onsite consumer eating area, food storage, utensils and equipment, toilet room, cleaning facilities, and refuse storage area (this includes garbage, recycling and composting areas).

14. Q: What happens if a customer complains after eating at or purchasing food and beverages from a MEHKO?

A: An Environmental Health Specialist will conduct an onsite inspection to investigate the alleged complaint. Enforcement action fees may be applied for the investigation or re-inspection.

15. Q: What information is available to assist a MEHKO to operate in a safe and healthy way?

A: Information on the MEHKO is available at the Imperial County Public Health website: www.icphd.org

17. Q: How would the public know if a MEHKO has an approved permit?

A: A MEHKO is required to display their permit, or a legible copy, during hours of operation. Also, customers may verify approved permits by calling Imperial County Environmental Health at 442-265-1888.

Operating MEHKO

1. Q: Who is considered a resident?

A: A resident is an individual who lives in a private home (such as a single home, apartment, duplex, or condominium) when not elsewhere for work or temporary basis (i.e. vacation).

2. Q: Can a MEHKO operate as a Caterer?

A: No, a MEHKO is prohibited from operating a Catering Operation. Only permanent food facilities approved for food preparation (such as a restaurant, banquet facility or other approved commercial kitchen) or operators obtaining a Catering Operation permit can conduct catering operations.

- 3. Q: To whom may I sell my food?**
A: Food must be sold directly to a consumer for onsite consumption or delivery and not to a wholesaler or retailer.
- 4. Q: Can a MEHKO sell or give away food products at a temporary event or certified farmer's markets?**
A: No, a MEHKO cannot sell food products at a temporary event or certified farmer's market. A MEHKO is limited to selling food directly to a consumer for onsite consumption or delivery.
- 5. Q: Can a MEHKO sell to any wholesaler or retailer?**
A: No, a MEHKO can only sell food directly to consumers, through an internet Web site, or a mobile application of an Internet food service intermediary (see FAQ further in the document for the definition of an internet food service intermediary).
- 6. Q: Can a MEHKO advertise in front of the residence?**
A: No, the MEHKO is prohibited from posting signage or other outdoor displays advertising the MEHKO from a residence.
- 7. Q: Can a MEHKO advertise online?**
A: Yes, a MEHKO can utilize an internet food service intermediary or other online platform that lists or promotes the MEHKO on its internet web site or mobile application. The MEHKO must clearly identify Imperial County Public Health, Division of Environmental Health as the permit issuer, the permit number along with the following statement "Made in a Home Kitchen" in a conspicuous font and location within the advertisement.
- 8. Q: Can a MEHKO advertise using print media?**
A: Yes, a MEHKO can advertise in a newspaper or other print media. The MEHKO must clearly identify Imperial County Public Health, Division of Environmental Health as the permit issuer, the permit number along with the following statement "Made in a Home Kitchen" in a conspicuous font and location within the advertisement.
- 9. Q: If there are complaints about odors, traffic, parking, and/or excessive noise, what agency should be notified?**
A: Any complaints involving nuisance concerns can be reported directly to the local city's code enforcement program, or for MEHKOs in the unincorporated areas, to Imperial County Planning and Development Services Department.
- 10. Q: Can a MEHKO utilize a third party online delivery service, such as Uber Eats or DoorDash to deliver food?**
A: No, a MEHKO is not allowed to utilize any third party delivery service for food deliveries.

Food Service at MEHKO

- 1. Q: What type of food service is the MEHKO permitted to do?**
A: A MEHKO can prepare and sell foods that have been approved by Imperial County Environmental Health for same day onsite consumption or delivery.
- 2. Q: What are the menu limitations on a MEHKO?**
A: A MEHKO business may not prepare food or beverages that:
 - Involve the production, service, or sale of raw milk or raw milk products.
 - Involve the service or sale of raw oysters.
 - Involve food processes that require a Hazard Analysis Critical Control Point Plan (see follow-up question below for more information).
- 3. Q: What types of food processing require a Hazard Analysis Critical Control Point (HACCP) plan?**
A: The following specialized food processes require a HACCP plan:
 - Smoking food as a method of food preservation.

- Curing food.
- Using food additives or adding components such as vinegar as a method of food preservation.
- Operating a molluscan shellfish life support system display tank used to store and display shellfish that are offered for human consumption.
- Using acidification or activity to prevent the growth of *Clostridium botulinum*.
- Packaging potentially hazardous food using a Reduced-Oxygen Packaging (ROP) method.
- Preparing food by another method that is determined by the lead local agency to require a HACCP plan.

4. Q: Can a MEHKO make and sell ice cream or other milk products?

A: No, the California Department of Food and Agriculture requires a license and specific requirements for the manufacturing of ice cream or dairy based foods. A residential home will not be able to meet those requirements. This does not prohibit a MEHKO from utilizing dairy products such as pasteurized milk purchased from an approved source as an ingredient in a food product.

