

Small-scale On-farm Food Processing in Marin County

Background

Since many perishable foods can't be stored fresh for long periods, processed foods are an important part of a sustainable local food supply. Luckily for the consumer, but unfortunately for small farmers, food processing is highly regulated due to increasing concerns about food safety. Food safety and processing regulations are complex, with federal, state, and local jurisdictions having varying levels of oversight depending on types of processing (i.e. drying, canning, freezing, etc.), foods being processed (i.e. meat¹, vegetable/fruit, low-acid, etc.) and sales/distribution (retail versus wholesale and interstate versus intrastate). While opportunities for local food processing may be limited due to costs and economies of scale, in some cases farm products can be processed on-site on a small scale. The following information outlines permits and approvals needed for this type of food processing. Cheese making is addressed in *Establishing a Cheese-making Facility in Marin County*.



Definitions

Food. Anything ingested into the body except medicines.

Food processing. Altering the natural state of foods, including cutting or dicing. Only field cleaning, such as stripping damaged leaves from harvested produce, is not considered processing.²

Commercial kitchen. This is a commonly-used term that does not have an official definition in California. It is used to refer to kitchens used to prepare foods for commercial use. Foods prepared in residential kitchens cannot be sold in California, except as allowed by a Cottage Food Operation.

Processed food registration (PFR). California Health and Safety Code requires businesses that manufacture, repack, label, or warehouse processed food products to register with the California Department of Public Health/Food and Drug Branch³ (DPH FDB). This registration serves as the basic health permit for wholesale manufacture or warehousing of processed foods in California.

Licensed cannery. Low-acid foods can only be processed in a cannery licensed by DPH FDB. Information about what foods are considered low-acid, and licensing information is available on the DPH FDB website (<http://www.dhs.ca.gov/fdb/HTML/food/cannerylicenseprocedure.htm>).

Wholesale. Sales to anyone other than the ultimate consumer are considered wholesale, including sales to restaurants, distributors, and retail stores.

Retail. Retail sales are those made to the ultimate consumer, including sales at grocery stores, meals sold in restaurants, and farmer's market sales to individuals.

¹ Meat processing is addressed in the Grown in Marin Fact Sheet *Livestock Slaughter and Processing Requirements in California*.

² California Health and Safety Code Section 113791 defines food preparation as packaging, processing, assembling, portioning, or any operation that changes the form, flavor, or consistency of food, but doesn't include trimming of produce.

³ The California Department of Health Services was reorganized in 2007 into the California Department of Public Health and the Department of Health Care Services; you may also find DPH FDB referred to as Department of Health Services (DHS) FDB.

Federal, State and Local Food Safety Agencies

The United States Food and Drug Administration (FDA) has ultimate authority for regulations pertaining to food handling and safety. Within California, that authority is delegated to the FDB of DPH (<http://www.dhs.ca.gov/fdb/HTML/Food/procfdrq.htm>), which implements federal and state regulations. The only case in which a food processor deals directly with the FDA is if products are shipped to states other than California, in which case product labeling and other aspects of interstate sales are regulated by the FDA.

In California, food produced or processed in a residential kitchen cannot be sold, except for certain food produced or processed with a Cottage Food Operation permit or Registration and Marin County EHS, as allowed by the California Homemade Food Act. Food produced in a kitchen inspected and approved by the DPH can be sold wholesale and foods processed in a County Environmental Health Services (EHS)-approved commercial kitchen can be sold retail. Cottage foods can be sold as described in the Cottage Food Operation permit or Registration and Marin County Home Occupation Zoning Verification requirements (see below).

On-farm kitchens that are in a building separate from the home may qualify for a DPH Processed Food Registration if there are no on-site retail sales and kitchens meet certain health and safety criteria. Retail sales of products produced and processed on the farm may also be allowed if the kitchen is approved by Marin County EHS. If both wholesale and retail sales are made from a single processing plant, only the retail sales area would be subject to EHS inspection – the wholesale processing facility would still come under state DPH certification. EHS-permitted retail facilities must meet the California Retail Food Code (<http://ucce.ucdavis.edu/files/filelibrary/5622/36631.pdf>) standards and a Permit to Operate must be obtained from EHS (see below).

What Foods Can Be Processed in a DPH FDB Approved Kitchen Without a Cannery License?

Very few foods can be processed outside of a licensed cannery. DPH FDB, which protects consumer health and safety, determines which foods have to be processed in a licensed cannery and which do not. Typically, only jams, jellies, and preserves that do not include any large pieces of low-acid foods, and dried foods can be processed outside of a licensed cannery. Condiments such as barbeque sauces and salsas must be tested by DPH FDB for a determination about processing requirements. Vegetables and many other foods can only be processed in a licensed cannery.

What Foods Can Be Produced Or Processed by a Cottage Food Operation?

Limited quantities of non-hazardous foods on the CDPH Approved Food Products List (<http://www.cdph.ca.gov/programs/Pages/fdbCottageFood.aspx>) can be produced or processed in home kitchens with a Cottage Food Operation Permit or Registration (http://www.co.marin.ca.us/depts/CD/Main/pdf/EHS/Cottage_Food_Application.pdf) from Marin County EHS. The 2014 limit for gross sales is \$45,000, with an increase to \$50,000 in 2015. Processing of agricultural products is limited to fruit drying, production of fruit desserts, drying and packaging of herbs, honey processing, and production of jam and preserves that meet the Federal Code of Regulations Title 21, Part 150 (<http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm?CFRPart=150&showFR=1>) standards.

