

Food Safety Notice

January 2004

Cooking Churros on Mobile Food Facilities

BACKGROUND

Section 114260(c)(3) of the California Uniform Retail Food Facilities Law (CURFFL) lists several, specific food items that can be handled on Mobile Food Facilities (MFF). These items include "Hot dogs, cappuccino and other coffee-based or cocoa-based beverages that may contain cream, milk, or similar dairy products, and frozen ice cream bars..." CURFFL Section 114260(e)(1) has specifically prohibited the cooking (including barbecuing, broiling, frying, and grilling) of any food product on a MFF.

Effective January 1, 2004, Assembly Bill (AB) 1045 (Leslie) adds "churros" (an ethnic fried, pastry product prepared from ingredients similar to those in a cake doughnut) to the list of foods in Section 114260(c)(3) and exempts churros from the cooking prohibition in Section 114260 (e)(1).

In the past, pre-made, frozen churros have been baked on MFFs equipped with oven compartments. The sponsors of the bill maintain that freshly cooked churros prepared on MFFs will provide a better quality product for California consumers. The cooking method for churros consists of frying extruded dough in hot oil.

The concept of cooking any food on a MFF is new to California, but, in fact, has been commonplace in several other states for many years. When a MFF is constructed and equipped in a manner that allows for the production of a safe food product and in a manner that protects the public and the operator from injuries, there is no scientifically valid reason to prohibit the cooking of churros on a MFF. However, in order to accommodate the additional equipment necessary to ensure food safety, a MFF set up to cook churros will look very different than the typical hot dog and coffee carts that have become commonplace in California. In fact, MFFs upon which churros are fried may consist of two or more modular components that collectively constitute the MFF. These components may be designated as primary and auxiliary units.

MFF REQUIREMENTS FOR FRYING CHURROS

Effective January 1, 2004, churros can be deep fat fried on a MFF as long as the expanded operational, construction, and equipment requirements specified in AB 1045 are met. These additional requirements are as follows:

1. The procedures for cleaning and sanitizing utensils and equipment utilized to cook churros on a MFF are the same as those required for food establishments.
2. The MFF must be equipped with a three-compartment utensil-washing sink with

integral drain boards. Each compartment must be at least 12 inches wide, 12 inches long and 10 inches deep OR large enough to accommodate the cleaning of the largest utensil. The drain boards must be installed with “at least one-eighth inch per foot slope toward the sink compartment, and fabricated with a minimum one-half inch lip or rim to prevent the draining liquid from spilling onto the floor.”

When churros are being cooked on a MFF at a community event, the three-compartment utensil sink requirement can be satisfied by utilizing a shared, three-compartment utensil-washing sink, as is allowed for Temporary Food Facilities (TFFs). The shared utensil sink must be equipped with hot and cold running water and one sink cannot be shared by no more than four food facilities.

3. The MFF must be equipped with handwashing facilities that are either an integral part of the primary unit OR are on an auxiliary conveyance that is used in conjunction with the primary unit. CURFFL Section 114265 (p)(5)(D) may appear to provide an exemption from the handwashing sink requirement when the MFF used to fry churros is operating at a community event. However, Section 114265 (p)(1) clearly states that all MFF upon which nonprepackaged food is handled must be equipped with at least a one-compartment sink furnished with hot and cold running water. Accordingly, the exemption in 114265 (p)(5)(D) only applies to the utensil-washing sink. Note: Mobile food facilities under permit prior to January 1, 1997 may not be equipped with a handwashing sink. However, any structural modification to allow frying of Churros on these facilities must be approved by the local enforcement agency. In addition to the requirements specified in AB 1045 for a deep fryer, a one-compartment sink should also be required.
4. The ground or floor surface under the deep fat fryer must be smooth, impervious and easily cleanable and must extend at least two feet beyond the open side(s) of the frying unit.
5. The MFF must be equipped with the same safety equipment as required on mobile food preparation units. These items include: fire extinguishers and a first aid kit. At least two NFPA approved portable fire extinguishers (rated 40 K class) must be provided at the site where the MFF operator is cooking the churros. One fire extinguisher is to be mounted on the MFF and the other extinguisher cannot be located more than 30 feet from the MFF.
6. If a MFF containing a frying unit filled with oil operates at more than one location during the day, the frying unit must be equipped with a positive closing lid to prevent spillage of hot oil in the event of a sudden stop, overturn or collision. This requirement would also apply if the MFF returns to the commissary at the end of the operating day.
7. A mechanical exhaust ventilation system equipped with fire suppression must be installed over the frying unit. When a health permit is issued for a MFF, the MFF

