

The CA Cottage Food Law (AB1616) was specifically established to promote the creation of small businesses and the growth of home-based businesses that contribute to the health, prosperity, and well being of Californians. Since then, San Diego has seen a steady increase, year over year, in the number of Cottage Food Operations (CFOs) created.

The San Diego Dept. of Environmental Health Food and Housing Division (DEH-FHD) is proposing to increase CFO fees by more than 50% for new permits. Fees would increase from \$142 to \$210 for A permits and from \$284 to \$449 for B permits, a 51% and 58% increase respectively.

This will have a strong negative effect on the continued growth of this emerging industry. Cottage food owners must also pay for standard business licenses, home occupancy permits, fictitious names, insurance, and food safety training. Farmer's Market fees and Temporary Food Facility permit fees also are being increased by DEH-FHD resulting in additional costs which threaten the health of this growing, home-based industry.

We feel the proposed increases are unjustified because:

1. The large increase in fees could be avoided by improving efficiency, reducing confusion, and streamlining the process. DEH-FHD has not adequately explored nor implemented options to save time and money to keep the fees low. (see details below)
2. Taking steps to streamline the process should be implemented before prices are substantially increased. *Increasing fees by 50%+ dis-incentivizes DEH-FHD from making substantial changes to the process.*
3. The new fees would be the highest of all the counties in Southern California, and among the highest in the state (again pointing to a confusing process and/or inefficiency in the application process)
4. Among the justifications offered by DEH-FHD is the fact that they've not raised fees since 2010. The Cottage Food Law AB1616 was not even implemented until Jan 1, 2013, so rationalizing increased fees for CFO permits since 2010 is unjust. Furthermore, the proposed fee increases for all other DEH-FHD programs averages only 7% (excluding the Fisherman's Market permit which is a new permit). [see Table 1]
5. While reducing the fees for renewals and adding separate billing for additional label reviews makes sense and is a welcome response to CFO suggestions, it does not make sense for DEH-FHD to increase the permit fees and *double* the number of labels that can be submitted when it is *the review of labels that the department claims is the most time consuming issue*. Better to keep the number of labels lower, improve the process, and keep the fee lower.

The main justification by DEH-FHD is that it takes an average of 2-2.5 hrs to review applications, longer than the one hour they estimated at the start of the program, mostly due to the time to review labels. It should be argued that the fees should be going *down* as the county gets BETTER and more efficient at evaluating applications.

We suggest that the long delay in approving/rejecting applications hinges on inefficiencies in the program which have not been adequately assessed, addressed, or implemented. Though the county did meet with a dozen Cottage Food Operators, the meeting was only held after CFOs complained about the increases, the lack of advanced notice for the general meeting, and themselves submitting ideas for keeping fees lower. By then, at the recommendation of CFOs who contacted the department, DEH-FHD had agreed to establish different fees for new permits vs. renewals that have no changes. Nonetheless, CFO frustrations with application reviews continue to this day because of poor processes. New and renewing CFOs are being asked to pay the price for this.

Rather than a 50%+ increase in fees for new Cottage Food Operations, we believe a more modest increase in fees (in line with other proposed DEH-FHD fees) AND implementation of new procedures, forms, in-house training, etc. as outlined below would benefit the DEH-FHD processes, Cottage Food business owners, and the emerging industry.

We therefore request the Board of Supervisors NOT approve the fee increases as currently proposed for the Cottage Food Operation permits.

DEH-FHD proposals

1. New CFO A registration fee of \$215 rate (allowing 20 rather than 10 labels).
2. New CFO B permit fee of \$449 (allowing 20 rather than 10 labels)
3. Allowing A Registration renewals with no product/label changes at \$75
4. Allowing B Permit renewals with no product/label changes at \$290
(adding even one product/label for either A or B renewing CFOs would result in the entire new proposed fees of \$215 or \$449 being charged)
5. Adding additional label reviews at a fee of \$75/half hour during the year.

