

## Local Produce Regulatory Myths

*compiled by Jane Jewett, Minnesota Institute for Sustainable Agriculture*

1. Buyers such as schools, hospitals, grocery stores, restaurants, food trucks, etc. cannot buy any locally-grown produce.
  - The original versions of the local food fact sheets currently offered by MN Dept of Agriculture and MN Dept of Health were completed in 2003 through a collaborative effort of Pride of the Prairie and the regulatory agencies. The Farm-to-Table movement has been going strong in the Twin Cities for 15 years or so, but we still hear this. Jane Jewett personally heard it from new food truck owners who joined a farmers' market in 2019, when they were invited to purchase produce from vendors at the farmers' market. Jane had a second conversation with them later and they offered the incorrect example that they could not legally buy sweet corn from the farmer down the road from them to serve from their taco truck.
  - It appears that some food service personnel are hearing it through their Certified Food Protection Manager training. It isn't necessarily an explicit statement that the trainees can't buy local food. Sometimes it is implied by statements that the food must always be from an approved source, and then for examples of "approved source" the trainers say "like a distributor." Trainees leave with the distinct impression they cannot buy local food from farmers.
  - The MDH fact sheet on "Approved Source" does mention that local food can be purchased directly from a grower, but that comes after other statements that do not at all set people up to think of local growers as an approved source. The first sentence of the fact sheet is "Purchase food from commercial suppliers under regulatory control."

<https://www.health.state.mn.us/communities/environment/food/docs/fs/apprvdsrcefs.pdf>

2. Farmers have to have a license to sell products they grew.
  - The general requirement in MN state statute is that sellers of food must have a license. There are a number of exceptions and exclusions to that, but they are complex and not well-publicized. Even if an inspector might recognize that the product of the farm exclusion applies, buyers may have been instructed to always ask to see the license of anyone who is trying to sell them food.

Example of general lack of knowledge among the public, from an email received by MISA on 11/14/19:

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*I have a half-acre area in Morrison Co. with honeyberries and raspberries that will begin U-Pick operations next summer. My questions concern what I need to do regarding licensing, registration, certification, inspections and whatever else I am not aware of to be "legal".*

*Any advice would be greatly appreciated. Thank you,*

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Example offered during audience question time at Farm to School workshop on 2/13/20:

*There had just been a presentation about the farmers' market aggregation project, and it was noted the market has a wholesale food handler license to aggregate and distribute farmers' products. A school food service director stated her concern about the farmers: she wanted to be assured that the farmers supplying the market are licensed and inspected.*

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3. Farmers can only legally sell their produce in the exact condition it is taken from the field, and buyers can only buy local produce in that condition. Farmers need to have a license in order to wash produce, trim tops or roots, remove outer leaves or husks.
  - This myth seems to have been propagated by some food inspectors prior to 2007, when MISA and MDA worked together on the food regulatory information in the Marketing Local Food book. It circulated in the farming community and remains stubbornly entrenched. It was referred to in a farmer's presentation given in 2011 or 2012; he stated "We don't wash vegetables. We cool them in water." His intent with that statement was to indicate how he was getting around a perceived requirement to have a license in order to wash his vegetables.
  - A license requirement in order to wash vegetables was one of the audience questions received during a food regulations workshop conducted at Sprout in Little Falls in 2016.
  - From an email MISA received from a microgreen producer on 2/07/19:

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*-Can I put the microgreens in boxes or bags or would that count as "processing"?*

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4. Farmers can't do any processing of their produce. Everything must be sold whole and raw.

- This myth was propagated by MDA and MDH food inspectors prior to 2016. The pre-2016 version of the MDA Fact Sheet, "Selling and Serving Locally Grown Produce in Food Facilities," stated that licensing was needed in order to process produce.

That pre-2016 version used the term "Limited Processing" to describe activities like washing, trimming tops and roots, and husking; and said those activities did not require a license. It used the term "Processing" to describe activities like peeling, slicing, and bagging; and said those activities did require a license.

This was all clarified in 2015-2016 by MDA staff, following a discussion at a Local Food Advisory Committee Meeting in September 2015. A revised MDA fact sheet was issued in 2016, but not everyone has updated their understanding.

Examples of emails received relating to the Farmers' Market Aggregation Project:

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4/23/19

*"What would be involved in having farmers peel and cut up veggies for sale to buyers? Any fact sheet you would recommend? Farmers are interested, especially since one of our buyers will only purchase pre-processed produce."*

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10/19/19

*- K\_\_ (Chisago City) is under the impression that she can only purchase whole produce. She would like to be able to purchase carrots, for example, without green tops and thoroughly washed, and corn completely shucked, both ends trimmed, and cut in half. She believes farmers cannot do this light processing without added licenses, equipment.*

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5. Schools buying local produce can only serve that produce as a raw, single-ingredient item. For example, schools can't buy local cabbage and make coleslaw out of it.

- It is not clear where this myth originated, but in 2006-2007 when the original version of Extension’s Farm to School Toolkit was under development, a school food service director stated her inspector told her she could buy local cabbage but could only serve it as plain raw cabbage. She specifically said her inspector told her she could not make coleslaw with it. Based on how persistent some of these myths are, this one might be still circulating.
6. Food facilities like restaurants, bed-and-breakfasts, assisted living homes, day-cares, cannot grow their own fruits and vegetables and use those in their food service.
- Two nursing homes/assisted living places in northern MN that wanted to grow and serve vegetables and were told they couldn’t do that. One just wanted to grow cherry tomatoes. The other served a tribal population and wanted a more extensive food production program for elders, involving a high tunnel.
  - A bed & breakfast establishment along Minnesota’s North Shore wanted to use onions from their garden in omelets and were told they had to buy all their produce.
  - A northern MN high school agriculture teacher received a grant to install a microgreen production facility in a classroom, to produce microgreens for the school kitchen. As of February 2020 the school food service director and the inspector for the school kitchen had not arrived at a sufficiently definitive conclusion about the legality of this, and the microgreens were being fed to the teacher’s chickens instead of used by the food service.

