

## **Statutory Provisions Related to Sanitary and Preparation Requirements for Cottage Food Operation (Excerpts from the California Health and Safety (H&S) Code)**

**H&S 114365. (a) (1) (A)** provides in pertinent part:

- (i) No cottage food preparation, packaging, or handling may occur in the home kitchen concurrent with any other domestic activities, such as family meal preparation, dishwashing, clothes washing or ironing, kitchen cleaning, or guest entertainment.
- (ii) No infants, small children, or pets may be in the home kitchen during the preparation, packaging, or handling of any cottage food products.
- (iii) Kitchen equipment and utensils used to produce cottage food products shall be clean and maintained in a good state of repair.
- (iv) All food contact surfaces, equipment, and utensils used for the preparation, packaging, or handling of any cottage food products shall be washed, rinsed, and sanitized before each use.
- (v) All food preparation and food and equipment storage areas shall be maintained free of rodents and insects.
- (vi) Smoking shall be prohibited in the portion of a private home used for the preparation, packaging, storage, or handling of cottage food products and related ingredients or equipment, or both, while cottage food products are being prepared, packaged, stored, or handled.

**H&S 114365.2** A cottage food operation that is registered or has a permit issued pursuant to Section 114365 shall be considered a restricted food service facility for purposes of, and subject to, Sections 113953.3, 114259.5, 114285, and 114286. A cottage food operation that is registered or has a permit also shall be subject to Sections 113967, 113973, 113980, 114259.5, 114405, 114407, 114409, 114411, and 114413, and to all of the following requirements:

- (a) A person with a contagious illness shall refrain from work in the registered or permitted area of the cottage food operation.
- (b) A person involved in the preparation or packaging of cottage food products shall keep his or her hands and exposed portions of his or her arms clean and shall wash his or her hands before any food preparation or packaging activity in a cottage food operation.
- (c) Water used during the preparation of cottage food products shall meet the potable drinking water standards described in Section 113869, or in accordance with the local regulatory authority, except that a cottage food operation shall not be required to have an indirect sewer connection. Water used during the preparation of cottage food products includes all of the following:
  - (1) The washing, sanitizing, and drying of any equipment used in the preparation of a cottage food product.



- (2) The washing, sanitizing, and drying of hands and arms.
- (3) Water used as an ingredient.
- (d) A person who prepares or packages cottage food products shall complete a food processor course approved by the department and posted on the department's Internet Web site to protect the public health within three months of becoming registered and every three years during operation. The course shall not exceed four hours in length. A cottage food operation shall properly label all cottage food products in compliance with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 343 et Seq.). Additionally, to the extent permitted by federal law, the label shall include, but is not limited to, all of the following:
  - (1) The words "Made in a Home Kitchen" or "Repackaged in a Home Kitchen", as applicable, with a description of any purchased whole ready-to-eat product not used as an ingredient in 12-point type on the cottage food products' primary display panel.
  - (2) The name commonly used for the food product or an adequately descriptive name.
  - (3) The name of the cottage food operation which produced the cottage food product.
  - (4) The registration or permit number of the "Class A" or "Class B" cottage food operation, respectively, which produced the cottage food product and the name of the county of the local enforcement agency that issued the permit or registration number.
  - (5) The ingredients of the cottage food product, in descending order of predominance by weight, if the product contains two or more ingredients

#### **Sections Referenced in H&S 114365.2 (above)**

#### **H&S 113953.3 - Hand Washing Procedure**

- (a) Except as specified in subdivision (b), all employees shall thoroughly wash their hands and that portion, if any, of their arms exposed to direct food contact and cleanser and warm water by vigorously rubbing together the surfaces of their lathered hands and arms for at least 10 to 15 seconds and thoroughly rinsing with clean running water followed by drying of the cleaned hands and that portion, if any, of their arms exposed. Employees shall pay particular attention to the areas underneath fingernails and between the fingers. Employees shall wash their hands in all of the following instances:
  - (1) Immediately before engaging in food preparations, including working with non-prepackaged food, clean equipment and utensils, and unwrapped single-use food containers and utensils.
  - (2) After touching bare human body parts other than clean hands, and clean, exposed portions of arms.
  - (3) After using the toilet room.
  - (4) After caring for or handling any animal allowed in a food facility pursuant to this part.