DEH-FHD justifications. When the program was started Jan. 1, 2013, the CFO fees were chosen to be in line with the estimated time required to review and approve applications. An A registration was estimated to take about 1 hour (\$142 at the time) and a B permit 2 hours (2x\$142=\$284 due to the additional home inspection required). DEH-FHD says the average time actually required is more like 2-2.5 hrs/application (plus the hour allotted for the home inspection). The majority of the time required is spent reviewing products and labels.

Rebuttal A: The process in San Diego is inefficient and costly. The proposed fees for new San Diego County CFO permits are higher than all other Southern California counties (Table 2) but it already takes San Diego longer than others to process applications. Current and aspiring business owners should not be penalized because the process here is inefficient.

Comments from other counties re. CFO applications:

Santa Barbara has streamlined their application process, not even charging for CFO A applications—
“the entire registration process for Class A operators is online and is **free!** Class B operators will find our simplified application form online; We offer free consultation and education on proposed foods, labels, and other issues that affect Cottage Food Operators”

Orange County:

“It takes, on average, 60 – 90 minutes to process and review one application (including our time and IPC data entry time); ...the application process is more automated and the Cottage Food applications can now be processed more efficiently through our already established system.” AND, “At this time, there is no fee for adding products.”

Riverside County:

“Appointments are made with an inspector to review applications. Most can be approved at that time. Between review and discussions, the process can usually be accomplished within an hour.”

San Bernardino County:

“It takes about 30 mins- 1 hour (depending on how long their product list is) to review the application. We are in the process of modifying our application to reduce the time it takes to review the application.”

Los Angeles County could not be reached for comment.

Most counties have recently revised their fee structures and all are less than San Diego County.

Rebuttal B: If label review is the most time consuming aspect, don't raise the fees and include more label review. Keep the number of labels lower, improve the process, and keep the fees lower in the meantime.

Rebuttal C: For those renewing with product/label changes, charge the renewal fee plus the appropriate time needed to review the new labels. Adding 3-4 new products, for instance, would cost an A holder \$75 renewal + \$75 for 30 min label review equaling \$150, not the \$215 proposed when renewing with label changes.

DEH-FHD justification: Each program is required by law to be 'cost recovery' according to County Policy B-29

Rebuttal: It is not clear that the county policy specifically instructs each PROGRAM within a department to be 100% cost-recovery, rather that the departments “Recover full cost, to the extent legally possible for services provided to agencies or individuals outside the County of San Diego organization under grants, contracts, or for which fees may be charged.” It is not clear that this precludes cost sharing within the department or that this policy pertains to county resident CFOs per se. While the department should recover costs, it is reasonable that rather than marginally reducing fees for some, the savings be applied to keep fee increases low overall (avoiding 50%+ increases for some!).

The Cottage Food community has come up with numerous suggestions to improve the process to cover costs, expedite reviews, reduce confusion, and improve label submissions which have not been fully explored or implemented. They include:

- 1. Keeping fees low by Breaking Up the Costs**– If product and label review is the main time requirement, then a) provide incentive for new applicants to be sure products are approvable while also compensating DEH-FHD for initial review, even if applications are not completed; and/or b) charge separately and accordingly for label review.

Version 1A

NEW CFOs:

\$35-50 *deposit* for initial 10 products/labels review* (this incentivizes the applicant to be sure products are approvable and labels have correct information at the start. **AND it compensates DEH-FHD for time spent on initial product/label reviews, even if CFOs do not move forward in the process. Currently DEH-FHD loses money when applications are reviewed for products that cannot be approved.**)

Balance of Application Fee due upon approval of application and 10 products/labels.

Additional fee of \$75 per half hour for time to approve additional products/labels (\$75 minimum, prepaid)

FOR RENEWING CFOs

CFOs with no changes to products or labels: A Registration: \$100 B Permit: \$200

CFOs with additional products/labels would also pay an additional fee of \$75 per half hour for time needed to approve additional products/labels (\$75 minimum, prepaid)

ADDING PRODUCTS/LABELS BEFORE RENEWAL

To reduce the amount of product/label review at renewal time, CFOs should be allowed to add products prior to renewal at a reasonable cost such as the proposed \$75 per 30 min (or per X# labels) rate.

