

Blazing Trails through the Jungle of Local Food Regulations

A project of Minnesota Institute for Sustainable Agriculture,
Renewing the Countryside, and
Minnesota Farmers' Market Association

Funded by:
North Central Sustainable Agriculture
Research & Education Program
(NCR-SARE)



Who We Are

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Who Is Helping Us

Local Food Advisory Committee

Minnesota Department of Health

- Food, Pools, and Lodging Section
- Statewide Health Improvement Partnership

Minnesota Department of Agriculture

- Food and Feed Safety Division
- Dairy and Meat Inspection Division





Food:

"Food" means every ingredient used for, entering into the consumption of, or used or intended for use in the preparation of food, drink, confectionery, or condiment for humans or other animals, whether simple, mixed, or compound; and articles used as components of these ingredients.

M.S. 34A.01 Subdivision 4

<https://www.revisor.mn.gov/statutes/cite/34A.01>





Sell/Sale:

"Sell" and "sale" mean keeping, offering, or exposing for sale, use, transporting, transferring, negotiating, soliciting, or exchanging food; having in possession with intent to sell, use, transport, negotiate, solicit, or exchange food; storing, manufacturing, producing, processing, packing, and holding of food for sale; dispensing or giving food; or supplying or applying food in the conduct of any food operation or carrying food in aid of traffic in food whether done or permitted in person or through others.

M.S. 34A.01 Subdivision 12

<https://www.revisor.mn.gov/statutes/cite/34A.01>





Landscape of Food Regulation

Definitions:

Food = Every ingredient involved in something humans will eat or drink

Sell/Sale = Any time food changes hands in any way



You are responsible for the safety of your product that enters commerce.

Even if other people mishandle the product after it leaves you, you may be held liable for injuries that may occur.

(Moral of the story: buy insurance)



Does Safe = Licensed?

Does Licensed = Safe?

Not always!

Locally-grown product of the farm is an
approved source of food
without being licensed.



Exclusion from Licensing

Product of the Farm

State of Minnesota Constitution,
Article 13, Section 7

MN Statute 28A.15 Subd. 2:

[https://www.revisor.mn.gov/statutes/cite/
28A.15](https://www.revisor.mn.gov/statutes/cite/28A.15)



Product of the Farm

- Meats with no added ingredients
 - Poultry or rabbit products with no added ingredients
 - Shell eggs
-
- Fruits
 - Vegetables
 - Edible flowers
 - Cultivated Mushrooms
 - Herbs
 - Nuts
 - Grains
 - Dry beans
 - Honey
 - Maple syrup
 - Wild foraged foods from own property

*What's missing from this list?
DAIRY. Dairy products have additional facilities and inspection requirements under the Pasteurized Milk Ordinance (PMO)*





Product of the Farm

- Meats with no added ingredients
 - Poultry or rabbit products with no added ingredients
 - Shell eggs
-

These items are blue because they are potentially hazardous products that can easily make people sick if they are not handled properly.

There are extra regulations on these products.





Product of the Farm

- Meats with no added ingredients

If you are selling to individuals at a farmers' market:

- The meat *must* be slaughtered under inspection





Product of the Farm

Meat & Poultry

USDA inspection “bugs”



Minnesota
Equal-To
Inspection
“bug”



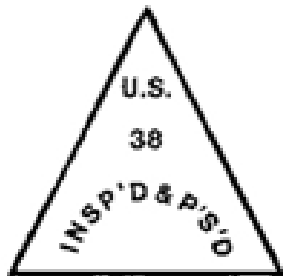


Product of the Farm

Meat & Poultry

“Non-amenable”
species:

- bison
- cervidae (elk, deer)
- rabbit
- guinea pig
- pheasant



Product of the Farm

Unlabeled packages or packages labeled “Not for Sale” cannot be sold at farmers’ markets.





Product of the Farm

Meat & Poultry

Wild-harvested game cannot be sold at farmers' markets,

because it doesn't get a pre-slaughter inspection.



Product of the Farm

- Poultry or rabbit products with no added ingredients

If you are selling to individuals at a farmers' market:

- Poultry or rabbits can be processed under inspection

OR

- on the farm in an approved facility, according to standards in Public Law 90-492.



