

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 (AB) 2178 was signed by the Governor and became effective January 1, 2019. This bill provides additional flexibility when working with charitable organizations that wish to provide charitable feeding 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 also exempts LSCFOs from the requirements of CalCode except for specified general food safety sections and other requirements. It does not include a temporary food facility or a nonprofit charitable temporary food facility. The operation must comply with best management practices (BMP) approved by the County of Santa Clara Department of Environmental Health (DEH). LSCFOs may qualify to register with DEH in lieu of obtaining a Permit to Operate.

Here are some frequently asked questions (FAQ) regarding LSCFOs. More information may be obtained by visiting the LSCFO website or referencing the identified BMP in the Limited Service Charitable Feeding Operation Best Management Practices document. The BMP item number is referenced in parentheses at the end of the FAQ answer, if applicable.

For all LSCFO-related documents, visit:

<https://www.sccgov.org/sites/cpd/programs/lscfo/Pages/home.aspx>

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 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. Storage or distribution of commercially prepared and commercially packaged potentially hazardous cold or frozen foods for distribution to the consumer.
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. Heating, portioning, or assembly of a small volume of commercially prepared foods or ingredients that are not prepackaged.

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	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"> ▪ Canned or other packaged foods ▪ Whole, fresh fruit <p style="text-align: center;"><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"> ▪ Packaged frozen or refrigerated meats ▪ Eggs and dairy products ▪ Frozen ready-to-eat meals <p style="text-align: center;"><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)	<ul style="list-style-type: none"> ▪ Donated prepared food from a food facility that is maintained hot or cold for same day service ▪ Heating canned soup ▪ Heating frozen lasagna and portioning for service 		✓	
Heat, portion or assemble small volumes of commercially prepared foods or ingredients. (Category 4)	<ul style="list-style-type: none"> ▪ No cooking from raw state ▪ Hot pasta or rice may be prepared with packaged sauce for immediate service ▪ Only hot- or cold-holding of prepared foods ▪ Minimal food assembly such as sandwiches or salads ▪ Donated foods from a commercial facility ▪ Limited cutting/slicing for purposes of portioning may be allowed 		✓	
Prepare potentially hazardous foods which may require cooking, cooling and/or reheating	<ul style="list-style-type: none"> ▪ Cooking chicken or ground beef ▪ Making soup from scratch ▪ Anything that is beyond what has been described above 			✓

3. What should existing charitable feeding operations do under this new law?

Charitable food providers are encouraged to utilize the chart on the previous page or the LSCFO Flow Chart document to determine requirements. LSCFOs, whether registered or exempt from registration, must follow BMPs approved by DEH or the organization's local food bank, as applicable.

For more information:

- Requirements for distributing only prepackaged food – see FAQ #5.
- Registering as an LSCFO – see FAQ #6.
- Obtaining a health permit – see FAQ #8.

4. Does a charitable food provider with a current health permit need to obtain an LSCFO registration?

Operations with a current health permit may not need to obtain an LSCFO registration to feed the needy.

- If the proposed charitable feeding operation goes above and beyond what their permit allows, registration will be required.
- The health permit only allows for food preparation and/or distribution from the permitted commercial kitchen; it does not allow for off-site food distribution activities. LSCFO registration allows for food to be distributed in an outdoor location (which is not in or adjacent to the registered location). Offsite food distribution, not adjacent to the building, requires LSCFO registration.

5. 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. However, they must still follow the BMPs approved by DEH or their partner food bank, as applicable. (Category 1)
- If the food pantry also 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 permitted 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 permitted food bank, registration is required.

6. What are the LSCFO registration requirements?

An LSCFO that is required to register must submit the Limited Service Charitable Food Operation Registration Form and payment of the annual registration fee. The LSCFO must follow the BMPs as approved by DEH.

7. 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 DEH as a resource for guidance and consultation on food safety.

8. 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?

The organization will need to operate from a permitted food facility. Options include but are not limited to:

- Operate at a permitted food facility wherein the permit holder assumes full responsibility of the charitable food operation.
- Obtain a catering permit at a permitted food facility.
- Obtain a food facility permit for the organization's kitchen.
 - A site evaluation may be conducted to determine if upgrades are necessary for the kitchen. A site evaluation fee will apply.
 - For information regarding Plan Check requirements, visit: <https://www.sccgov.org/sites/cpd/programs/pcp/Pages/home.aspx>.
 - For the Permit to Operate application, visit: https://www.sccgov.org/sites/cpd/Documents/CPD_Permit_Application.pdf

Note: The above-listed options are subject to department review to ensure the facility is adequate to accommodate the organization's operation. These options will not allow for off-site food distribution as is approved for registered LSCFOs. To distribute food at an outdoor location, the organization must also register as an LSCFO.

9. 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 DEH.

An LSCFO may distribute food at an outdoor location (that is not in or adjacent to the registered location) 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)

10. Can I register my home kitchen/private residence as an LSCFO?

No. LSCFOs may not operate at private residences or home kitchens. All registered LSCFO activities must be conducted from nonresidential structures.

11. Is food safety training required?

The LSCFO must meet certain CalCode requirements, as specified, and follow the BMPs approved by DEH 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 Safety Manager Certification or Food Handler Card. 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 associated with delivery.
- Procedures for cleaning and sanitizing equipment and utensils.
- Problems and potential solutions associated with temperature control, preventing cross-contamination, housekeeping, and maintenance.

Contact DEH for training opportunities that may be available. For information about Food Safety Certification and Food Handler Cards, visit our Food Safety Program website: <https://www.sccgov.org/sites/cpd/programs/fsp/Pages/home.aspx>. (BMP #24, 30)

12. 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 BMPs, as approved by DEH. 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.

13. 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 grown by a community food producer on property not zoned for agricultural use) operating per AB 234. For more information, visit: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB234
- Permitted microenterprise home kitchen operations. (AB 626 allows local enforcement agencies to opt-in to the legislation and permit microenterprise home kitchen operations.) For more information, visit: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB234

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 DEH if you have any questions about allowable food sources. (BMP #5)

14. 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)

15. 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 meat should be stored below ready-to-eat foods to prevent accidental cross-contamination. (BMP #6, 9, 16)

16. 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)

17. 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>

18. 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.ca.gov/faces/billCompareClient.xhtml?bill_id=201720180AB1219
(BMP#10)

19. 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 DEH if you have any questions regarding your specific operation.