Version 1B

Have the CFO approval broken down into

- An Application fee (i.e., \$50) which compensates DEH-FHD for review even if application is not finally approved
- Label Approval Fees (i.e., \$100 per 10 labels OR billed by the time required)
- Inspection Fee (\$153) for Class B permits

The application could be done online and take very little time to review (like that used by Orange County). The label fees could be a set cost for a set number of labels with additional label review billed in 30 min increments as already proposed. New applications and Renewals would cost the same amount

2. Improving the Application Process

Have a preliminary meeting with new applicants. Riverside County has potential CFOs meet with a local office prior to submitting applications in order to expedite the review process.

Use an online form. Los Angeles County does the entire application online including uploading of labels for submission and simultaneous payment. Allowing applicants to begin and save their application as they complete it would make it easy for applicants to be sure they have all the information. Screening of the applications by DEH-FHD would be faster and could be done by lower level administrative staff. Incomplete applications would not be able to be submitted and legibility would be improved.

It's possible to break the application process into online steps (for instance, 1. basic application information including name, address, etc.; 2. Submission/approval of products/labels; 3. Submission of business license, if needed; statement of municipal water source or proof of acceptable water quality test; 4. Confirmation of approved food handler's card, etc.) The new applicant could then move through the process with submission at the end when all the information is complete. (If desired, a small non-refundable deposit to cover costs of initial product/label review could be included.)

Offer a clean, simple checklist for applicants and DEH-FHD staff. Applicants should confirm that their product is within the list of foods on the CA approved list, does not contain fillings or frostings with eggs, cream, cream cheese, or alcohol, they have municipal water or have certified water test results, they have business license for specified cities, etc. The reviewers, too, could have a streamlined checklist to return to applicants whose information is missing or incorrect. (Possible Sample forms are shown at the very end)

This would also help reduce the redundancy and frustration experienced by CFOs who routinely go back and forth with the department because changes are indicated by DEH-FHD, made by the CFO and resubmitted, then ANOTHER CHANGE is indicated by DEH-FHD, made by the CFO and resubmitted, then ANOTHER CHANGE is noted. This is **inefficient and frustrating for everyone**. As much as possible, all of the changes to products, labels, and the application itself should be noted at the first review in order to save everyone time and trouble. A DEH-FHD checklist could be returned to the CFO noting (for the benefit of both parties) ALL the label or application changes that should be made.

Attached are suggested check-list templates

1- For CFO applicants (prior to submitting their products/labels).

2- For DEH reviewers to communicate to applicants where additional information or changes are needed.

3. Improving the Class B Inspection Process

For years the county was sending two inspectors for B permits. One is plenty. Most CFOs are working or stay-at-home moms and all are more concerned about passing their inspection than threatening or harming an inspector. After four years, inspectors should already be trained to do the straight-forward B permit inspections.

Also, while the state specifies that Class B permit holders are inspected *no more than* once per year, it does not stipulate that inspections be annual. That is a practice implemented by DEH-FHD. Due to the inherently safe nature of non-potentially hazardous foods and the lack of any known outbreak of food illness from cottage foods anywhere in the country, DEH-FHD could safely reduce home inspections to once every 2 or 3 years, unless a complaint was filed whereupon inspections could then be done annually.

4. Improving Instructions for CFOs

Provide better label instructions and examples

The current label example tries to say too much, and is too large to give the applicant a realistic label. A more realistically sized label would be more illustrative. Separate examples of A and B labels could be shown (highlighting the difference) as well as examples of primary labels and secondary labels. A page of real life examples would be very helpful and San Diego CFOs likely would be happy to provide them (after changing their identifying information).

The current illustration and instruction page has too much info, is confusing, and yet incomplete. For instance, it does not indicate that the information can be in any order and it only indicates that product net weight must be on the label, rather than weight, volume, OR count as declared in the state instructions. In addition, the terminology required for San Diego labels is cumbersome and should be simplified. As one example, instead of saying "Permit Issued by San Diego County" as used by other counties, ours must squeeze in "Cottage Food Permit Issued by: County of San Diego DEH-FHD". Make things simpler!