Product of the Farm

Whole Chicken
Exempt PL 90-492

Smith Poultry
1234 Pasture Road
Anytown, MN 5555

Safe Handling Instructions

Some food products may contain bacteria that could cause illness if the product is mishandled or cooked improperly. For your protection, follow these safe handling instructions:



Keep refrigerated or frozen.
Thaw in refrigerator or microwave.



Keep raw meat and poultry separate from other foods.
Wash working surfaces (including cutting boards),
utensils, and hands after touching raw meat or poultry.



Cook thoroughly.



Keep hot foods hot. Refrigerate leftovers
immediately or discard.

Farmers can process poultry on their own farms, without a license, in a sanitary facility, for sale to individual end consumers.

Facility Standards, 9 CFR 416:

<https://www.law.cornell.edu/cfr/text/9/part-416>

Product of the Farm

Exempt Whole Rabbit

Rush River Rabbitry
1234 Pasture Road
Anytown, MN 5555x

Safe Handling Instructions

Some food products may contain bacteria that could cause illness if the product is mishandled or cooked improperly. For your protection, follow these safe handling instructions:



Keep refrigerated or frozen.
Thaw in refrigerator or microwave.



Keep raw meat and poultry separate from other foods.
Wash working surfaces (including cutting boards),
utensils, and hands after touching raw meat or poultry.



Cook thoroughly.



Keep hot foods hot. Refrigerate leftovers
immediately or discard.

Farmers can process rabbits on their own farms, without a license, in a sanitary facility according to same requirements as poultry, for sale to individual end consumers.

Facility Standards, 9 CFR 416:
<https://www.law.cornell.edu/cfr/text/9/part-416>

Product of the Farm

Poultry or Rabbits

Small Poultry or Rabbit Producer Registration Form

m DEPARTMENT OF AGRICULTURE		625 Robert Street North, Saint Paul, MN 55155-2538 www.mda.state.mn.us	
Dairy and Meat Inspection Division 651-201-6300			
REGISTRATION FOR SELLING POULTRY AND RABBITS IN MINNESOTA			
<p>Most small-scale producers wishing to sell slaughtered poultry or rabbits in Minnesota directly from the farm may do so without a food handler's license or inspections from the Minnesota Department of Agriculture (MDA). However, these producers must still follow state regulations for handling, labeling, and storage to provide wholesome, safe products to consumers. The Minnesota Department of Agriculture (MDA) registers producers selling poultry or rabbits directly to consumers in the state. Completing this registration form is voluntary and not required by law. (Minnesota Statutes Chapter 28A.15 and Minnesota Statutes Chapter 29)</p> <p><i>Privacy Notice: Please be aware that information submitted with this form is presumptively public under Minnesota law. The MDA is required by law to provide public information in response to any data request made for that information.</i></p>			
Name of Applicant(s) (Individuals from the same business may apply on the same registration form)			
Mailing Address		City	State Zip
Physical Address (if different from Mailing Address)		City	State Zip
Business Phone		Email	
Name of person(s) or business to be listed on certificate (if different from Name of Applicant(s))			
POULTRY (Leave this section blank if you are not selling poultry)		RABBITS (Leave this section blank if you are not selling rabbits)	
Scale of Operation Select one choice below to indicate the quantity of poultry you will sell each calendar year: <input type="checkbox"/> Selling up to 1,000 poultry per year <input type="checkbox"/> Selling between 1,000 and 5,000 poultry per year <input type="checkbox"/> Selling between 5,000 and 20,000 poultry per year		Scale of Operation Select one choice below to indicate the quantity of rabbits you will sell each calendar year: <input type="checkbox"/> Selling up to 1,000 rabbits per year <input type="checkbox"/> Selling between 1,000 and 5,000 rabbits per year <input type="checkbox"/> Selling between 5,000 and 20,000 rabbits per year	
How do you plan to harvest your birds? Select one or both options below: <input type="checkbox"/> I will slaughter the birds on my farm <input type="checkbox"/> I will bring my birds to be slaughtered at a USDA or Minnesota Equal To processing facility (birds slaughtered at custom exempt processing facilities can only be for personal household use and may NOT be sold or donated)		How do you plan to harvest your rabbits? Select one or both options below: <input type="checkbox"/> I will slaughter the rabbits on my farm <input type="checkbox"/> I will bring my rabbits to be slaughtered at a USDA or Minnesota Equal To processing facility (rabbits slaughtered at custom exempt processing facilities can only be for personal household use and may NOT be sold or donated)	
ACKNOWLEDGMENT OF EXPECTATIONS The seller agrees to the following (check each item to indicate you have read and agree to the statement): <input type="checkbox"/> I understand that this registration only applies to poultry/rabbits raised on my own farm and sold directly to the end consumer; I may not collect and sell poultry/rabbits from multiple farms without obtaining a food handler's license <input type="checkbox"/> I understand that the poultry/rabbits I sell must be slaughtered under sanitary conditions, either on my farm or at a USDA or Minnesota Equal To processing facility <input type="checkbox"/> I understand that if I slaughter and process poultry/rabbits on my farm for sale, the facility where the poultry/rabbits are slaughtered and processed must meet requirements as outlined in 9 CFR § 416.2-416.5 <input type="checkbox"/> I understand that the poultry/rabbits I sell must be properly labeled: Farm-slaughtered poultry/rabbits must have my name, the name and address of my farm, and the product name on the label, as well as "Exempt PL 90-492" for poultry <input type="checkbox"/> I am aware that the MDA has the authority to inspect my operation if deemed necessary			
In accordance with the Americans with Disabilities Act, this information is available in alternative forms of communication upon request by calling 651-201-6000. TTY users can call the Minnesota Relay Service at 711. The MDA is an equal opportunity employer and provider.			
		AG 04015 Page 1 of 2 3/2021	

