



## **LIMITED SERVICE CHARITABLE FEEDING OPERATION FREQUENTLY ASKED QUESTIONS**

According to the California Association of Food Banks, one in eight Californians currently struggle with food insecurity and one in five children in California struggle with hunger. Assembly Bill 2178 was signed by the Governor and became effective January 1, 2019. This bill provides local enforcement agencies additional flexibility when working with charitable organizations that wish to feed the needy but do not have access to a full service, permitted commercial kitchen.

AB 2178 exempts a Limited Service Charitable Food Operation (LSCFO) from the definition of a food facility, as defined in the California Retail Food Code (CalCode). It does not include a temporary food facility or a nonprofit charitable temporary food facility. The operation is generally required to register with the local enforcement agency, with certain exceptions.

AB 2178 exempts the LSCFO from the requirements of CalCode except for specified general food safety sections and other requirements. The operation must comply with best management practices approved by the local enforcement agency. It allows for food distribution at an outdoor location for up to 4 hours per day.

Many Frequently Asked Questions (FAQ) are discussed in the LSCFO Best Management Practices (BMP) document. The BMP item number is referenced in parentheses at the end of the FAQ answer, if applicable.

### **1. What is an LSCFO?**

An LSCFO is an operation for food service to a consumer solely for providing charity, that is conducted by a nonprofit charitable organization operating pursuant to Chapter 10.6 of the California Retail Food Code (CalCode) and whose food service is limited to any of the following functions:

1. Storage and distribution of whole, uncut produce or of prepackaged, non-potentially hazardous foods in their original manufacturer's packaging.
2. Heating, portioning, or assembly of a small volume of commercially prepared foods or ingredients that are not prepackaged.
3. Reheating or portioning of only commercially prepared foods with no further processing/for purposes of hot holding and no longer than same-day food service to the consumer.
4. Storage or distribution of commercially prepared and commercially packaged potentially hazardous cold or frozen foods for distribution to the consumer.

### **2. Does the law require that a health permit be obtained prior to a nonprofit charitable organization providing free food to the public?**

It depends on the type of food preparation activities that the organization will conduct. See next page for a summary of the LSCFO categories and what activities may be conducted in each.

Food Operation	Examples	No Permit or Registration	Registration Required	Full Health Permit Required
Store only shelf-stable packaged, nonperishable food that is in the original manufacturer's packaging, whole uncut produce, and doesn't require refrigeration. (Category 1)	<ul style="list-style-type: none"> <li>▪ Canned or other packaged foods</li> <li>▪ Whole, fresh fruit</li> </ul> <p><i>(basic food pantry)</i></p>	✓		
Store commercially prepared and packaged potentially hazardous food for cold or frozen storage and Category 1 food above. (Category 2)	<ul style="list-style-type: none"> <li>▪ Packaged frozen or refrigerated meats</li> <li>▪ Eggs and dairy products</li> <li>▪ Frozen ready-to-eat meals</li> </ul> <p><i>(food pantry with perishable and non-perishable foods)</i></p>	✓ (if operating under agreement with a permitted food bank)	✓	
Reheat or portion commercially prepared foods with no further processing for same day food service. (Category 3)	Donated prepared food from a food facility that is maintained hot or cold for same day service		✓	
Heat, portion or assemble small volumes of commercially prepared foods or ingredients. (Category 4)	<ul style="list-style-type: none"> <li>▪ No cooking from raw state</li> <li>▪ Hot pasta or rice may be prepared with packaged sauce for immediate service</li> <li>▪ Only hot or cold holding of prepared foods</li> <li>▪ Minimal food assembly, such as sandwiches or salads</li> <li>▪ Donated foods from a commercial facility</li> <li>▪ Limited cutting/slicing for purposes of portioning may be allowed</li> </ul>		✓	
Prepare potentially hazardous foods which may require thawing, cooking, cooling and reheating/hot holding	Anything that is beyond what has been described above			✓

**3. Does a food pantry that distributes only prepackaged food have to register as an LSCFO?**

It depends on what the food pantry does and how they operate.