- (5) After coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking.
  - (6) After handling soiled equipment or utensils.
  - (7) During food preparation, as often as necessary to remove soil and contamination and to prevent cross-contamination when changing tasks.
  - (8) When switching between working with raw food and working with ready-to-eat food.
  - (9) Before initially donning gloves for working with food.
  - (10) Before dispensing or serving food or handling clean tableware and serving utensils in the food service area.
  - (11) After engaging in other activities that contaminate the hands.
- (b) If approved and capable of removing the types of soils encountered in the food operations involved, an automatic hand washing facility may be used by food employees to clean their hands.

#### **H&S 113967 - Food Contamination by Employees**

No employee shall commit any act that may cause the contamination or adulteration of food, food-contact surfaces, or utensils.

#### **H&S 113973 - Use of Gloves**

- (a) Single-use gloves shall be worn when contacting food and food-contact surfaces if the employee has any cuts, sores, rashes, artificial nails, nail polish, rings (other than a plain ring, such as a wedding band), uncleanable orthopedic support devices, or fingernails that are not clean, smooth, or neatly trimmed.
- (b) Whenever gloves are worn, they shall be changed, replaced, or washed as often as hand washing is required by this part. Single-use gloves shall not be washed.
- (c) If used, single-use gloves shall be used for only one task, such as working with ready-to-eat food or with raw food of animal origin, used for no other purpose, and shall be discarded when damaged or soiled, or when interruptions in the food handling occur.
- (d) Except as specified in subdivision (e), slash-resistant gloves that are used to protect the hands during operations requiring cutting shall be used only with food that is subsequently cooked as specified in Section 114004, such as frozen food or a primal cut of meat.
- (e) Slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves have a smooth, durable, and nonabsorbent outer surface or if the slash-resistant gloves are covered with a smooth, durable, nonabsorbent glove, or a single-use glove.
- (f) Cloth gloves may not be used in direct contact with food unless the food is subsequently cooked.

#### **H&S 113980 - Requirements for Food**

All food shall be manufactured, produced, prepared, compounded, packed, stored, transported, kept for sale, and served so as to be pure and free from adulteration and



spoilage; shall have been obtained from approved sources; shall be protected from dirt, vermin, unnecessary handling, droplet contamination, overhead leakage, or other environmental sources of contamination; shall otherwise be fully fit for human consumption; and shall conform to the applicable provisions of the Sherman Food, Drug, and Cosmetic Law (Part 5 (commencing with Section 109875)).

#### **H&S 114259.5 - Prohibiting Animals**

- (a) Except as specified in subdivision (b), live animals may not be allowed in a food facility.
- (b) Live animals may be allowed in any of the following situations if the contamination of food, clean equipment, utensils, linens, and unwrapped single-use articles cannot result:
  - (1) Edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacean in display tank systems.
  - (2) Animals intended for consumption if the live animals are kept separate from all food and utensil handling areas, are held in sanitary conditions, are slaughtered in a separate room designed solely for that purpose and separated from other food and utensil handling areas, and maintained in an area that has ventilation separate from food and utensil handling areas.
  - (3) Dogs under the control of a uniformed law enforcement officer or of uniformed employees of private patrol operators and operators of a private patrol service who are licensed pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code, while those employees are acting within the course and scope of their employment as private patrol persons.
  - (4) In areas that are not used for food preparation and that are usually open for consumers, such as dining and sales areas, service animals that are controlled by a disabled employee or person, if a health or safety hazard will not result from the presence or activities of the service animal.
  - (5) Pets in the common dining areas of restricted food service facilities at times other than during meals if all of the following conditions are satisfied:
    - (A) Effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas.
    - (B) Condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present.
    - (C) Dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service.
  - (6) In areas that are not used for food preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly restricted, such as in a variety store that sells pets or a tourist park that displays animals.
  - (7) If kept at least 20 feet (6 meters) away from any mobile food facility, temporary food facility, or certified farmers' market.
- (c) Those persons and operators described in paragraphs (3) and (4) are liable for any damage done to the premises or facilities by the dog.