<https://www.mda.state.mn.us/sites/default/files/docs/2021-03/AG04015-Registration-for-Selling-Poultry-and-Rabbits-in-Minnesota-3.21.pdf>




Product of the Farm

- Shell eggs

If you are selling to individuals at a farmers' market:

- shell eggs have grading, candling, & labeling requirements.



A photograph of fresh farm produce, including several yellow onions, green beans, and a bunch of carrots, arranged on a white surface. The produce is partially covered by a semi-transparent white banner that contains the title text.

Product of the Farm

Shell Eggs


Locally raised shell eggs are legal to sell at farmers' markets. Eggs are product of the farm if sold by the farmer who owns the egg-layer flock, and can be handled and sold by others with the proper licensing from MDA and/or registration from USDA.

http://misadocuments.info/LFAC_local_eggs.pdf

Product of the Farm

Shell Eggs

Small Flock Egg Producer Registration Form

		625 Robert Street North, Saint Paul, MN 55155-2538 www.mda.state.mn.us	
Dairy and Meat Inspection Division 651-201-6300			
REGISTRATION FOR SELLING SHELL EGGS IN MINNESOTA			
<p>The Egg Products Inspection Act (7 CFR § 57) exempts shell egg producers with fewer than 3,000 laying fowl from the USDA Shell Egg Surveillance Program. The Minnesota Department of Agriculture (MDA) registers producers with fewer than 3,000 laying fowl who sell shell eggs to consumers away from their premises (e.g., at farmers' markets) or to food facilities in Minnesota. These producers do not need a food handler's license to sell eggs produced on their farm but must still follow state regulations for handling, labeling, and storage to provide wholesome, safe products to consumers. Completing this registration form is voluntary and not required by law. (Minnesota Statutes Chapter 29 and Minnesota Rules Chapter 1520)</p> <p>Privacy Notice: Please be aware that information submitted with this form is presumptively public under Minnesota law. The MDA is required by law to provide public information in response to any data request made for that information.</p>			
Name of Applicant(s) (Individuals from the same business may apply on the same registration form)			
Mailing Address		City	State Zip
Physical Address (if different from Mailing Address)		City	State Zip
Business Phone		Email	
Name of person(s) or business to be listed on certificate (if different from Name of Applicant(s))			
Acknowledgment of Expectations			
The seller agrees to the following (check each item to indicate you have read and agree to the statement)			
<input type="checkbox"/> I understand that this registration only applies to eggs produced on my own farm from my own flock of layers; I may not collect and sell eggs from multiple farms without obtaining a food handler's license			
<input type="checkbox"/> I have reviewed and agree to conform to Minnesota Statutes Chapter 29 and Minnesota Rules Chapter 1520 regarding the candling, grading, labeling, and handling of shell eggs			
<input type="checkbox"/> I have read the MDA guidance document "Safely Selling or Buying Locally Produced Eggs" available at www.mda.state.mn.us/food-feed/sale-eggs-minnesota (To request a printed copy, contact the Dairy and Meat Inspection Division)			
<input type="checkbox"/> I am aware that the MDA has the authority to inspect my operation if deemed necessary			
Applicant Signature and Date			
(If more than one applicant: Select a primary applicant, such as the farm owner or head of household, to sign and date.)			
Signature _____		Date _____	
How would you like to receive your certificate of registration? Select one option			
