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# Frequently Asked Questions on Food Regulations for Small Market Food Producers

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# Frequently Asked Questions on Food Regulations for Small Market Food Producers

## **Abstract**

Interest and demand for local food in Iowa and across the nation have increased dramatically in the past few years.

Iowa small market producers are finding markets for their food products at farmers markets, community supported agriculture enterprises, farm stands, and institutions such as restaurants, hospitals, schools, and conference centers. As farmers have entered these markets across the state, questions about food regulations have increased. This document answers the most common questions most often asked by producers. Responses were crafted by state agency and university specialists with expertise in food safety and food regulations.

## **Disciplines**

Agriculture | Agriculture Law

# Frequently Asked Questions on Food Regulations for Small Market Food Producers



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## Introduction

Interest and demand for local food in Iowa and across the nation have increased dramatically in the past few years.

Iowa small market producers are finding markets for their food products at farmers markets, community supported agriculture enterprises, farm stands, and institutions such as restaurants, hospitals, schools, and conference centers. As farmers have entered these markets across the state, questions about food regulations have increased. This document answers the most common questions most often asked by producers. Responses were crafted by state agency and university specialists with expertise in food safety and food regulations.

**DISCLAIMER:** This document is **not** a substitute for legal advice on Iowa Food Regulations and food business operations. It also is **not** a comprehensive account of questions asked about local foods. Specific questions should be directed to the Department of Inspection and Appeals Food and Consumer Safety Bureau at (515) 281-6538.

## Before you go to market:

### 1. Is a local food producer required by law to comply with any specific food safety practices?



**Answer: Generally no, but see below.**

1. If the food producer is selling only raw fruit and vegetables, the farm does not have to comply with Good Manufacturing Practices, **BUT** should utilize Good Agricultural Practices (GAPs) to ensure food safety. For information on GAPs visit: <http://www.extension.iastate.edu/Publications/PM1974A.pdf> or <http://www.GAPS.cornell.edu>
2. According to the Federal Register, establishments that only engage in the harvesting, storage, and/or distribution of raw agricultural products do not have to comply with Good Manufacturing Practices. These goods may only be washed, cleaned and trimmed (see question 2).
3. **Bottom Line:** It would be beneficial for local producers to comply with GAPs, even if they are not currently required by law, to ensure safe products for consumers

## Products and Licensing:

### 2. What products may vendors sell to consumer customers of a farmers market without being licensed as a food establishment at the market location?

GO!

**Answer: There are several possible choices.**

1. Fresh fruits and vegetables that are whole and uncut
2. Non-potentially hazardous food products; that is products that do not require refrigeration, since they are shelf-stable. These products can be prepared in the home and sold for consumption off the selling location premises. Some examples of products that can be prepared in the home for direct sale to consumer customers include: jams, jellies and dried noodles.
3. Bakery products that are not potentially hazardous. These products include only the following items: breads, cakes, doughnuts, pastries, buns, rolls, cookies, biscuits, and pies (except meat pies and custard or cream pies).
4. Fresh Shell Eggs that are kept at 45° F or below (ambient temperature)
5. Honey



### 3. What products cannot be sold at a farmers market without appropriate licensing from local, state or federal authorities?



Answer: It depends on the food item.

1. Potentially hazardous food products, which include meat, poultry, and dairy products.
  - a. The following are examples of bakery products that are potentially hazardous and cannot be sold at a farmers market without a license: soft pies, custard-filled products and cream-filled products.
2. With the sole exception of jams and jellies, no “home style” canned goods can be sold at farmers markets, since food in a hermetically sealed container must be obtained from a licensed food processing plant. (Section 3-201.12 of the Food Code which has been adopted by Section 137F.2 of the Code of Iowa)

### 4. If I’m cutting up apples to sell, do I qualify as a food establishment?

Answer: Yes.