- If the food pantry stores and distributes only prepackaged non-perishable foods and whole produce, registration is not required, regardless of whether or not they operate in conjunction with a food bank. (Category 1)
- If the food pantry stores or distributes commercially prepared and commercially packaged potentially hazardous cold or frozen foods, registration may be required. (Category 2)
  - If the food pantry works in conjunction with a food bank, registration is not required as long as the food pantry follows the food bank's BMPs.
  - If the food pantry does not work in conjunction with a food bank, registration is required.
- If the food pantry works in conjunction with a food bank but also prepares food (commercially precooked), as described in categories 3 and 4, registration is required.
  - Category 3: Reheating or portioning of only commercially prepared foods with no further processing, for purposes of hot holding and no longer than same-day food service to the consumer.
  - Category 4: Heating, portioning, or assembly of a small volume of commercially prepared foods or ingredients that are not prepackaged.
- If the food pantry cooks foods from scratch (i.e. soups, meat, poultry, eggs, etc.), whether working in conjunction with a food bank or not, they do not qualify for the LSCFO registration and a food facility permit may be required.

#### **4. What should existing charitable feeding operations do under this new law?**

The initial implementation will include education and outreach of the new law with an emphasis on food safety. Existing charitable feeding operations should consult with their local enforcement agency regarding current feeding guidelines and implementation schedule. The local enforcement agency can assist with determining the appropriate level of registration or permit for your specific operation.

#### **5. What are the LSCFO registration requirements?**

An LSCFO that is required to register must do so with the local enforcement agency prior to providing food service. Registration may include, but is not limited to, documentation as required by the local enforcement agency and may include payment of a fee. Some departments may be able to provide a reduced fee or a fee waiver upon request. The following information must be provided:

- Name, physical address, internet website, and telephone number of the nonprofit charitable organization conducting the LSCFO.
- Name and contact information of a site representative of the LSCFO.
- Operating days and hours of the LSCFO.

Contact your local enforcement agency to obtain specific registration requirements.

#### **6. What are the benefits of registration?**

An LSCFO registration will allow the organization to legally operate without meeting the full permit requirements of a food facility (restaurant, grocery store, etc.) Registration also allows the operation to receive and serve donated foods from restaurants and other commercial food establishments. Benefits include:

- Food facilities may be more confident in donating food to a registered operation with the understanding that food safety is a priority
  - See FAQ #16 regarding liability protections available under the California Good Samaritan Food Donation Act.
- Access to a comprehensive set of guidelines to help ensure food safety.

- Establishes the local enforcement agency as a resource for guidance and consultation on food safety.

**7. What is required if an organization conducts, or would like to conduct, food service activities beyond what is allowed as an LSCFO, such as cooking raw meats or raw chicken or cooling cooked chicken to make a chicken salad?**

If the organization does not qualify for an LSCFO registration, they may need a food facility permit. Contact the local enforcement agency to obtain registration and/or permit requirements. A site evaluation may be conducted to determine if upgrades are necessary for the kitchen.

**8. Where can food be served or distributed?**

Food can be distributed to the public from inside the LSCFO's building. The building may be a nonresidential structure that meets minimum structural and operational requirements as determined by the local enforcement agency.

Food distribution in an outdoor location (that is not in or adjacent to the registered location) is allowed for up to four hours per day. Other local governmental jurisdictions (planning department and/or community development agency, building department, fire department, police department, parks department, etc.) may have additional requirements for public areas. (BMP #35)

**9. Is food safety training required?**

The LSCFO must meet certain CalCode requirements, as specified, and follow the Best Management Practices (BMP) approved by the local enforcement agency in order to ensure food is handled safely and fit for human consumption. Food safety training through a Food Safety Manager Certificate or Food Handler Card program is not specifically required for LSCFOs, however BMPs require a sufficient level of food safety training and/or knowledge.

LSCFOs may opt to have at least one person obtain a Food Handler Card or Food Safety Manager Certification. Both training methods provide basic food safety information related to:

- Foodborne illness, including terms associated with foodborne illness, micro-organisms, hepatitis A, and toxins that can contaminate food and the illness that can be associated with contamination, definition and recognition of potentially hazardous foods, chemical, biological, and physical contamination of food, and the illnesses that can be associated with food contamination, and major contributing factors for foodborne illness.
- The relationship between time and temperature with respect to foodborne illness, including the relationship between time and temperature and micro-organisms during the various food handling, preparation, and serving states, and the type, calibration, and use of thermometers in monitoring food temperatures.
- The relationship between personal hygiene and food safety, including the association of hand contact, personal habits and behaviors, and food employee health to foodborne illness, and the recognition of how policies, procedures, and management contribute to improved food safety practices.
- Methods of preventing food contamination in all stages of food handling, including terms associated with contamination and potential hazards prior to, during, and after delivery.
- Procedures for cleaning and sanitizing equipment and utensils.
- Problems and potential solutions associated with temperature control, preventing cross-contamination, housekeeping, and maintenance.

