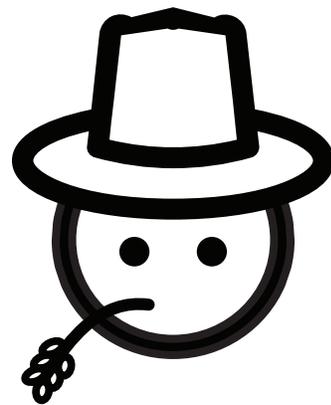


FOOD *from* FARMS

APPENDIX B: Sourcing Local Produce and Other Products

*Buying local products
from farmers is legal!*



FOOD from FARMS

Appendix B: Sourcing Local Produce and Other Products

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Buying Local Products from Farmers is Legal.

School districts and other food facilities can purchase local produce, dry beans, grains, honey, maple syrup, and wild-harvested foods for use in their nutrition programs. These local products can be purchased directly from farmers, or through licensed food handlers.

The definition of “produce” comes from the Code of Federal Regulations, and includes fruits, vegetables, herbs, mushrooms, and nuts.¹

Foods grown or raised by farmers on land they own or rent is “product of the farm.” Farmers can sell their own product of their farm without a license in Minnesota.^{2,3}

Additionally, farmers can do certain kinds of processing to their own produce, grain, or dry beans with no licensing requirement. Peeling, slicing, cutting, grinding, dehydrating, bagging, and freezing are all allowed processes when no off-farm ingredients are added. See the “Selling Minnesota Produce” fact sheet, listed below, for more information.

Produce

In some areas of the state, groups of farmers aggregate their produce for sale to schools or other institutions. Food hubs are one form of aggregation. Farmer cooperatives or less-formal farmer groups are another way this happens. Usually, these aggregation enterprises do require a food handlers license from the Minnesota Department of Agriculture.

Supporting documents for local produce purchases by all food facilities in Minnesota:

Selling or Serving Locally Grown Produce in Food Facilities

<https://www.mda.state.mn.us/food/safety/~media/Files/food/foodsafety/fs-produce.ashx>

Selling Minnesota Produce

http://misadocuments.info/LFAC_local_produce.pdf

¹ Food Safety Modernization Act – Produce Safety Rule, 21 Code of Federal Regulations 112. <https://www.federalregister.gov/documents/2015/11/27/2015-28159/standards-for-the-growing-harvesting-packing-and-holding-of-produce-for-human-consumption#p-2070>

² Constitution of the State of Minnesota, Article 13, Section 7 https://www.revisor.mn.gov/constitution/#article_13

³ Minnesota Statute 28A.15 Subd. 2, <https://www.revisor.leg.state.mn.us/statutes/?id=28A.15>

Geographic Preference and Local Food Sourcing

In programs subject to USDA-FNS Child & Adult Nutrition Program rules, foods with added ingredients and some types of processed foods cannot be sourced using geographic preference.

Geographic preference can only be used for local sourcing of foods that are raw, or processed only in ways that don't change the character of the food.

Processed foods or foods with added ingredients can still be procured locally, but geographic preference points cannot be used as a basis for awarding contracts. Under informal procurement rules, local procurement of these multi-ingredient and/or processed products can be achieved by targeting only local suppliers when requesting quotes.

Geographic preference is explained on pages 63-75 of Procuring Local Foods for Child Nutrition Programs, https://www.fns.usda.gov/sites/default/files/f2s/F2S_Procuring_Local_Foods_Child_Nutrition_Prog_Guide.pdf.

The list of food processing techniques allowed for geographic preference can be found on page 65 of that document.

Selling Minnesota: Aggregation of Farmers' Produce

http://misadocuments.info/LFAC_aggregation_produce.pdf

Supporting documents for local produce and other food product purchases by school districts and other participants in USDA-FNS Child Nutrition Programs:

Procuring Local Foods for Child Nutrition Programs.

USDA Food and Nutrition Service. Pages 84-86.

https://www.fns.usda.gov/sites/default/files/f2s/F2S_Procuring_Local_Foods_Child_Nutrition_Prog_Guide.pdf

Required Documentation

Unlike for meat or poultry, there is no mark of inspection on containers or packages of produce, honey, syrup, dry beans, or grains. There is no specific required use-by date like there is for eggs.

- Track the purchase by receiving an invoice from the farmer. The invoice must include the farmer's name, farm name and address.
 - o If a farmer doesn't have letterhead, provide the instructions for creating letterhead and the example invoice in Appendix E. Download Appendix E here: http://misadocuments.info/AppendixE_LocalFood_Sample_Invoice_Letterhead.docx
- If an MDA food handlers license is required because the sale is not made directly by the farmer who produced the product, ask for a copy of that license or ask the seller to put their license number on their invoice.