1. If you are “preparing” food for market, then you qualify as a food establishment. This means that you do need a license to operate.
  - a. “Preparing” is any preparation other than washing with water, cleaning with chemical in accordance with the code and trimming of non-edible portions of the product. For more information on cleaning with chemicals, see: <http://www.extension.iastate.edu/Publications/PM1974C.pdf>
  - b. Preparing includes peeling, cutting, dicing, or cooking of a food item. Thus, peeling apples, washing and chopping lettuce, cutting carrots, and making cole slaw from cabbage are all examples of preparation.
2. Most producers would qualify as a **Retail food establishment**; the **fee is \$40.50** if annual gross sales are less than \$10,000. If \$10,000-\$250,000 in annual gross sales are generated, the license fee is \$101.25.
3. Applications for licenses are available from the Department of Inspections and Appeals, Food and Consumer Safety Bureau, Lucas State Office Building, Des Moines, Iowa 50319-0083, (515) 281-6539.
4. Vendors are subject to inspections and must renew their licenses each year.

### 5. What types of licenses are honored to sell potentially hazardous foods (meat, poultry, dairy) at farmers markets?

Answer: Multiple licenses are honored.

1. Farmers market potentially hazardous food license.
  - a. This license is for farmers selling potentially hazardous foods at farmers market. (such as cheese)
  - b. A separate license is required for each county in which a vendor sells food.
  - c. The license is only valid at farmers markets.
  - d. If the vendor operates two or more stands simultaneously, a separate license is required for each unit.

- e. The cost is \$100 for each license.
2. Mobile food license
  - a. This is for farmers who sell products from a mobile unit.
  - b. The cost per license is \$27.
3. Food Processing Plant License
  - a. Canned goods, except jams and jellies, must be from a licensed food processing plant.
  - b. The fee is \$67.50 if less than \$50,000 in gross products are sold annually.
4. Applications for licenses are available from the Department of Inspections and Appeals, Food and Consumer Safety Bureau, Lucas State Office Building, Des Moines, Iowa 50319-0083, (515) 281-6539.
5. Vendors are subject to inspections and must renew their licenses each year.

## 6. Do I need a license to prepare foods that are sold to retailers, such as grocery stores and foodservices?



**Answer: It depends on the food item.**

1. If the producer is preparing and processing a packaged food, such as washing and chopping lettuce, and selling it to a retailer, then the seller must have a food processing plant license and comply with the Good Manufacturing Practices.
2. These practices are outlined in 21 CFR Part 110.80 and are described in the regulatory code which can be located using the link below.  
<http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfCFR/CFRSearch.cfm?fr=110.80&SearchTerm=manufacturing%20practices>
3. The food processing plant license is based on annual gross sales. The fee is \$67.50 if less than \$50,000 in products that are sold annually. Applications for licenses are available from the Department of Inspections and Appeals, Food and Consumer Safety Bureau, Lucas State Office Building, Des Moines, Iowa 50319-0083, (515) 281-6539.
4. Vendors are subject to inspections and must renew their licenses each year.

## 7. Do local food producers need to have labels on their food?



**Answer: It depends on the food item.**

1. All food must be labeled with the common name of the food and the name and address of the person who prepared the food. The exception is raw fruits and vegetables placed in clear bags or not wrapped, so the product is clearly visible to the consumer. In this case, labeling is not required.
2. Allergen information needs to be declared on the label or by the use of a placard at the point of sale.
3. The following food products are considered major allergens: peanuts, soybeans (not refined soybean oil), milk, eggs, fish, crustacean (crab, lobster or shrimp), tree nuts (almonds, pecans or walnuts) and wheat.



4. Food that is prepared in licensed food establishments or food processing plants must be labeled with the following information:
  - a. Product name
  - b. A list of ingredients in order of predominance (by weight). If the product has a standard of identity in the Code of Federal Regulations, it must conform to that standard.
  - c. Name and address of the manufacturer, packer or distributor. Unless the name given is the actual manufacturer, it must be accompanied by a phrase which states the product is: “manufactured for” or “distributed by.”
  - d. Net weight or volume.
  - e. Allergen information.



5. **Note:** A sign, card, or other method of notification (a paper handout) is sufficient for labeling food; the label does not need to be on each individual item.
  - a. For example, if a producer was selling cookies and had wrapped them in plastic wrap, they would just need a sign or a paper handout with the name and address of the manufacturer and a list of ingredients as outlined above.