Consider a fill-in label template

Creating one or two templates with fields where the applicant is prompted to fill in their information would help them make sure that they've included all the information in an appropriate fashion. It could even be saved by the CFO and adapted for use later with additional graphics. An additional secondary label template could also be created. Instructions for completing the labels (such as minimum font size, ingredient listings, bolding or declaring allergens, etc.) could be on the same page with the template. A talented web person might even allow the applicant to set the size of the template!

Consider publishing a pre-checklist for new CFOs

A step-by-step checklist for new applicants would help them through the process, starting with "Is your food on the list?" and continuing through "Do you have municipal water? If not, have you had your water tested?", etc. would help new CFOs through the process

The Cottage Food Operators of San Diego County hope that working together with DEH-FHD we can reduce the time and headaches associated with the review of CFO registrations and permits. Other Southern California counties have recently updated their fees and maintained them at reasonable levels. San Diego county proposed fees for new Cottage Food Operators would be higher than all of these.

We believe it is possible to streamline the process saving the department time and saving the applicants money, resulting in the continued growth of the Cottage Food industry in San Diego. Efforts to make the process more efficient for both CFOs and the DEH should be implemented BEFORE 50%+ fees are instituted.

TABLE 1. PERCENTAGE INCREASE IN PROPOSED DEH-FHD FEES for 2017-2018 (other than new fees)

San Diego DEH FHD Food permit fee increases in 2017	PROPOSED % INCREASE
Restaurant	
1-10 Employees	12
11-25 Employees	11
26-100 Employees	9
>100 Employees	11
Each food prep area in excess of 3	DECREASED -10
Resort/Entertainment Complex:	
> 3 food prep areas & may have other	11
Limited Food Prep & Restricted Food Service Facility	12
Food Facility Non-profit	12
Miscellaneous Food Establishments	10
Retail Food Processing	12
Wholesale Food Warehouse	
1-19,999 square feet	10
20,000 square feet or greater	11
Food - Boats	11
School Processing Facility	12
School Satellite Kitchen	11
Food Catering	20
Packaged Food	
1-10 employees (e.g. Market with no food prep)	DECREASED -37
11 or more employees (e.g. Market with no food prep)	DECREASED -41
Market/Deli or other Food Prep: 1-10 employees	63
Market/Deli or other Food Prep: > 11 employees	46
Market/Deli: Each food prep area in excess of 3	DECREASED -2
Licensed Health Care	13
Temp Event Vendor:	20
1-4 day packaged food and sampling	20
Annual packaged food and sampling	21
Unpackaged 1-4 day	12
Unpackaged Annual	18
Temp Event Organizer	
One-time	19
Annual (Event Same Location)	20
Temp Event Late Submittal	84
Certified Farmer's Market: CFM & TFF	
CFM only	11
CFM & TFF	10
Foodborne illness, plan check &/or recall investigation for activities w/o current food permit	8
Investigation of a health regulated business operating without a health permit	4
Office hearing	8
Suspension or revocation hearing	8
Sherman food investigation with a confirmed violation	8
Unscheduled reinspection/regrade fee	8
Food Handler Renewal Exam	DECREASED -100
Food Handler Duplicate Certificate	DECREASED 83
Food Handler Training Booklets	DECREASED -87
Food Manager Training Packet	DECREASED -80
Food Handler exam materials	0
Education Certificate for Food Handler	0
AVG INCREASE	7
New Category*: Cottage Food Class A	proposing 51 % increase
New Category*: Cottage Food Class B	proposing 58 % increase
<i>*although called a new category, permit fees for Class A and B were established in 2013</i>	
<i>The proposed changes are from \$142 to \$215 for Class A and from \$284 for Class B to \$449!</i>	

