

Navigating food regulations as a Cottage Food Producer

Cottage food production has become increasingly popular in recent years, both for producers and consumers. Cottage food allows individuals to begin entrepreneurial endeavors without commercial kitchens or storefronts. Cottage food production is home-produced goods sold under laws designed to support independent sales and consumer protection. New cottage food producers may have questions surrounding safety guidelines and requirements. The Nebraska Department of Agriculture has a Cottage Food Program to support cottage food producers.

Cottage Food vs. Food Establishments

One of the biggest questions surrounding cottage food is how it differs from a permitted Food Establishment. Food Establishments do not prepare food in a private home kitchen. The term Food Establishment excludes; "a private home where a producer that meets the requirements of section 81-2,280 is prepared for sale directly to the consumer... at a farmers market, fair, festival, craft show or other public event or for pick up at or delivery from such private home address." You can view these terms yourself [here](#).



Cottage food falls under specific sales restrictions to ensure that consumers understand where their food products are prepared. Cottage food is not permitted for wholesale to restaurants, grocery stores or other retail establishments. Cottage food cannot be prepared anywhere other than a private home kitchen.

Section 81-2,280

Cottage food laws are outlined in Nebraska state statute 81-2,280 and are available to review here. This statute provides guidelines for producers.

Cottage Food producers shall only provide food that is not adulterated and is not any of the following types of time/temperature control (TCS) for safety food:

- (a) Any part of an animal, vertebrate or invertebrate, or animal byproduct;
- (b) Fluid milk or milk products as defined in the Grade A 12 Pasteurized Milk Ordinance adopted by reference in the Nebraska Milk Act; (<https://www.fda.gov/media/114169/download>)
- (c) Raw eggs;
- (d) Unpasteurized juice;
- (e) Infused oils or infused honey;
- (f) Sprouts; (ALL)
- (g) Low-acid canned food and hermetically sealed acidified food;
- (h) Tofu, tempeh, or similar meat substitutes; or
- (i) Kimchi, kombucha, or similar fermented foods.

Additional Food Restrictions

Here are some common questions regarding specific foods for sale. The mention of raw eggs being prohibited from cottage food sales may seem confusing. Eggs, on their own, are still allowed to be sold but not under cottage food. If you are looking to sell eggs, contact the Nebraska Department of Agriculture to request an egg number. More details can be found here.

Milk is another area of common confusion. As stated above, the sale of raw milk and milk products as defined in the Nebraska Milk Act are not permitted under cottage food. However, this does not mean that items made using milk are not allowed. Milk that is commercially produced and pasteurized, including milk products- milk, cream and cheese- can be used when making cottage foods, such as cheesecake or ice cream. Raw eggs are also not allowed. If an item contains eggs, it must be cooked thoroughly to ensure that the product is safe. If you are unsure if the ingredients you are using are not allowed in cottage food, please reach out to agr.foodsafety@nebraska.gov.

Registering as a Cottage Food Producer

Prior to registering, producers must complete an accredited food safety and handling course. More information on the different course options approved by the NDA are available here.

The next step is to register with the department prior to conducting

any food sales. You can fill out the form here. This is a one-time registration showing the producer has completed the necessary steps of obtaining a food safety certificate and private well testing if applicable. The name of the business and producer as well as certification dates will be publicly accessible, within 10 days of registration, to consumers on the cottage food producer list.

Labeling

The law does not require producers to post their registration in the area where they are selling, however it is required they post a notification wherever items are sold (online or in person) that states: "This food was prepared in a kitchen that is not subject to regulation and inspection by the regulatory authority and may contain allergens." This notification shall be posted on a producer's website, any advertisements, at the producer's private home and at the sales location (farmers market, fair, festival, craft show or other public events.)

This labeling allows consumers to make informed decisions when purchasing items. For example, even if an item does not include peanuts, but is prepared in a kitchen using utensils that might have encountered peanuts, someone with a severe allergy could be affected. Depending on severity of the allergy, they may choose to avoid the potential risk.

Food labels should also include the name and address/ PO box of the producer, easily viewable to

the consumer. Additionally, when labeling TCS foods, ingredients should be listed in descending order of predominance. This means that the ingredient that weighs the most is listed first and thereon in descending order.

Selling Cottage Food

When selling TCS products, producers are responsible for keeping products at a safe temperature. If selling outside of a home location, such as a farmer's market or other public event, producers must have a way of maintaining appropriate temperatures in accordance with the Nebraska Pure Food Act. If the food is non-TCS it can be delivered by United States mail or another commercial delivery service. If the food is TCS it shall be delivered only by the producer to the consumer in person or picked up at the producer's home.

Remember, when selling cottage food at vendor locations such as farmer's markets and craft shows, you may also be subject to rules specific to that market or show. Please carefully review all vendor obligations when signing up for a show.

Producers can always email
agr.foodsafety@nebraska.gov with any questions or concerns.

The logo features the word "NEBRASKA" in a bold, blue, sans-serif font. A stylized orange swoosh underline is positioned beneath the letters, starting under the 'N' and ending under the 'A'.

Good Life. Great Roots.

DEPARTMENT OF AGRICULTURE

402-471-2341
nda.nebraska.gov