## Once at Market:

### 8. Do I need to wear gloves when handling raw fruits and vegetables?

**Answer:**

Except when handling raw fruits and vegetables which are not ready-to-eat, tongs, gloves, or deli tissue should be used to handle ready-to-eat food items. For more information, see the Iowa Food Code 2-103.11K or contact Department of Inspections and Appeals at (515) 281-6539. <http://www.state.ia.us/government/dia/2005%20Iowa%20Food%20Code.pdf>

### 9. Do I need to have a hand washing station?

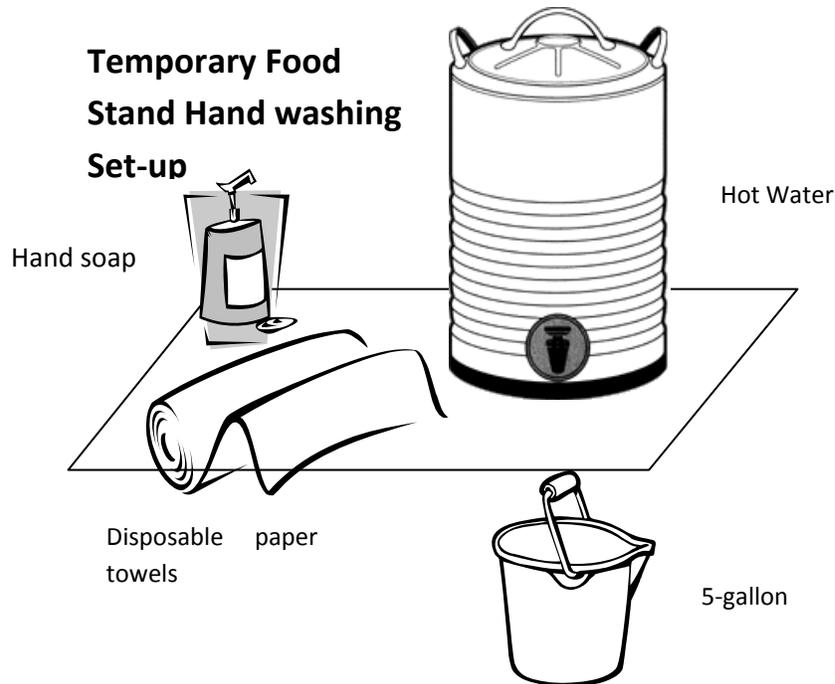
**Answer: Yes, but most markets have one set-up which satisfies the requirement.**

1. An accessible and functional hand washing facility **with hot water** needs to be available within the perimeter of any business involved in the sale of food that is not pre-packaged. If only pre-packaged food products are sold, hand washing facilities are not required.
2. Hand washing facilities must not be used for the cleaning of equipment, storage of wiping cloths, or the disposal of liquid waste.
3. All food products, cooking equipment, and serving utensils should be protected from any splash or spillage involved in the washing of hands.
4. Disposable paper towels and hand washing soap should be provided with each hand washing facility. A container for the soiled towels also should be available.
5. Any of the following set-ups can be used as a hand washing facility:
  - a. Portable commercial hand sinks that produce water flow within 10 seconds of activating a hand pump or opening a dispensing valve. Soap from a sanitary dispenser also should be provided.
  - b. A minimum of 2-5 gallons of potable water can be kept in a container capable of dispensing water through a valve. This valve shall enable a constant flow of water when

opened. The waste water shall be collected and disposed of in a sanitary sewer. Soap from a sanitary dispenser and disposable towels must be provided.



**Note:** A sink at a restroom facility does not count as a hand washing station.



## 10. Do I have to package my products to sell?



**Answer: It depends on the food item.**

1. Food on display can be sold without packaging (lettuce, sweet corn, cucumbers, etc.). However, products that are packaged shall be in a packaging that maintains the integrity of the food.
  - a. Bags should be approved for food storage, and would preferably be clear to limit the amount of unknown substances.
  - b. For example, zippered sandwich bags are acceptable, but garbage bags are **NOT APPROPRIATE** for food storage.



## 11. Do producers have to worry about sales tax at a farmers market?



**Answer: It depends on the food item.**

1. Fruits and vegetables for eating are not taxed.
2. “Candy” generally is taxable; however, if it includes flour as an ingredient the food is not taxable. (For example, cookies are considered an exempt “candy”.)
3. Prepared food that is sliced, repackaged or baked by the seller is not taxable.
4. For more information on what items are taxed, visit <http://www.iowa.gov/tax/educate/31039.pdf>

## Other Questions:

### 12. Can a commercial institution buy non-potentially hazardous raw agriculture products such as fruits and vegetables from local producers?