<input type="checkbox"/> Electronic copy, sent to the email address I provided on this form			
<input type="checkbox"/> Hard copy, mailed to the business address I provided on this form			
Submit your registration form to the MDA Meat, Poultry, and Egg Inspection Program by email or mail. Please do not fax completed forms. Email the completed form to MDA.MeatPoultryEgg@state.mn.us OR mail the form to:			
Minnesota Department of Agriculture Attention: Meat, Poultry, and Egg Inspection 625 Robert Street North Saint Paul, MN 55155-2538			
In accordance with the Americans with Disabilities Act, this information is available in alternative forms of communication upon request, by calling 651-201-6000. TTY users can call the Minnesota Relay Service at 711. The MDA is an equal opportunity employer and provider.			
		AG 04016 2/2021	

<https://www.mda.state.mn.us/sites/default/files/docs/2021-02/AG04016-Registration-for-Selling-Shell-Eggs-in-Minnesota-2.21.pdf>

Product of the Farm

Storage & Transport Requirements
for meat, poultry, and eggs
at farmers' markets:

Meat & Poultry – frozen, 0°F
-- fresh, 41°F +
date-marking

Shell Eggs – 45°F



Product of the Farm

Storage & Transport Requirements

Coolers with ice are okay for transporting eggs, as long as the total time is less than 4 hours and you can maintain the 45°F or below temperature.



Product of the Farm

Wild foraged foods

* **Wild Mushrooms** can qualify as product of the farm if harvested on the seller's owned or rented property. The seller should have their certificate of training in wild mushroom identification.

* **Herbs, edible flowers, nuts, other edible plants or portions of plants** can qualify as product of the farm if harvested on the seller's owned or rented property.





Product of the Farm

Wild foraged foods

If you're harvesting wild foods on land you don't own or rent, you need a food handler license for the sale of those products.

If public land or public waters, Natural Resources agency permit may be required (state or tribal)



Processed Product of the Farm?



Product of the Farm

Can include processed fruits & vegetables

2 triggers end product of the farm status & require a license:

1. Sold by someone other than the farmer who grew it.
2. Added off-farm ingredients.

Processing is NOT a trigger to require a license (but maybe a commercial-grade facility, food safety plan, and other requirements)

http://misadocuments.info/LFAC_local_produce.pdf



Product of the Farm

Making vegetables presentable for sale is not “Processing”

Farmers and gardeners can always do these tasks, using **potable water**, meaning water that is safe to drink.

- Trim roots
- Trim tops
- Wash off soil
- Remove outer husks or leaves



Product of the Farm

What is “processing” of fruits, vegetables, mushrooms, or herbs?

Peeling

Shredding

Dehydrating

Bagging*

Canning*

Fermenting*

Slicing

Wrapping

Freezing

Waxing

Treatment for ripening

*These may be special processes that require additional training, certification, facilities, etc.

http://misadocuments.info/LFAC_local_produce.pdf





Product of the Farm

Farmers can do this, with potable water, appropriate facilities (not a kitchen in a private residence), and appropriate processes. Follow CGMPs: Current Good Manufacturing Practices

Examples:

- Shredded, bagged cabbage
- Peeled, sliced carrots
- Chunks of squash
- Frozen blueberries
- Frozen apple slices
- Frozen rhubarb chunks



Product of the Farm

Mixed-Ingredient Products:

Yes, this can be product of the farm so long as **EVERY** ingredient is produced by you on your farm or garden.