Licenses can be verified using the food license search tool on the MDA website: <http://www2.mda.state.mn.us/webapp/lis/default.jsp?food=y>

Additional Documentation by Institutions

Schools and other Child and Adult Nutrition Programs must reference the USDA's Food Buying Guide for Child Nutrition Programs⁴ to determine the amount of the product needed and the specific contribution the product makes toward the meal pattern requirements for Child and Adult Nutrition Programs. Food services not subject to USDA-FNS rules might find the Food Buying Guide useful for determining the yield of various types of foods when prepared for serving.

To determine the nutritional content of local products, including calories, fat and sodium, use the USDA Food Composition Database.⁵

⁴ FUSDA Food Buying Guide for Child Nutrition Programs. <https://www.fns.usda.gov/tn/food-buying-guide-school-meal-programs>

⁵ USDA Food Composition Database. <https://ndb.nal.usda.gov/ndb/>

⁶ University of Minnesota Extension GAPs Education Program <http://safety.cfans.umn.edu>

Additional Documentation from Farmers

The Food Safety Modernization Act (FSMA) Produce Rule includes best practices for on-farm food safety, and requirements for labeling of fresh produce to allow traceback of these foods in case of an illness outbreak. Not all farmers are subject to the FSMA Produce Rule, and figuring out which farmers are or are not subject to it is very complicated.

Food services and other buyers of produce can choose to require some on-farm food safety practices and FSMA labeling

practices from all farmers, whether or not they are subject to FSMA, in order to provide buyers with confidence in the safety of the product and to fulfill the buyers' needs for traceability of product.

Here are on-farm food safety practice recommendations from University of Minnesota Extension⁶:

- Written on-farm food safety plan
- Handwashing station(s) in field and produce packing areas
- Clean and stocked restroom facilities available to workers
- Employees or volunteers trained on hygiene and safety
- Well water tested annually
- Harvest tools, totes, and equipment regularly cleaned and sanitized
- Measures to limit domestic or wild animals in the produce fields and packing areas

A template for a farmer to provide a one-page summary of their on-farm food safety plan is included in Appendix A, the Request for Quotes, on page 20A. Download Appendix A here: http://misadocuments.info/AppendixA_LocalFood_Purchasing_RFQ.docx

Here are produce container labeling recommendations from the Minnesota Department of Agriculture:⁷

Farm Letterhead is Not Required for Invoices

The USDA-FNS does not require that farmers' invoices be on letterhead.

However, it helps administrators, boards of directors, and the general public have confidence in the program if the invoices from farmers look professional.

- Date of delivery
- Received by: [name]
- Description and amount of produce
- Date harvested
- Harvest location
- Name of grower, address, phone number, and email address

Grains & Beans

There are no specific supporting fact sheets from the MDA about regulations for local grain or dry bean sales in Minnesota. Sale of grains and dry beans by farmers can be done as product of the farm, with no licensing required. Sale of grain and dry bean products by someone other than the farmer who produced it will usually require a food handlers license from the MDA.

Grains and dry beans are not subject to the FSMA Produce Rule. This is because grains and dry beans are rarely consumed raw. The packaging of these items must be labeled with the name and address of the supplier, but need not list harvest date or location of harvest. Harvested grains and dry beans are often commingled and stored over a period of time, so the harvest date and location information is not meaningful for these items like it is for fresh produce.

Milling – grinding or rolling – and packaging of grains for sale can be done by farmers in approved facilities, either on their farm or at a different location.

Documentation of sales:

- Use the same invoicing procedures as produce sales.
- Allergen labeling requirements apply. If the product contains wheat, that must be identified because wheat is a major food allergen.⁸
- If the grains or beans are being sold by an entity other than the farmer, ask for a copy of that entity’s food handler license, or ask them to put their license number on their invoice.

Licenses can be verified using the food license search tool on the MDA website: <http://www2.mda.state.mn.us/webapp/lis/default.jsp?food=y>

⁷ Selling or Serving Locally Grown Produce in Food Facilities. 2016. Minnesota Department of Agriculture. <https://www.mda.state.mn.us/food/safety/~media/Files/food/foodsafety/fs-produce.ashx>

⁸ Guidance for Industry: Questions and Answers Regarding Food Allergens, including the Food Allergen Labeling and Consumer Protection Act of 2004 (Edition 4); Final Guidance. U.S. Food and Drug Administration. <https://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/ucm059116.htm>

⁹ USDA Food Buying Guide for Child Nutrition Programs. <https://www.fns.usda.gov/tn/food-buying-guide-school-meal-programs>

¹⁰ USDA Food Composition Database. <https://ndb.nal.usda.gov/ndb/>

Schools and other Child and Adult Nutrition Programs can use geographic preference to procure local grains and beans, so long as there has been no type of processing or added ingredients that would prevent using the geographic preference provision. See the Geographic Preference sidebar on page 3 of this appendix.