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 Email excerpt from the teacher on 2/12/20:

*“The health inspector, R\_\_\_, said the microgreens are fine to serve in the school cafeteria as long as they are washed well. The Food and Nutrition Reviewer who visited last week said it is not her call as to if they are served in the cafeteria. I am unsure how to proceed at this point...”*

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At a Farm to School workshop on 2/13/20, the food service director stated she was still uncertain about the legality of serving the microgreens and stated the inspector’s wording to her was “I’m not going to tell you that you can’t [serve the microgreens.]” This did not inspire confidence in the legality of the microgreens on the food service director’s part.

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- MDA Food & Feed Safety Division staff clarified during development of the PPT for “Blazing Trails through the Jungle of Food Regulations” that this situation of licensed businesses growing their own produce does not fall under the product of the farm exclusion. Because the food facility is already licensed, it can produce fruit or vegetables under its license and use that produce in its food service.

7. Receiving unwashed produce from farmers is a dangerous liability risk.

- The idea that post-harvest washing of produce makes it safe seems to be widespread and persistent. There have been at least two Farm Commons publications that suggest failure to wash produce is responsible for foodborne illness outbreaks.
  - One was their online curriculum released in spring of 2019, which suggested that an illness outbreak associated with carameled apples happened because the apples were not washed properly. University of Minnesota Extension and MDA Produce Safety Program staff made a request to Farm Commons that they change the wording.
  - The other is an older document from 2014, which includes wording equating unwashed with unsafe.
- This myth was propagated by a health inspector in Wisconsin in communication to a school that was considering buying local produce:

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from an email sent by the inspector on 5/19/2016:

*Hi all,*

*There are no regulations on raw agricultural products at this current time. That said, there is high risk with unwashed product going to be served to highly susceptible populations. Liability concerns are large.*

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8. Local produce in general is risky compared to food purchased from a distributor and you might get in trouble for buying local food unless you take a bunch of extra steps.

- The current (as of 2020) version of “Selling or Serving Locally Grown Produce in Food Facilities” includes non-regulatory Guidelines at the end which have the effect of implying that local produce is less safe.

<https://www.mda.state.mn.us/sites/default/files/2019-06/SellingLocalProduceFoodFacilities.pdf>

- A Farm to Institution workshop was held in Fergus Falls in August 2016, hosted by the Fresh Connect Food Hub that existed there at the time. Presentations about the legality of local food were met with emphatic head-shaking by a school district administrator from the region who said it was too risky; he could never purchase directly from a farmer.

9. Field-packing is dirty, makes the produce contaminated, allows animals to get into the boxes with the produce, and only happens on local farms.

- MISA generated a fact sheet for the Farmers’ Market Aggregation/Farm to School project to address these misconceptions. The document was based on statements made during a September 2019 meeting between school district personnel and local MDH delegated authority regulators, and follow-up phone conversations with one of the attending regulators.
- Regulators and school staff seemed unaware that field-packing is a common produce industry practice, and that large-scale distributors routinely received field-packed product and sell it without re-packing. Their preference was for the local farmers’ market aggregation project to re-pack all product received from farmers into plastic totes prior to delivery to the schools.
- Regulators seemed unaware of GAPs or FSMA-PSR requirements that containers for field-packing must not sit directly on the ground. Their assumption was that field-packing means boxes sit directly on the ground while being packed.

10. Cardboard boxes received from farmers are dirty and cannot be re-used within a food facility, while cardboard boxes received from distributors are fine to re-use.

- This appeared to be related to the misunderstanding about field-packing. Some food regulators seem to have been under the impression that all product coming into a distributor from farms gets packed by the distributor into different containers before being shipped on to buyers.

11. Locally-grown food is less likely to have been sprayed with pesticides and that makes it unsafe because insects on the plants cause foodborne illness.

From an email MISA received on 7/11/19:

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*I found your email on the MISA site. I am hoping you can shed some light on a debated topic. I was at an event last night when I heard Quality Control expert working in the food production industry say, with great certainty, that organic foods have a much higher rate of food safety issues because they do not use pesticides. She said killing bugs with chemicals leads to safer food. It sparked an interesting discussion. Is there research evidence to back that claim?*

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12. Opposite myth: locally-grown food is safer and better because it's organically grown.

Not all locally-grown food is organic and plenty of it gets grown using synthetic fertilizers and pesticides, but many people tend to conflate "local" with both "organic" and "safe."

13. Sprouts are fine to grow and sell at farmers' markets.

- Generally there's very little public understanding of the risks posed by sprouts.

From an email MISA received on 3/28/19:

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*Sprouts- We are planning on growing mung bean sprouts & soy bean sprouts to sell at the farmers market, are there any regulations on that? I couldn't find any details anywhere and could not get through to MDA... The sprouts will be grown using water method- no dirt- in a plastic container.*

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14. Microgreens are sprouts.

- Generally there is little public understanding of the difference between sprouts and microgreens.

One-on-one discussion with a school food service director at a Farm to School workshop on 2/13/20:

The food service director stated she wasn't really sure what microgreens are, and thought they were like bean sprouts.