What if you can't produce every ingredient yourself?

Use the Cottage Food Exemption

OR

Get a license!



Exemption from licensing: Cottage Food

M.S. 28A.152





Cottage Food: Per Individual

- **Registration with MDA is required!**
- Training is required, online or in-person
- Training is good for three years

Tier 1:

- Up to \$5,000 in annual gross sales
- No registration fee

Tier 2:

- Up to \$18,000 in annual gross sales
- \$50 annual registration fee



Cottage Food

- Can make it in a home kitchen
- Non-potentially hazardous food ONLY
- \$18,000 sales cap per individual per year
- ALL sales to individual consumers
- NO sales to businesses or other food facilities
- Product delivery must be in person





Cottage Food

Examples:

- Bakery products
- Flavored honey or maple syrup products
- Pickles, salsa, fermented products
- Jam, jelly, fruit syrup

The MN Cottage Food Producers Association has a long list of allowed Cottage Food items:

<https://www.mfma.org/CFL>




Examples:

- Bakery products
- Flavored honey or maple syrup products
- Pickles, salsa, fermented products
- Jam, jelly, fruit syrup

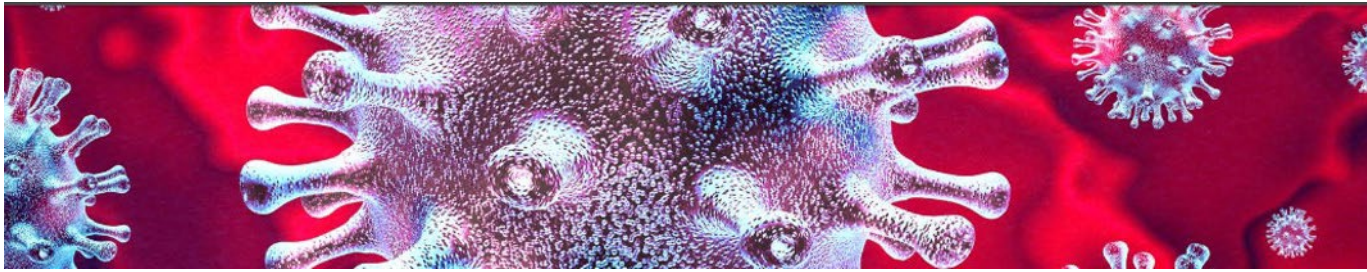
If you want to sell these kinds of items to a food business or food facility, you can't do that under Cottage Food. Items must be made under a license in an approved facility.





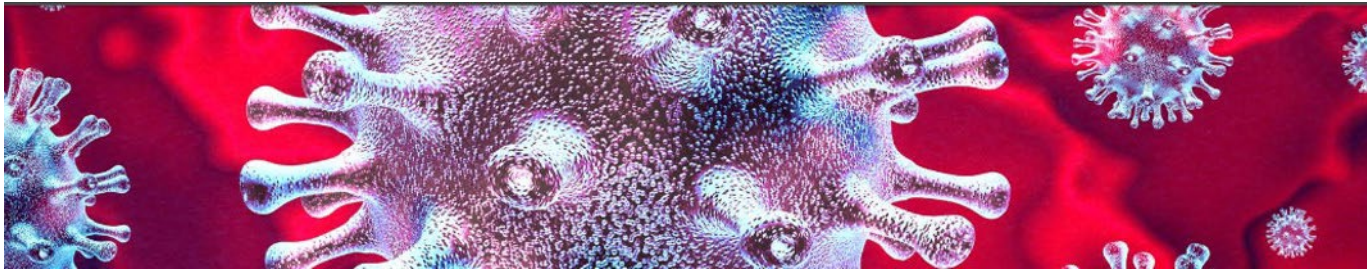
Cottage Food can
be a stepping
stone to licensed
food production





Cottage Food During COVID-19 Crisis:

- If you are doing porch pick-up, protect those packages from the elements.
- Arranging pick up at your location with physical distancing is allowed.
- Delivery directly to your customers with physical distancing is allowed.