may operate anywhere legally allowed by local zoning requirements. This includes locations both indoors and out of doors. Unless the local enforcement agency can be assured that the MFF used to fry churros will not be operated indoors at any time, the MFF should be equipped with mechanical exhaust ventilation and fire suppression systems. The mechanical exhaust ventilation requirement may be satisfied by the use of a “ductless” hood system.

IMPLEMENTATION OF AB 1045

Several questions regarding the implementation of AB 1045 have been raised. The following information is provided as guidance for enforcement officials during plan check, inspection and enforcement of the provisions in AB 1045:

1. Q: What is a churro? Can other dough products similar to churros be cooked on a MFF if the MFF meets the additional requirements?

A: A churro is a fried dough product associated with Mexican cuisine. The standard of identity for churros is not specified in AB 1045. Most recipes for churros list flour, water, salt, sugar and oil as the ingredients. Some recipes also include eggs and margarine. There are several other food products with ingredients similar to churros that are fried (cake doughnuts, funnel cakes, fried wonton, Italian twist cookies, etc). While AB 1045 deals exclusively with churros, it is reasonable to allow other similar fried dough products to be cooked on a MFF.

2. Q: Where will the churro dough be prepared?

A: AB 1045 does not address the dough preparation parameters. However, the dough must be prepared in a manner and location that prevents contamination. The logical place for the dough to be mixed would be at the commissary. However, the dough may be mixed on the MFF if, in the opinion of the enforcement official, the means to prevent contamination of the dough are in place.

3. Q: Is the prepared churro dough a potentially hazardous food (PHF)?

A: If the ingredients used to prepare the churro dough are limited to flour, water, salt, sugar and oil, the prepared dough would not be considered a PHF. However, if the dough recipe includes eggs, butter, or any other PHF, the prepared dough is a PHF and must be maintained a temperature of 41°F or below.

4. Q: Our Building Department does not require plan review for MFFs. Who is going to be responsible for verifying that the mechanical exhaust ventilation system is installed properly and that the fire suppression system is functional?

- A: The installation and operational requirements for mechanical exhaust ventilation and fire suppression systems on MFFs used to cook churros

are the same as those on Mobile Food Preparation Units (MFPU). Unfortunately, MFFs do not come under the jurisdiction of the California Department of Housing and Community Development, the agency that inspects and certifies MFPU's. For those regulatory agencies that do not have in-house expertise in this area, it is recommended that you consult with your local fire protection agency. In other states where food is cooked on MFFs, inspection and approval by the local fire protection agency is required prior to the issuance of health permits to operate the MFF.

ERROR IN THE CHAPTERED BILL

Occasionally errors occur in the process of drafting legislation. In the case of AB 1045 there was one error:

CURFFL Section 114260 (c) requires MFFs that cook churros and other specified foods to comply with subdivisions (a) to (t) of CURFFL Section 114265. Amendments to Section 114265 included the addition of subsections (u) and (v). Subsection (u) deals with the fire extinguisher requirements for MFFs and subsection (v) deals with the requirement that all MFFs comply with all local fire codes, standards, and ordinances. Section 114260 should have been amended to require the designated MFFs to comply with "subsections (a) to (v) of Section 114265." This oversight will be noted to the author and the Office of Legislative Council to be addressed in future legislation.

MORE INFORMATION

Copies of AB 1045 (Chapter 454) are available for download via the Internet at <http://www.legislature.ca.gov/>. A copy of the latest version of CURFFL may be retrieved from <http://www.dhs.ca.gov/ps/fdb/HTML/Food/indexfoo.htm>. If you have any questions regarding this notice contact the Department of Health Services, Food and Drug Branch (FDB) at (916) 650-6500 or consult the FDB web page at dhs.ca.gov/fdb/index.htm.

List of CURFFL Sections Affected by AB 1045

Sections amended: 114260, 114265