Schools and other Child Nutrition Programs must use the USDA-FNS Food Buying Guide⁹ to determine quantities of grain or bean products needed to meet meal pattern requirements. Food services not subject to USDA-FNS rules might find the Food Buying Guide useful to help estimate quantities needed for their purposes. Grains are listed in the Grains section of the Food Buying Guide. Dry beans are listed in the Meat/Meat Alternate section.

To determine the nutritional content of local grain and dry bean products, including calories, fat and sodium, use the USDA Food Composition Database.¹⁰

Honey & Maple Syrup

There are no specific supporting fact sheets from the MDA about regulations for local honey or maple syrup sales in Minnesota.

Honey and maple syrup are both considered product of the farm when sold by the farmer who produced it.

- Honey is product of the farm even if the hives are not always located on the farmer’s property; the hive itself is considered part of the farm.
- Maple syrup is product of the farm even if the farmer is harvesting sap from trees on another person’s property; that is considered a lease or rental situation.

Addition of ingredients to honey, such as flavorings or spices, means the farmer would have to be licensed by the MDA for manufacture and sale of that multi-ingredient product to a school or other food service. Sale of honey or maple syrup by someone other than the farmers who produced it would require a food handlers license from the MDA.

For schools and other nutrition programs subject to USDA-FNS rules for Child and Adult Nutrition Programs,

geographic preference can be used to procure raw honey but cannot be used to procure maple syrup. That is because maple syrup is processed by heating. Maple syrup can still be procured locally under USDA-FNS informal procurement rules, by targeting only local suppliers with the request for quotes. See the Geographic Preference sidebar on page 3 of this Appendix for more information.

Documentation of sales:

- Use the same invoicing procedures as for produce sales.
- Packages of the product should be labeled as “honey” or “maple syrup,” and include the name and address of the producer. There are no other specific labeling requirements for honey or maple syrup.
- If the honey or maple syrup is being sold by an entity other than the farmer, ask for a copy of that entity’s food handler license, or ask them to put their license number on their invoice.

Licenses can be verified using the food license search tool on the MDA website: <http://www2.mda.state.mn.us/webapp/lis/default.jsp?food=y>

Other Documentation:

Schools and other Child and Adult Nutrition Programs must reference the Other Foods section of USDA’s Food Buying Guide for Child Nutrition Programs¹¹ to determine the amount of product needed and the specific contribution the product makes toward meal pattern requirements. Food services not subject to USDA-FNS rules might also find the Food Buying Guide useful for estimating quantities to purchase for their needs.

To determine the nutritional content of local sweeteners, use the USDA Food Composition Database.¹²

What about fruit syrups?

Fruit syrups are generally multi-ingredient products: they have sugar added, and sometimes pectin or flavorings as well. They are usually produced by heating the product. Because of the added ingredients and heating process,

schools and other Child & Adult Nutrition Programs cannot use geographic preference to procure locally made fruit syrups, jam, or jelly. See the Geographic Preference sidebar on page 3 of this appendix.

Schools and other food facilities could purchase multi-ingredient fruit syrups, jams, and jellies from licensed local manufacturers of those products. There are many farmers and food entrepreneurs around Minnesota who are licensed by MDA to manufacture these products, and they could legally supply their product to schools or other food facilities.

Ask a supplier of fruit syrups, jams, or jellies for a copy of their MDA food handlers or food manufacturers license, or ask them to put their license number on their invoice.

Licenses can be verified using the food license search tool on the MDA website: <http://www2.mda.state.mn.us/webapp/lis/default.jsp?food=y>

Be aware that farmers and others can make fruit syrups at home for sale to individual customers under Minnesota’s Cottage Food exemption¹³, but schools and other food facilities cannot procure Cottage Foods. See the Cottage Food sidebar on page 8.

Wild-Harvested Foods

Fruits, nuts, herbs

Wild-harvested produce can be purchased by schools and other food facilities under the same guidelines and requirements as other produce sales.

- If the harvester is collecting wild-growing produce on their own property, it is product of the farm.
- If they are harvesting on property they lease or rent, it is product of the farm.
- If they are harvesting on public property, it is not product of the farm and the harvester must have a food handlers license for sale of the produce.