**Answer: Yes.**

There are no laws prohibiting direct sale from a producer to an institution, however, food services may have unique requirements that must be met before sale.

### 13. Can I sell my products in other states?



**Answer: It depends on the food item.**

1. The potentially hazardous license is NOT valid across state lines. A food processing plant license is valid because the products are still being made in Iowa; producers should investigate what retail licenses are needed in other states.
2. Products that are properly labeled, in sound condition, from an "approved source", and in compliance with FDA regulations, can be shipped across state lines.
3. For individual state regulations visit the links below.

Minnesota:

[http://www.mda.state.mn.us/news/publications/food/business&marketing/fm\\_vendor\\_guide.pdf](http://www.mda.state.mn.us/news/publications/food/business&marketing/fm_vendor_guide.pdf)

Wisconsin:

[http://www.wifirst.wisc.edu/assets/Producer%20Food%20reg%20overview\\_08\\_07.pdf](http://www.wifirst.wisc.edu/assets/Producer%20Food%20reg%20overview_08_07.pdf)

Illinois: [http://www.agr.state.il.us/farmersmarket/IDPH\\_TIBF30.pdf](http://www.agr.state.il.us/farmersmarket/IDPH_TIBF30.pdf)

Missouri: <http://extension.missouri.edu/publications/DisplayPub.aspx?P=G6223>

Nebraska: [http://www.agr.state.ne.us/pub/daf/food\\_safety\\_farmers\\_markets.pdf](http://www.agr.state.ne.us/pub/daf/food_safety_farmers_markets.pdf)

South Dakota:

<http://legis.state.sd.us/rules/DisplayRule.aspx?Rule=44%3A02%3A07&Type=All>

## Resources

Drake Agricultural Law Center

<http://www.law.drake.edu/centers/agLaw/>

Department of Food Science and Human Nutrition <http://www.fshn.hs.iastate.edu/>.

Hotel, Restaurant, and Institution Management Extension

<http://www.extension.iastate.edu/HRIM/>. Or <http://www.iastatelocalfoods.org>.

Iowa Administrative Code 481 Chapter 31

<http://www.state.ia.us/government/dia/481%20IAC%2031.pdf>.

Iowa Department of Agriculture and Land Stewardship

[http://www.agriculture.state.ia.us/Horticulture\\_and\\_FarmersMarkets/farmersMarketAssistance.asp](http://www.agriculture.state.ia.us/Horticulture_and_FarmersMarkets/farmersMarketAssistance.asp)

Iowa Department of Inspection and Appeals

<http://dia.iowa.gov/food/controller.aspx?cmd=NavFromMenu&mode=code>.

Iowa Food Code <http://www.state.ia.us/government/dia/2005%20Iowa%20Food%20Code.pdf>.

(The Iowa Food Code is the Federal Model Food Code adopted for the State of Iowa.)

Iowa Laws: Sale of Home-prepared Foods, Iowa State University Extension, September 2005.

<http://www.extension.iastate.edu/Publications/PM1294.pdf>

Iowa State University Food Safety Project

<http://www.extension.iastate.edu/foodsafety/>

Iowa Statute Chapter 137f <http://www.state.ia.us/government/dia/Chapter%20137F.pdf>.

Leopold Center for Sustainable Agriculture

<http://www.leopold.iastate.edu/>

Maryland Cooperative Extension

<http://extension.umd.edu/publications/pdfs/FS715.pdf>

Minnesota Department of Health <http://www.health.state.mn.us/divs/eh/food/fs/localgrown.htm>.

U.S. Food and Drug Administration, CFR Title 21

<http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfCFR/CFRSearch.cfm>.

## Related Iowa State Publications:

Buying Local Foods for Retail Food Services

<http://www.extension.iastate.edu/Publications/PM2047.pdf>

What retail food services should know when purchasing local produce directly from farmers

<http://www.extension.iastate.edu/Publications/pm2046.pdf>

What producers should know about selling to local foodservice markets

<http://www.extension.iastate.edu/Publications/PM2045.pdf>