Contact the local enforcement agency to see what kind of training opportunities may be available. (BMP #24, 30)

#### **10. Will an inspection of the LSCFO be conducted?**

Generally, no routine inspections of the operation will be conducted. It is therefore very important to review and follow the best management practices, as approved by the local enforcement agency. However, an inspection may occur in response to a consumer complaint or a report of a suspected foodborne illness.

Some jurisdictions may require an initial site visit to determine eligibility and placement in the registration program.

#### **11. What are some approved sources for food donations?**

Donated food may be accepted from the following:

- Permitted food facilities including restaurants, grocery stores, bakeries, catering operations
- Permitted cottage food operators
- Permitted food processors and manufacturers
- Community food producers (whole produce and unrefrigerated shell eggs) operating per AB1990/234
- Permitted microenterprise home kitchen operations

Food may NOT be received from the following:

- Prepared food from unpermitted/unregistered home kitchen operations.
  - Note that canned foods or other commercially pre-packaged foods are allowed.
- Salvage operations (e.g., fire, flood, or other damaged food products)

Contact your local enforcement agency if you have any questions about allowable food sources. (BMP #5)

#### **12. Are commercial equipment and commercial utensils required?**

Equipment and utensils are not required to be commercial-grade. However, all equipment and utensils must be food-grade and be non-reactive to the food/beverages stored in them (e.g., acidic foods may leach copper from copper containers). They must be maintained clean and in good repair. (BMP #12, 17, 18, 20)

#### **13. How should food be stored to protect it from potential contamination?**

Food should be stored at least six inches off the floor (or on a pallet) in a clean, dry location that is free of vermin. Food may not be stored in restrooms or garages. Raw produce should be stored below ready-to-eat foods to prevent accidental cross-contamination. (BMP #6, 9, 16)

#### **14. Do food handlers have to wear hair nets?**

Food handlers that serve or handle open food should restrain their hair to prevent food contamination. (BMP #26)

#### **15. Can food that is past its marked “expiration date” or “best by” date still be used and/or distributed to the public?**

Baby food and infant formula may not be used or distributed after the marked “Use By” date. Other foods may be used or distributed if they have been safely handled. (BMP#10)

For more information about food product dating, visit the United States Department of Food and Agriculture (USDA) Food Safety and Inspection Service (FSIS) website:

<https://www.fsis.usda.gov/wps/portal/fsis/topics/food-safety-education/get-answers/food-safety-fact-sheets/food-labeling/food-product-dating/food-product-dating>

#### **16. What liability protection is available for receiving and/or distributing food?**

California Good Samaritan Food Donation Act (AB 1219) provides protection from civil liability for foods donated from food facilities.

- The donation of nonperishable food that is fit for human consumption but that has exceeded the labeled shelf life date recommended by the manufacturer.
- The donation of perishable food that is fit for human consumption but that has exceeded the labeled shelf life date recommended by the manufacturer if the person that distributes the food to the end recipient makes a good faith evaluation that the food to be donated is wholesome.

Please seek legal assistance to determine how liability protection may apply to your operation. For more information on the law, visit the California Legislative Information website:

[https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill\\_id=201720180AB1219](https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201720180AB1219)  
(BMP#10)

#### **17. Are Child and Adult Care Food Programs subject to AB 2178?**

In general – no. Any program that is a license-exempt center covered by the California Department of Education (CDE) bulletin #[CDE MB CACFP-07-2016](#) is not required to register as an LSCFO for the meals being served under that program. If the program wishes to serve food above and beyond the CDE program they may be eligible to register as an LSCFO to serve food free of charge to those in need. Contact your local enforcement agency if you have any questions regarding your specific operation.