- (d) Live or dead fish bait may be stored if contamination of food, clean equipment, utensils, linens, and unwrapped single-use articles cannot result.

**H&S 114285 - Private homes and living or sleeping quarters, use prohibition**

- (a) Except as specified in subdivision (b), a private home, a room used as living or sleeping quarters, or an area directly opening into a room used as living or sleeping quarters shall not be used for conducting food facility operations.
- (b) (1) Nonperishable, prepackaged food may be given away, sold, or handled from a private home. No food that has exceeded the labeled shelf life date recommended by the manufacturer shall be deemed to be nonperishable food.
- (2) For purposes of this subdivision, "nonperishable food" means a food that is not a potentially hazardous food, and that does not show signs of spoiling, becoming rancid, or developing objectionable odors during storage at ambient temperatures.
- (c) Restricted food service facilities are exempt from subdivision (a) provided that no sleeping accommodations shall be allowed in any area where food is prepared or stored.

**H&S 114286 - Living or sleeping quarters, separation**

- (a) No sleeping accommodations shall be maintained or kept in any room where food is prepared, stored, or sold.
- (b) Living or sleeping quarters located on the premises of a food facility shall be separated from rooms and areas used for food facility operations by complete partitioning. Except for restricted food service facilities, no door or other opening shall be permitted in the partition that separates the food facility from the living or sleeping quarters.

**H&S 114405 - Permit Suspension or Revocation**

- (a) A permit may be suspended or revoked by a local enforcement officer for a violation of this part. Any food facility or cottage food operation for which the permit has been suspended shall close and remain closed until the permit has been reinstated. Any food facility or cottage food operation for which the permit has been revoked shall close and remain closed until a new permit has been issued.
- (b) Whenever a local enforcement officer finds that a food facility or cottage food operation is not in compliance with the requirements of this part, a written notice to comply shall be issued to the permit holder. If the permit holder fails to comply, the local enforcement officer shall issue to the permit holder a notice setting forth the acts or omissions with which the permit holder is charged, and informing him or her of a right to a hearing, if requested, to show cause why the permit should not be suspended or revoked. A written request for a hearing shall be made by the permit holder within 15 calendar days after receipt of the notice. A failure to request a hearing within 15 calendar days after receipt of the notice shall be deemed a waiver of the right to a hearing. When circumstances warrant, the hearing officer may order a hearing at any reasonable time within this 15-day period to expedite the permit suspension or revocation process.



(c) The hearing shall be held within 15 calendar days of the receipt of a request for a hearing. Upon written request of the permit holder, the hearing officer may postpone any hearing date, if circumstances warrant the action.

#### **H&S 114407 – Notice of Decision**

The hearing officer shall issue a written notice of decision to the permit holder within five working days following the hearing. In the event of a suspension or revocation, the notice shall specify the acts or omissions with which the permit holder is charged, and shall state the terms of the suspension or that the permit has been revoked.

#### **H&S 114409 – Immediate Closure**

(a) If any imminent health hazard is found, unless the hazard is immediately corrected, an enforcement officer may temporarily suspend the permit and order the food facility or cottage food operation immediately closed.

(b) Whenever a permit is suspended as the result of an imminent health hazard, the enforcement officer shall issue to the permit holder a notice setting forth the acts or omissions with which the permit holder is charged, specifying the pertinent code section, and informing the permit holder of the right to a hearing.

(c) At any time within 15 calendar days after service of a notice pursuant to subdivision (b), the permit holder may request in writing a hearing before a hearing officer to show cause why the permit suspension is not warranted. The hearing shall be held within 15 calendar days of the receipt of a request for a hearing. A failure to request a hearing within 15 calendar days shall be deemed a waiver of the right to a hearing.

#### **H&S 114411 - Serious or Repeated Violations, Interference**

The enforcement agency may, after providing opportunity for a hearing, modify, suspend, or revoke a permit for serious or repeated violations of any requirement of this part or for interference in the performance of the duty of the enforcement officer.

#### **H&S 114413 – Permit Reinstatement or Reissuance**

A permit may be reinstated or a new permit issued if the enforcement agency determines that the conditions that prompted the suspension or revocation no longer exist.