5. Q: Can homegrown fruits and vegetables be used in a MEHKO?

A: Yes, however care should be taken to ensure all fruit and produce is grown and handled using best management practices associated with a community food producer and all produce must be thoroughly washed prior to use.

6. Q: Can a MEHKO add cannabis, CBD, or Kava to a food product as part of their operation?

A: No, only approved food additives may be used as an ingredient in food preparation. Cannabis, CBD and Kava have not been approved as food additives by the Food and Drug Administration.

7. Q: Can a MEHKO donate food?

A: Yes, a MEHKO may donate food to a food bank or to any other nonprofit charitable organization as long as food has been handled in compliance with the California Retail Food Code and is donated the same day it is prepared. For the California Retail Food Code see:

(<https://www.cdph.ca.gov/Programs/CEH/DFDCS/CDPH%20Document%20Library/FDB/FoodSafetyProgram/MEHKO/CALIFORNIA%20RETAIL%20FOOD%20CODE%202019.pdf>)

8. Q: Can I keep leftovers to serve the next day?

A: No, leftovers CANNOT be served the next day as part of the MEHKO operation.

9. Q: May I package food or beverages at my MEHKO?

A: Yes, a MEHKO may portion food into containers for same-day pick up or delivery service.

10. Q: Are commercial equipment and/or appliances required in a MEHKO?

A: No, commercial equipment and/or appliances are not required as long as the equipment/appliances are maintained clean and are in good working order.

11. Q: Are there any special requirements for homes that are not connected to a municipal water system?

A: Yes, Bacteriological test (quarterly), Nitrates (annually), Nitrites (every 3 years), and constituents of concern such as Fluoride and Arsenic (once) will be required by Imperial County Environmental Health for non-municipal sources.

12. Q: Can a MEHKO operate an open-air barbecue or an outdoor wood-burning oven?

A: Yes, a MEHKO may operate an open-air barbecue or an outdoor wood-burning oven as long as the barbecue or oven is operated on the same premises as a MEHKO, is separated from public access, and meets the requirements of California Retail Food Code Section 114143.

13. Q: Are restrooms required to be available for MEHKO customers?
A: Yes, clean toilet facilities, in good condition, shall be available for employees at all times and for customers when there is onsite consumption.

14. Q: Can alcoholic beverages be served or sold from a MEHKO?
A: Contact Department of Alcohol Beverage at <https://www.abc.ca.gov/>

Employees/Record Keeping

1. Q: What is the definition of a food employee?
A: A food employee is an employee who works with food, food equipment or utensils, or food contact surfaces. For more information about California Labor Laws visit: <https://www.dir.ca.gov/DLSE/dlse.html>

2. Q: Are family or household members considered food employees?
A: No, family members and household members are not considered food employees of a MEHKO.

3. Q: What are the limitations for a MEHKO to hire food employees?
A: A MEHKO may have no more than one (1) full time equivalent food employee.

4. Q: What certificates are required to operate a MEHKO?
A: The operator of the MEHKO shall successfully pass an approved and accredited food safety examination by the American National Standards Institute as meeting the requirements of the Conference for Food Protection's Standards for Accreditation of Food Protection Manager Certification Programs. Any individual, other than the operator, who is involved with the preparation, storage, or service of food in a MEHKO, shall obtain an approved food handler card, as well as, the Imperial County Health Card. A food employee that has a valid Food Safety Manager Certificate is not required to obtain a food handler card.

5. Q: What are the sales limitations of a MEHKO?
A: The MEHKO shall have no more than fifty thousand (\$50,000) in verifiable (ex. invoices) gross annual sales. Records of all sales must be kept so that compliance with this limitation can be verified.

6. Q: What records are required to be maintained for review by the local environmental health jurisdiction?
A: The MEHKO shall maintain the following documents onsite for review during an inspection:

- Written standard operating procedures that include a menu, and hours of operation.
- The permit to operate, or an accurate copy, shall be displayed onsite at all times when the MEHKO is in operation.
- Valid certificate of the Food Safety Manager Certification for the operator, valid Food Handler card(s), and Imperial County Health Card(s) for any food employees.
- A copy of a valid driver's license for a person delivering food on behalf of the MEHKO.
- A copy of the most recent inspection report.
- Copies of the MEHKO financial records as it relates to the gross annual sales.

7. Q: What if I want to change the menu after I have obtained a permit as an MEHKO?
A: If the proposed menu change requires new equipment or additional food storage capacity, an updated SOP will be required by Imperial County Environmental Health. Contact Imperial County Environmental Health to determine what may be required before changing the menu.

**If you have any questions that have not been answered in these FAQ's,
or if additional clarification is needed, please visit your Imperial County Public Health, Division of Environmental
Health website at www.icphd.org or call us at 442-265-1888.**