Cottage Food During COVID-19 Crisis:

- Still not allowed: cottage food delivery through the mail or any other delivery service –

including FedEx, UPS, meal delivery services like DoorDash; or delivery through a farmers' market, farmer group, or other business entity.

Licensed Local Food Sales

Individual farmers or others can get licensed by the Minnesota Department of Agriculture to sell:

- Foods they didn't grow themselves on their owned or rented land
- Foods with off-farm ingredients added



Licenses

MDA License Types:

- * Retail Food Handler
- * Wholesale Food Handler
- * Wholesale Food Manufacturer/Processor



Licenses

MDA License Type
common for farmers'
market vendors:

* Retail Food Vehicle/Portable
Structure or Cart



License Fees

What do MDA licenses cost?

Retail : \$77/yr

Wholesale Food Handler: \$57/yr

Food Processor: \$169/yr

(These are the lowest rates. Fees increase as annual revenue increases.)





License Fees

Additional one-time cost for Plan Review for retail licenses.

MDA Plan Review fee: \$200 to \$425, based on square footage






Exemption from licensing:

Food Sampling & Demonstration

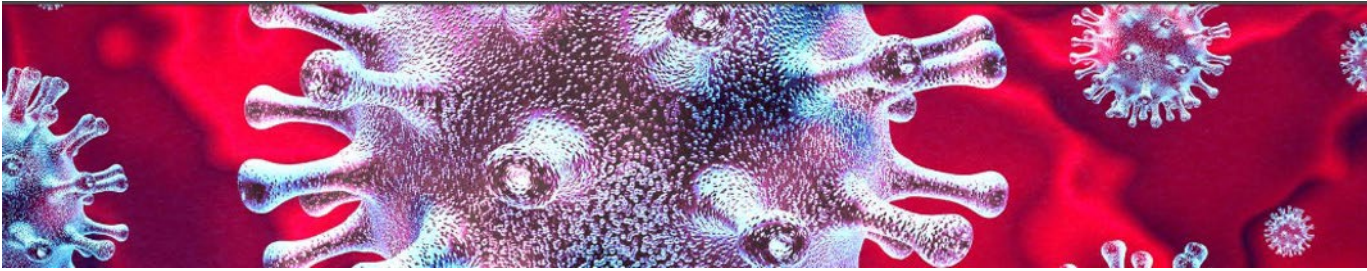
M.S. 28A. 151






At a farmers' market
or community event,
you can give samples
or do a cooking
demonstration with
samples, with no
license.





Except during the COVID-19 Crisis:

- On-site food consumption may be forbidden at farmers' markets.
- This may include food sampling
- Check current guidance documents from staysafe.mn.gov



Follow requirements in MN Rule 4626.1855

(Except you do not need to
have hot, pressurized water
for ware-washing)

*(But you do need warm water
for handwashing)*





Cross-Border Sales



Cross-Border Sales

- Raw, whole fruit and vegetables can cross state borders.
- USDA-inspected meat and poultry can cross state borders.



Cross-Border Sales

- Canned Cottage Food products cannot cross state borders.
- Baked or dry Cottage Food products can cross state borders if both states allow it.



Cross-Border Sales

- Licensed food can cross state borders if:
 - ** you register as a food facility with FDA
 - ** you follow license requirements in both the state you're from and where you sell



Getting Stuck in the Food Licensing System





Reach out for help:

- Agree with your inspector to ask for clarification from agency supervisors
- Contact agency supervisors on your own
- Contact an organization to help you get clarification from agencies



UNIVERSITY OF MINNESOTA
EXTENSION



Contact for help:

Jane Grimsbo Jewett
Associate Director
Minnesota Institute for Sustainable Agriculture
University of Minnesota
jewet006@umn.edu, 218-670-0066

Kathy Zeman
Executive Director
Minnesota Farmers' Market Association
kzeman@mfma.org

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Blazing Trails through the Jungle of Local Food Regulations

www.misa.umn.edu/resources/blazing-trails



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