Foods produced in a home by a Cottage Food Operation can be sold on-site if the business complies with Marin County Home Occupation Zoning Verification requirements per Section 22.32.100 of the Marin County Code (<http://library.municode.com/index.aspx?clientID=16476&stateID=5&statename=California>).⁴

Land Use, Zoning and Planning Permits

Marin County land use and zoning regulations related to small-scale food processing differ depending on whether a property is within the Coastal Zone or not.

⁴ Click on Title 22: DEVELOPMENT CODE, then scroll to Chapter 22.32 — Standards for Specific Land Uses. Click on that and you'll see 22.32.100 Home Occupations.

On properties outside the Coastal Zone, most small-scale food processing falls under the definition of “agricultural processing uses” and is permitted in all agricultural zoning districts (A-2 through A-60, and ARP) without Use Permit approval as long as the processing facility does not exceed an aggregate floor area of 5,000 square feet and the products being processed are produced on the site (or on another site owned or leased by the processor). If either of these two conditions are NOT met, Use Permit approval would be required. Additional “planned district” requirements may also apply to properties with ARP zoning (contact the Marin County Community Development Agency, Planning Division).

On properties within the Coastal Zone governed by C-ARP or C-APZ zoning, Use Permit and Coastal Permit approval is currently required for any on-site food processing. On-site processing is not permitted within the C-R-A zoning district.

Please Note: If the proposed food processing use would result in the need for a new, expanded, or remodeled structure or structures, please contact the Planning Department for requirements that may apply.

Building Permits

A DPH FDB-approved kitchen used for processing cannot be in a residence or in an attached garage. It can be in a separate detached building on a farm or ranch that has adequate drainage and sewage/waste disposal, water supply, restroom, and otherwise meets “good manufacturing practices” (GMPs) per the Federal Code of Regulations as administered by DPH.

If you plan to construct a new building, or modify an existing building to house your kitchen, you’ll need a building permit from the Marin County Building Department. As mentioned above, if both wholesale and retail sales are made from the same facility, the retail area would be subject to Marin County EHS inspection while the wholesale processing facility would only have to be inspected and approved by DPH. Retail sales facilities that serve prepared foods for on-site consumption must provide customer restrooms. All aspects of retail facilities, from parking to sales areas to restrooms, must be handicapped-accessible.

For information about building permits or accessibility, contact Dave Brunhofer, Building Plans Examiner for the Marin County Building Department, at (415) 473-4142 or dbrunhofer@marincounty.org.

EHS Inspections and Permits

Food Handler’s Certificate and a Permit to Operate. If processed foods are sold retail on-site, a Permit to Operate must be obtained from EHS. If food preparation occurs or if unpackaged foods are sold, a Food Handler’s Certificate is also needed. For information about EHS kitchen inspection, Permits to Operate, and Food Handler’s Certificates, contact Dave Smail, Supervising Registered Environmental Health Specialist, at (415) 499-6916 or dsmail@co.marin.ca.us.

Waste Disposal. Below-ground (septic) waste disposal from any food processing facility in Marin County comes under the jurisdiction of EHS. Existing septic systems may be adequate to handle low volumes of low-strength wash water, but septic improvements may be necessary in some cases. If wastes are disposed of above ground, such as in a pond, the State Regional Water Quality Control Boards (<http://www.swrcb.ca.gov/>) have jurisdiction, rather than EHS. For more information on septic system requirements, contact Janet Mullin, Senior Registered Environmental Health Specialist for the Marin County Environmental Health Department, at (415) 499-6273 or jmullin@co.marin.ca.us.

Water Supply. Water used in food processing must be from an approved and potable water system. In rural areas where water is provided by a well or springs, water must be from a source approved by a domestic water permit issued by EHS. For more information, contact Scott Callow, Water Specialist for EHS (415) 499-6667 or scallow@co.marin.ca.us.

DPH Approvals

Processed Food Registration (PFR). Every person engaged in food processing or warehousing of processed food, except for a limited number of special situations listed on the DPH FDB website (<http://www.dhs.ca.gov/fdb/HTML/food/procfdrq.htm>), are required to register with the California Department of Public Health, Food and Drug Branch. Registrations are for a specific business or individual at a specific location and do not cover other entities operating at the same location, or at other locations owned by the same business. Procedures for obtaining a Processed Food Registration are available from the DPH FDB website (<http://www.dhs.ca.gov/fdb/local/PDF/PFR%20Procedures%2012-05.pdf>), or you may contact the Processed Food Registration desk at (916) 650-6516.

Packaging and Labeling

Food labeling requirements can be complex, depending on the type of product, and how it is processed, packed, and sold. Any packaged food must have, at a minimum, IRQ (identity, responsibility, and quantity), meaning ingredients, identification of the producer, and how much product the package contains. Interstate sales require FDA labeling approval. Organic products, foods that contain common allergens, dietary supplements, and other specialty products, have specific labeling requirements. A good overview of food labeling in California is available from DPH FDB (<http://www.dhs.ca.gov/fdb/local/PDF/Food%20Label%20Guide%204-07.pdf>).

For more information on labeling and measurement compliance, contact Marin County Weights and Measures at (415) 499-6700.



Prepared by Lisa Bush, Steve Quirt, and Ellie Rilla, July 2008.

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All information pertinent to Marin County Community Development Agency (MCCDA) regulations has been reviewed and approved by the MCCDA. More information about diversifying your operation is available at the Grown in Marin website under Resources for Farmers, at <http://www.growninmarin.org>, or by calling the UCCE Farm Advisor's Office at 415/499-4204.