Buyers should ask about where wild produce is harvested. Ask for a copy of the harvester’s license or ask them to put their license number on their invoice if harvest

¹¹ USDA Food Buying Guide for Child Nutrition Programs, Other Foods. https://fns-prod.azureedge.net/sites/default/files/FBG_Section_5-OtherFoods_0.pdf

¹² USDA Food Composition Database. <https://ndb.nal.usda.gov/ndb/>

¹³ Cottage Food. <https://www.misa.umn.edu/resources/local-food-sales-resources/cottage-food>

is taking place elsewhere than their owned or rented property.

Licenses can be verified using the food license search tool on the MDA website: <http://www2.mda.state.mn.us/webapp/lis/default.jsp?food=y>

It is the harvester's responsibility to ensure they have all necessary permits for harvest on public lands.

Mushrooms

Wild-harvested mushrooms are produce and can be purchased by schools and other food facilities, but only from individuals certified as wild mushroom identification experts. Their certification letter from an accredited wild mushroom identification course must be on file with the MDA.¹⁴

Wild Rice

Wild rice is a grain and is subject to the same requirements as other grains. Because it is a whole grain and is listed in the USDA-FNS Food Buying Guide, schools and other Child & Adult Nutrition Programs can use geographic preference to procure local wild-harvested wild rice.

Processed Food Products

“Processed” in the context of Minnesota food safety regulations and USDA-FNS rules on procurement usually means foods that have multiple ingredients, are heat-treated, fermented, or have vinegar or other acidifiers added; and may be canned or bottled.

There are farmers and food entrepreneurs across Minnesota who are licensed for this kind of food product manufacturing and are making products using local ingredients.

Some farmers are able to do on-farm processing of their own produce without a license under product of the farm regulations; see the introduction and Produce segments of this appendix beginning on page 3 for more information.

Schools and any other food facilities can buy processed foods from licensed food manufacturers. In the case of multi-ingredient processed foods, schools and other Child & Adult Nutrition Programs subject to USDA-FNS rules cannot use geographic preference for the procurement of these foods. See the Geographic Preference sidebar on page 3 of this appendix for more information.

Products from licensed food manufacturers will be labeled according to requirements for the product, and purchasing can be done using regular business invoicing. Ask a supplier of processed food items for a copy of their MDA food handlers or food manufacturers license, or ask them to put their license number on their invoice.

Licenses can be verified using the food license search tool on the MDA website: <http://www2.mda.state.mn.us/webapp/lis/default.jsp?food=y>

Be aware that some types of processed foods can be made by individuals in their home kitchens, for sale to individual customers only. This is done under the Cottage Food exemption¹⁴. Cottage Food cannot be purchased by schools or any other food facilities. See the sidebar on page 8 for more information.

¹⁴ Minnesota Administrative Rules Chapter 4626.0155 3-201.16. Wild Mushrooms. <https://www.revisor.leg.state.mn.us/rules/?id=4626.0155>

¹⁴⁵ Cottage Food. <https://www.misa.umn.edu/resources/local-food-sales-resources/cottage-food>

Cottage Food

Minnesota's Cottage Food Law was passed in 2015. It replaced older statutes that had been known as the "Pickle Bill," the "Bread Bill," or the "non-potentially hazardous food exemption."

The Cottage Food Law is an exemption from licensing that allows an individual to make non-potentially hazardous food items in a home kitchen and sell those foods to individual customers. Cottage Food sales can be done from the home, at farmers' markets or community events, or at other locations. The key point is that Cottage Food sales must be to individuals only. Food services and other food businesses cannot procure Cottage Food.

This can become confusing for buyers of local foods because many of the products made by Cottage Food operators are similar to products made by licensed food manufacturers.

Some examples of common types of locally-made processed foods that can be made under the Cottage Food exemption:

- Salsa
- Fruit sauces, jams, jellies, syrups
- Sauerkraut or kimchi
- Pickles and relishes
- Barbeque sauce, hot pepper sauce, other types of bottled sauces
- Prepared mustards and horseradish
- Flavored vinegars
- Flavored honey
- Breads
- Other baked goods (muffins, cookies, flatbread, rolls, donuts, etc.)

If you are purchasing these types of processed foods from a local producer, ask for a copy of their MDA license or license number to verify that they are a licensed food handler or food manufacturer (which license they have depends on the details of their business and is determined by the MDA.)

Licenses can be verified using the food license search tool on the MDA website:
<http://www2.mda.state.mn.us/webapp/lis/default.jsp?food=y>