TABLE 2.
COTTAGE FOOD PERMITTING FEES FOR SOUTHERN CALIFORNIA as of 2/15/2017

COUNTY	New CFO A Registration	New CFO B Permit
Orange	\$95	\$207
Los Angeles	\$103	\$254
Riverside	\$180	\$360
Imperial	\$134	\$186
Santa Barbara	\$0	\$292
Ventura	\$197	\$285
San Luis Obispo	\$115	\$230
Kern	\$75	\$175
San Bernardino	\$162	\$183
AVERAGE COUNTY FEE	\$118	\$241
MEDIAN COUNTY FEE	\$115	\$230
SAN DIEGO PROPOSED	\$215	\$449

(Suggested) Label Pre-Submission Checklist for CFOs:

You should know that there is strict adherence to the [CA Cottage Food approved list](#). Foods not on the list will NOT be approved. **Unacceptable foods include** (but are not limited to) beverages, sauces, salsas, pickles, fermented foods, custards, or custard-consistency products such as pumpkin pies. Foods that contain meat, cream, or cream cheese also are unacceptable and will not be approved. Baked goods with cream cheese or sour cream frostings or fillings cannot be approved. Fresh fruits, vegetables, herbs also are not approved as cottage foods unless dried.

1. Do all of your products appear in the category list approved for CA Cottage Foods? YES NO
If no, which product(s) are not specifically listed in the categories of approved foods?

LABELS – YOU MAY SUBMIT UP TO 20 LABELS WITH THIS PRE-SUBMISSION FORM.

Please note if any of your products contain the following and specify which product(s) it applies to

- Cream _____
 Cream Cheese _____
 Alcohol _____
 Butter _____
 Egg whites/meringue _____

Please note if any of your products contain the following allergens and which product(s) it applies to.

- Milk _____
 Eggs _____
 Nuts _____
 Soy or soybeans _____
 Wheat _____

For each label, are potential allergens listed clearly in **bold** in the list of ingredients, *OR* stated separately in a declaration such as CONTAINS: (allergen, allergen, ...) on the primary label? YES NO

Do your labels have these words anywhere on a product label:

Free, low, reduced, fewer, high, less, more, lean, extra lean, good source, or light? YES NO

If yes, do you have a nutrition panel on the label? YES NO

Other label criteria: This information can be in any order, but must appear.

(NOTE: The words: Made in a Home Kitchen must be in 12 point type. Other lettering can be in different sized fonts, but the smallest font must be 1/16 of an inch measured at a lowercase 'o.'

Common name of product

Name of cottage food business

Address of home where product is made

Made in a Home Kitchen in 12 pt type.

(or Repackaged in a Home Kitchen in 12 pt type)

Count, net weight (oz and g), or volume (oz and ml) of product

Registration DEH-FHD#XXXX-XXXX (A permits) (or Permit DEH-FH#XXX-XXXX if for B permit)

Issued by San Diego County

Declaration of allergens (if not listed in **bold** font within ingredients)

Ingredients (can be listed on separate, secondary label)

DEH-FHD REVIEWERS CHECK LIST *(copy to be given to applicant)*

CFO Applicant: _____ email: _____ phone: _____

Your application is on hold until the following correction(s) is/are made

- Product _____ is not an approved CA Cottage Food
- Product _____ contains an unacceptable ingredient in the final product
- Product _____ is prepared in an unacceptable manner for approval

Label is lacking

- Common name of product
- Name of cottage food business
- Address of home where product is made
- Words "Made in a Home Kitchen" in 12 pt. type
- Words "Repackaged in a Home Kitchen" in 12 pt. type
- Count, net weight (oz and g), or volume (oz and ml) of product
- Registration DEH-FHD#XXXX-XXXX (A permits)
(or Permit DEH-FHD#XXX-XXXX if for B permit)
- Issued by San Diego County
- Ingredients
 - Not in descending order by weight
 - Sub-ingredients of the ingredient(s) _____
- Declaration of allergens (if not listed in **bold** in ingredients)
- Nutrition panel is required because label contains one of these words:
Free, low, reduced, fewer, high, less, more, lean, extra lean, good source, or light

Other notes or instructions to applicant:

After correcting the areas noted, please resubmit your labels to: