

WISCONSIN LOCAL FOOD MARKETING GUIDE



A Producer's Guide to Marketing Locally Grown Food

THIRD EDITION



CHAPTER 4: Rules, Regulations, and Other Considerations

REGULATIONS

Local Regulations

Counties, townships, and cities are local government units that may have regulations that apply to your business. Some typical kinds of regulations include:

- Limits on size or location of advertising signs
- Permits required for excavating or new building construction
- Local health codes regarding food preparation and sale
- Zoning regulations on types of enterprises that can be conducted in certain areas
- Requirements for size and placement of parking areas
- Requirements for bathroom and hand washing facilities (especially for agritourism enterprises)

Local government officials and farmers who have started new enterprises agree that it is far better to work together early to avoid problems, rather than trying to fix things that were not properly done or permitted.

County and city governments divide up their responsibilities among departments, and the department names can vary from place to place. Rural townships may have their own planning and zoning guidelines. It is best to check with both county and township officials before proceeding on any farm business expansion.

To find out the name(s) of local officials:

- Check your county’s website.
- Call the county courthouse administrative office.
- Check the Wisconsin Towns Association website:

<http://www.wisctowns.com/town-web-sites>

State Regulations

The State of Wisconsin has developed food regulations for farmers wishing to market to consumers and to grocery stores, restaurants, and institutions. Contact DATCP’s Division of Food Safety at 608-224-4700 or email datcpfoodscientists@wi.gov for more information. Read the following pages for a summary of state requirements by product and market.

Less Regulation	More Regulation
Raw, unprocessed foods	Processed foods
Single-ingredient foods	Multiple ingredients
Shelf-stable foods	Sold at a location off the farm
Sold to the end consumer	Sold to a retailer for consumer sale to consumer
Small sales volume	Large sales volume

Overview of Food Marketing Regulations

DATCP's Division of Food Safety has regulatory authority over food sold in Wisconsin. Generally, the more food products are processed, the more they are regulated.

LICENSING, LABELING, AND REGULATION REQUIREMENTS

State requirements that affect local food marketers may include inspection of processing facilities, review of labels on packaged food products, inspection of scales, and collection of food samples to be analyzed for contaminants or composition requirements. Department of Agriculture, Trade and Consumer Protection (DATCP) inspectors typically inspect licensed facilities on a regular basis and visit local food marketing operations if warranted by consumer complaints.

Processed Food Business Licensing

Starting a processed food business will require state and, possibly, federal licensing depending on the products involved. If you plan to primarily sell your food products directly to consumers, you will generally need a retail food establishment license. Internet sales to the end consumer are considered retail sales. If you plan to sell food products primarily through wholesale distribution, you will need a food processing plant license.

Key requirements to obtain either license include:

- The facility must meet minimum facility requirements for licensing as a (commercial grade) kitchen. Using your personal home kitchen is not allowed. If you plan to start the business in your home you will need to construct a separate kitchen room dedicated to this food business. The dedicated kitchen will need to have cleanable floors, walls, and ceilings. The lighting will need to be adequate for commercial purposes, and the room must be properly ventilated. A three-compartment sink or approved dishwasher will be needed for washing your equipment

and utensils. A separate hand sink is also required. Some starting operators rent time in an area restaurant, school, or church kitchen to satisfy the separate commercial kitchen requirement without having to invest in a new, separate kitchen of their own. Each food business using a common facility needs to have their own license.

- Equipment such as stoves, sinks, and mixers must be of approved design, be easily cleaned, and in good repair. If the equipment bears the NSF certification, you can feel certain that it will meet these design requirements.
- Other utensils like pans, bowls, and spoons must be durable and have smooth, easily cleanable surfaces. Almost all utensils currently manufactured meet this requirement. For more information about NSF go to: www.nsf.org/regulatory/
- The Food Safety Department at DATCP is available to answer licensing questions you might have at: datcpdfslicensing@wisconsin.gov
- For exact legal requirements for commercially processing food in Wisconsin go to: www.legis.state.wi.us/rsb/code/atcp/atcp070.pdf

Processed Food Safety

Fruits, vegetables, and other food products can be processed on a small scale if safe and sanitary methods of processing and handling are followed. These processed foods include jams and jellies, pickled or acidified fruits and vegetables, herbal or flavored vinegars, and even baked goods.

Farm-based processing is generally not feasible for meats or low-acid canned foods such as beans, corn, and peas. Inadequate processing during the canning of low-acid foods may cause these foods to be unsafe. Small scale processing of these foods is generally impractical because the equipment needed to produce consistently safe food is highly technical and expensive.

Foods of plant origin that are potentially hazardous include plant foods that are heat-treated, raw sprouted seeds (such as alfalfa sprouts), cut melons, cut leafy greens, sliced tomatoes, and garlic-in-oil mixtures.



If you start a small-scale licensed business processing canned foods such as pickled products, salsas, chutneys, or any acidified food that is sold in air-tight containers, state and federal regulations require you use an approved scheduled process or recipe.

You must submit your scheduled process (recipe) to DATCP's Division of Food Safety (DFS) prior to licensing. DFS does not approve processes, but will review and evaluate the process based on available scientific data resources. You may need to submit the process, or recipe, to a "competent process authority" for evaluation. A process authority would either provide you with a written statement that your process is safe, or may recommend you do further testing before the process can be approved.

If you intend to sell your product outside of Wisconsin, or use ingredients originating from outside Wisconsin, you must file your process with the U.S. Food and Drug Administration (FDA). Since almost all processes use an ingredient from an out-of-state source, you will invariably have to file your process with the FDA if you thermally process low-acid or acidified food products. Operating under a Hazard Analysis and Critical Control Points (HACCP) plan requires filing your process with the FDA and is not necessary for naturally acidic foods.

For more information on obtaining an approved written process prior to licensing, call the Division of Food Safety at 608-224-4700 or email datcpfoodscientists@wi.gov.

For HACCP guidelines through FDA, go to:

<http://www.fda.gov/food/guidanceregulation/haccp/default.htm>

Inspection

Call 608-224-4682 and ask for the contact information for the Food Safety Supervisor assigned to your city or town. Your local Food Safety Supervisor will be able to answer your questions more specifically and will assist you through the licensing and inspection process. Once you have been inspected, you will then be able to make food and sell to the general public.

Processed Food Labeling

Accurate information on processed food labels helps consumers make informed choices about food. Labels provide weight and content information to help consumers choose the best value for their money. The ingredient list identifies products consumers may need to avoid due to potential allergic reactions or other health concerns. Your packaged products must be properly labeled with:

- the name of the product
- a listing of the ingredients in decreasing order of predominance by weight
- a list of major allergens, identified in plain language
- a net weight or volume statement
- the name and address of the manufacturer, packer, or distributor
- nutrition information, unless exempt
- Contact state or local food inspectors for specific questions regarding labeling. DATCP does not require label approval prior to a food product's manufacture or distribution. DATCP's Division of Food Safety does not "approve" labels but its staff will answer questions and provide assistance.

The responsibility to comply with current food labeling requirements rests solely on the manufacturer or distributor of the food products. For specific information about processed food labeling go to

<http://datcp.state.wi.us/>

or contact the Division of Food Safety at 608-224-4700 or email datcpfoodscientists@wi.gov.

Resources for Food Labeling

Frequent Food Label Questions

Wisconsin Department of Agriculture, Trade and Consumer Protection

An 8-page publication covering the most basic information on food labeling.

www.datcp.state.wi.us/

Search “Frequent Food Label Questions”

A Food Labeling Guide

U.S. Food and Drug Administration

132 pages that includes information on basic food labeling as well as information on nutrition facts, trans fat, and allergen labeling.

<http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/LabelingNutrition/ucm2006828.htm>

DATCP Division of Food Safety Labeling Information

DATCP’s Division of Food Safety website provides general information. However, go to the FDA website for the most up-to-date and comprehensive information available.

www.datcp.state.wi.us/ Search “Food Labeling”

Food Label Sources

Wisconsin Department of Agriculture, Trade and Consumer Protection

A list of Wisconsin sources for design and printing of food labels.

<http://datcp.state.wi.us> Search “Food Label Sources”

Meat Business Licensing and Labeling

New processors must meet several standards to obtain a license for a meat business. State of Wisconsin meat plants must meet the same standards as USDA-inspected meat plants and must implement a food safety system called Hazard Analysis Critical Control Point (HACCP). A licensed meat establishment is required to implement HACCP plans and have a Sanitation Standard Operating Procedure (SSOP) in place. The HACCP is a risk-based approach to manufacturing food products that identifies the critical step(s) in the manufacturing process and performs a monitored, quantifiable function in those places where there is a danger of causing or promoting microbiological, physical, or chemical contamination. The SSOP is a written plan that outlines the monitored procedures followed to maintain overall plant sanitation, including daily cleaning, regularly scheduled maintenance,



food handling practices, and employee hygiene.

Labeling meat products differs from other processed foods due to the greater risks and requirements that meat processing involves. The State of Wisconsin meat inspection program and meat establishments work together to ensure that meat products produced and sold comply with required standards for safety, identity, and wholesomeness set by the state and federal governments.

Feeding Food Scraps to Swine

It is illegal to feed garbage or food scraps containing animal parts or meat juices to swine, unless it is from your own home. Swine producers cannot buy or accept garbage or food scraps from restaurants, even if meat is removed from it, because meat juices are likely present. Stale bakery, waste from apple cider presses, and other food waste that has no animal parts or meat juices may be fed to swine. The devastating outbreak of foot-and-mouth disease in the United Kingdom in 2001 was traced to garbage feeding. Other diseases may also be transmitted in food waste, including trichinosis, which also can infect humans.

For references to specific aspects of meat labeling, see Chapter 55 of the Wisconsin Administrative Code:

www.legis.state.wi.us/rsb/code/atcp/atcp055.pdf

It explains labeling requirements, including weight, inspection, safe handling instructions, and other pertinent information.

See the last resource on page 82 for a summary of the Bureau of Meat Safety & Inspection’s labeling guidelines.

Resources for Meat Business Licensing and Labeling

Direct Marketing Meat Guide Book

UW Cooperative Extension and Wisconsin DATCP

A comprehensive guide for Wisconsin meat producers.

www.uwex.edu/ces/agmarkets/publications/documents/A3809.pdf

Meat Product Formulation and Labeling in Wisconsin

Wisconsin Department of Agriculture, Trade and Consumer Protection

Before a meat or custom/not-for-sale product can be marketed in Wisconsin, its formula must be approved by the Division of Food Safety.

Formulations, or formulas, are intended to be a guide to the manufacture of an item of more than one ingredient. In addition to meat, this could include water, spices, cures, flavoring, binders, or extenders.

<http://datcp.state.wi.us/>

Search “Meat Product Formulation & Labeling in Wisconsin”

Starting a Meat Business in Wisconsin

Wisconsin Department of Agriculture, Trade and Consumer Protection

A short brochure that explains the basics of starting a meat business.

<http://datcp.state.wi.us/>

Search “Starting a Meat Business in Wisconsin”

Wisconsin’s State Meat Inspection Program

Wisconsin Department of Agriculture, Trade and Consumer Protection

Standards of safety and purity.

<http://datcp.state.wi.us/>

Search “Wisconsin’s State Meat Inspection Program”

Weights and Measures

The same weights and measures laws apply to direct marketers of farm produce as to all other retailers. Scales must meet standards for commercial scales set by the National Institute of Standards and Technology (NIST). They must be “legal for trade”, National Type Evaluation Program (NTEP) approved (if put into service after January 1, 1997), and be able to be calibrated. Scales do not need to be registered, but are subject to inspection by a state or local representative of weights and measures.

If a commodity is weighed at the time of sale, the scale’s indicator must be visible to the consumer. By law, liquid commodities shall be sold by liquid measure and non-liquid commodities shall be sold by weight. The law permits other methods of sale only where the method is in general use and does not deceive the consumer. One exception is eggs. They are sold by both count and size. Closed containers of apples must comply with the USDA grade standards, which must be stated on the container.

Chapter 91 of the Wisconsin Administrative Code provides rules for selling fresh fruits and vegetables. Some, like apples, corn and cantaloupe can be sold by weight or count, while others, like asparagus, beans and potatoes must be sold only by weight.

If an item is packaged before sale, it must be labeled according to the requirements of Chapter 90 of the Wisconsin Administrative Code. The label must list the name of the food, any ingredients other than the raw product, net weight, liquid measure or count as required—metric translations are optional but may be helpful in targeting certain ethnic markets— name and address of the processor, packer or distributor, a declaration of quantity and any other information required by law, such as grade and sizes for eggs. No quantity declaration is required for packages weighed at the time of sale and for clear packages of six or fewer fruits or vegetables, if the fruit or vegetable is sold by count. If all packages are of uniform weight or measure, an accompanying placard can furnish the required label information.

When a local food producer advertises any prepackaged food product and includes the retail price in the advertisement, the ad must list the package contents by weight or volume or state the price per whole measurement unit. (For example, \$1.25 per pound.)

STATE REQUIREMENTS BY PRODUCT AND MARKET

AQUACULTURE—Farmed Fish and Seafood	
Type of Sale	Regulations
Producer Selling from Farm	Retail food establishment or food processing plant license required
	Packaged fish must be fully labeled
Fee Fishing	Fish eviscerated and filleted as a service to paying fee fishing customers is not licensed by Division of Food Safety
Producer Selling Door-to-Door or at Farmers Market	Mobile retail food establishment license required
	Frozen fish must be maintained frozen
	Packaged fish must be fully labeled
	Fish must come from a licensed retail food establishment or food processing plant
	Must be processed in compliance with 21 CFR Part 123 – Seafood HACCP
Producer Distributing from Farm to Grocery Store, Restaurant, or Institution	Fish must come from a licensed retail food establishment or food processing plant
	Must be processed in compliance with 21 CFR Part 123 – Seafood HACCP
	Frozen fish must be maintained frozen
	Unfrozen fish products must be maintained and delivered at an internal temperature of 38°F or below using any effective method (freezer, dry ice, cooler, etc.)
	Fish must be fully labeled
APPLE CIDER	
Type of Sale	Regulations
Producer Selling from Farm	No license required
	Cider must be pressed by the producer/seller
	Cider must be fully labeled including approved warning statement
Producer Selling Door-to-Door or at Farmers Market	No license required
	Cider must be pressed and bottled by the producer/seller
	Local ordinance may apply
	Cider must be fully labeled including approved warning statement
Producer Distributing from Farm to Grocery Store, Restaurant, or Institution	Finished product must come from a licensed retail food establishment or food processing plant
	Must be processed in compliance with juice 21 CFR Part 120 – Juice HACCP
	Finished product must be fully labeled

STATE REQUIREMENTS BY PRODUCT AND MARKET

BAKERY ITEMS	
Type of Sale	Regulations
Producer Selling from Farm	Retail food establishment license required
	Processed in commercial kitchen
Producer Selling Door-to-Door or at Farmers Market	Finished product must come from a licensed retail food establishment or food processing plant
	Mobile retail food establishment license required for bakery products that are unpackaged or that require refrigeration for safety; local ordinance may also apply
Producer Distributing from Farm to Grocery Store, Restaurant, or Institution	Finished product must come from a licensed retail food establishment or food processing plant
	Finished product must be fully labeled



STATE REQUIREMENTS BY PRODUCT AND MARKET

CAPTIVE GAME ANIMALS/EXOTICS—Pheasants, Deer, Bison	
Type of Sale	Regulations
Producer Selling from Farm	Retail food establishment license required
	Livestock must be processed at a state or federally inspected facility
	Meat may be weighed on-farm with approved scale or weighed by package at processor
	Product storage areas must be located in a clean, neat area (house or shed allowed)
	Product storage must be used exclusively to store meat sold to customers
	Frozen meat must be maintained frozen
	Unfrozen meat products must be maintained at internal at an internal temperature of 41°F or below using any effective method (freezer, dry ice, cooler, etc.)
	Meat must be fully labeled
Producer Sells Live Animals and Consumer Arranges for Processing	No license required
Producer Selling Door-to-Door or at Farmers Market	Mobile retail food establishment license required
	Local ordinance may apply
	Livestock must be processed at a state or federally inspected facility
	Product storage must be used exclusively to store meat sold to customers
	Product storage must be located in a clean, neat area (house or shed allowed)
	Frozen meat must be maintained frozen
	Meat must be fully labeled
Producer Distributing from Farm to Grocery Store, Restaurant, or Institution	Warehouse license required
	Registration as meat distributor required
	Livestock must be processed at a state or federally inspected facility
	Warehouse freezer and producer's vehicle must be inspected to ensure it is sanitary and that frozen meat will be maintained in a frozen state
	Meat must be fully labeled

STATE REQUIREMENTS BY PRODUCT AND MARKET

DAIRY—Fluid Milk, Cream, Butter		
Type of Sale	Regulations	
Producer Selling from Farm (Farmstead Dairy Plant)	Dairy Farm license required for persons or businesses to operate a dairy farm	
	Dairy Plant license required to process all dairy products	
	Buttermakers license required for persons to be in charge of or supervise the making of butter that will be sold	
	Dairy products must be maintained at internal temperature of 45°F or below	
Producer Selling Door-to-Door or at Farmers Market	Dairy products must be fully labeled	
	Mobile retail food establishment license required	
	Dairy products must be maintained and delivered at internal temperature of 41°F or below using any effective method (freezer, dry ice, cooler, etc.)	
Producer Distributing from Farm to Grocery Store, Restaurant, or Institution	Dairy products must be fully labeled	
	No additional license required when dairy products come from producer's licensed dairy plant	
	Dairy products must be maintained and delivered at internal temperature of 45°F or below using any effective method (freezer, dry ice, cooler, etc.)	
DAIRY—Pasteurized Milk Cheese	Dairy products must be fully labeled	
	Type of Sale	Regulations
	Producer Selling from Farm (Farmstead Dairy Plant)	Dairy Farm license required for persons or businesses to operate a dairy farm
		Dairy Plant license required to process all dairy products
License required for persons to be in charge of or supervise the making of cheese that will be sold		
Dairy products must be maintained at internal temperature of 45°F or below		
Producer Selling Door-to-Door or at Farmers Market	Dairy products must be fully labeled	
	Mobile retail food establishment license required	
	Dairy products must be maintained and delivered at internal temperature of 41°F or below using any effective method (freezer, dry ice, cooler, etc.)	
Producer Distributing from Farm to Grocery Store, Restaurant, or Institution	Dairy products must be fully labeled	
	No additional license required when dairy products come from producer's licensed dairy plant	
	Dairy products must be maintained and delivered at internal temperature of 45°F or below using any effective method (freezer, dry ice, cooler, etc.)	
	Dairy products must be fully labeled	

STATE REQUIREMENTS BY PRODUCT AND MARKET

DAIRY—Raw Milk Cheese	
Type of Sale	Regulations
Producer Selling from Farm	Dairy Farm license required for persons or businesses to (Farmstead Dairy Plant) operate a dairy farm
	Dairy Plant license required to process all dairy products
	Dairy products must be maintained at internal temperature of 45°F or below
	License required for persons to be in charge of or supervise the making of cheese that will be sold
	Raw milk cheese must be aged a minimum of 60 days prior to sale
	Dairy products must be fully labeled
Producer Selling Door-to-Door or at Farmers Market	Mobile retail food establishment license required
	Dairy products must be maintained and delivered at internal temperature of 41°F or below using any effective method (freezer, dry ice, cooler, etc.)
	Dairy products must be fully labeled and aged for 60 days
Producer Distributing from Farm to Grocery Store, Restaurant, or Institution	No additional license required when dairy products come from producer's licensed dairy plant
	Dairy products must be maintained and delivered at internal temperature of 45°F or below using any effective method (freezer, dry ice, cooler, etc.)
	Dairy products must be fully labeled and aged for 60 days
DAIRY—Yogurt, Kefir, Ice Cream, Flavored Milk, Sour Cream	
Type of Sale	Regulations
Producer Selling from Farm	Dairy Farm license required for persons or businesses to (Farmstead Dairy Plant) operate a dairy farm
	Dairy Plant license required to process all dairy products
	Dairy products must be maintained at internal temperature of 45°F or below once culture is complete
	Dairy products must be fully labeled
Producer Selling Door-to-Door or at Farmers Market	Mobile retail food establishment license required
	Dairy products must be maintained and delivered at internal temperature of 41°F or below using any effective method (freezer, dry ice, cooler, etc.)
	Dairy products must be fully labeled
Producer Distributing from Farm to Grocery Store, Restaurant, or Institution	No additional license required when dairy products come from producer's licensed dairy plant
	Dairy products must be maintained and delivered at internal temperature of 45°F or below using any effective method (freezer, dry ice, cooler, etc.)

STATE REQUIREMENTS BY PRODUCT AND MARKET

DRY FOOD MIXES AND BLENDS	
Type of Sale	Regulations
Producer Selling from Farm	Retail food establishment license required
	Processed in commercial kitchen
Producer Selling Door-to-Door or at Farmers Market	Finished product must come from a licensed retail food establishment or food processing plant
	Mobile retail food establishment license required for unpackaged product sales
Producer Distributing from Farm to Grocery Store, Restaurant, or Institution	Finished product must come from a licensed retail food establishment or food processing plant
	Finished product must be fully labeled
EGGS	
Type of Sale	Regulations
Producer Selling from Farm or as part of a Community supported agriculture (CSA) group	No license required
	Eggs must be sold directly to consumer; Person who operates a CSA and purchases eggs from an egg producer, and further sells them to consumers who have contracted with another CSA- must hold a retail or food processing facility license
	Must be handled in a way to assure food safety including storage at 45°f or below
	Used carton labels can't be misleading (remove original labeling when re-using cartons)
Producer Selling Door-to-Door or at Farmers Market	Producers with 150 or fewer egg-laying birds can sell at farmers markets or door-door without a food processing plant license for the farm, but would need the mobile retail food establishment license. Registration of the flock may be required by the state.
	Eggs must be stored at 41°f during storage and transportation
	Eggs must be fully labeled including a Grade statement or "Ungraded"
Producer Distributing from Farm to Grocery Store, Restaurant, or Institution	Food processing plant license required
	Eggs must be fully labeled
	Eggs must be stored at 45°f during storage and transportation
	Egg producer who sells eggs from a flock of 3000 or more birds must register with the USDA

STATE REQUIREMENTS BY PRODUCT AND MARKET

GRAINS	
Purchasing grain directly from growers	Bonding required for licensed food processing plant through our Trade Division
	No bonding required for licensed retail food establishments
Processing Grain For further processing or wholesaling (milling into flour, roasting, malting, distilling)	A food processing plant license is required
HONEY	
Type of Sale	Regulations
Producer Selling from Farm, Door-to-Door or at Farmers Market or Distributing to Grocery Store, Restaurant, or Institution	No license required for honey sold as beekeeper's own that has no added color, flavors, or ingredients, including air incorporated by whipping
	Honey must be fully labeled including a Grade statement or "Ungraded"
	Honey must be handled in a way that assures food safety
JAMS AND JELLIES	
Type of Sale	Regulations
	An individual may process in a home kitchen without a food processing plant license within parameters of s. 97.29 (2)(b)2, including: food products are pickles or other processed vegetables or fruits with an equilibrium pH value of 4.6 or lower, person receives less than \$5,000 per year from the sale of the food products, and the person displays a sign at the place of sale stating: "These canned goods are homemade and not subject to state inspection"
Producer Selling from Farm	Outside above parameters, retail food establishment or food processing license required.
	Processed in commercial kitchen.
Producer Selling Door-to-Door or at Farmers Market	Product must come from a licensed retail food establishment or food processing plant
	Local ordinance may apply and require additional licensing
	Finished product must be fully labeled
Producer Distributing from Farm to Grocery Store, Restaurant, or Institution	Finished product must come from a licensed retail food establishment or food processing plant
	Finished product must be fully labeled

STATE REQUIREMENTS BY PRODUCT AND MARKET

LIVESTOCK—Cattle, Swine, Sheep, Goats, Ratites	
Type of Sale	Regulations
Producer Selling from Farm	Retail food establishment license required
	Livestock must be processed at a state or federally inspected facility
	Meat may be weighed on-farm with a certified scale or individually weighed at processor
	Product storage must be clean and located in a clean, neat area (house or shed allowed)
	Product storage must be used exclusively to store meat sold to customers
	Frozen meat must be maintained frozen
	Unfrozen meat products must be maintained at internal temperature of 41°F or below
	Meat must be fully labeled
Producer Sells Live Animals and Consumer Arranges for Processing	No license required
Producer Selling Door-to-Door or at Farmers Market	Mobile retail food establishment license required
	Livestock must be processed at a state or federally inspected facility
	Meat may be weighed on-farm with a certified scale or individually weighed at processor
	Product storage must be used exclusively to store meat sold to customers
	Product storage must be located in a clean, neat area (house or shed allowed)
	Frozen meat must be maintained frozen
	Unfrozen meat products must be maintained and delivered at internal temperature of 41°F or below using any effective method (freezer, dry ice, cooler, etc.)
	Meat must be fully labeled
Producer Distributing from Farm to Grocery Store, Restaurant, or Institution	Retail food establishment or warehouse license required
	Registration as meat distributor required
	Freezer and producer's vehicle must be inspected to ensure it is sanitary and that frozen meat will be maintained frozen
	Unfrozen meat products must be maintained and delivered at an internal temperature of 41°F or below using any effective method (freezer, dry ice, cooler, etc.)
	Meat must be fully labeled
	If product is sold over state lines, the processing facility must be under USDA inspection

STATE REQUIREMENTS BY PRODUCT AND MARKET

MAPLE SYRUP	
Type of Sale	Regulations
Producer Selling from Farm, Door-to-Door or at Farmers Market	No license required
	Food must be handled in a way that assures food safety
	Maple syrup must be fully labeled
Producer Distributing to Grocery Store, Restaurant, or Institution	Food processing plant license required
	Maple syrup must be processed in a commercial facility
	Maple syrup must be fully labeled
Producer selling syrup or concentrated maple sap sold only to processors for further processing	No license required if within parameters of ATCP 70.03(7)e 1-4 including: combined gross receipts from all sales during the license year total less than \$5,000, the processor keeps a written record of every sale and retains that record for at least 2 years, and the processor registers with the department each year above sales occur



STATE REQUIREMENTS BY PRODUCT AND MARKET

POULTRY—Farm-Raised Chickens, Ducks, Geese, Guinea Hens, Squab, Turkeys	
1,000 or fewer birds per year	
Type of Sale	Regulations
Producer Selling from Farm	No license or inspection required for home slaughter and sale; birds may be slaughtered and processed at a licensed meat establishment
	Birds must be healthy and come from producer's own flock
	Poultry can only be sold directly to consumer
	Person produces all poultry on his or her farm
	Processed poultry must be handled in a way that assures food safety
	Frozen poultry must be maintained frozen
	Unfrozen poultry must be maintained at internal temperature of 41°F or below
	Poultry must be fully labeled including "Not inspected"
Producer Selling Door-to-Door or at Farmers Market	Mobile retail food establishment license required; birds must come from a licensed facility
	Local ordinance may apply
	Poultry must be processed at a state or federally inspected meat plant
	Frozen poultry must be maintained frozen
	Unfrozen poultry products must be maintained and delivered at internal temperature of 41°F or below using any effective method (freezer, dry ice, cooler, etc.)
	Poultry must be fully labeled
Producer Distributing from Farm to Grocery Store, Restaurant, or Institution	Retail food establishment or warehouse license required
	Registration as meat distributor required
	Poultry must be processed at a state or federally inspected meat plant
	Freezer and producer's vehicle must be inspected to ensure it is sanitary and that frozen meat will be maintained frozen
	Unfrozen poultry products must be maintained and delivered at internal temperature of 41°F or below using any effective method (freezer, dry ice, cooler, etc.)
	Poultry must be fully labeled

STATE REQUIREMENTS BY PRODUCT AND MARKET

POULTRY—Farm-Raised Chickens, Ducks, Geese, Guinea Hens, Squab, Turkeys	
More than 1,000 birds per year	
Type of Sale	Regulations
Producer Selling from Farm	Retail license is required and the birds must be processed at a state or federally inspected facility
	Producer produces all poultry on his or her farm
	Product storage must be used exclusively to store poultry products sold to customers
	Product storage must be located in a clean, neat area (house or shed allowed)
	Frozen poultry must be maintained frozen
	Unfrozen poultry products must be maintained at internal temperature of 41°F or below
	Poultry must be fully labeled
Producer Selling Door-to-Door or at Farmers Market	Mobile retail food establishment license required and a warehouse license if food is stored more than 24 hours
	Local ordinance may apply
	Poultry must be processed at a state or federally inspected facility
	Product storage must be used exclusively to store poultry products sold to customers
	Product storage must be located in a clean, neat area (house or shed allowed)
	Frozen poultry must be maintained frozen
	Unfrozen poultry products must be maintained and delivered at internal temperature of 41°F or below using any effective method (freezer, dry ice, cooler, etc.)
	Poultry must be fully labeled
Producer Distributing from Farm to Grocery Store, Restaurant, or Institution	Warehouse license required
	Registration as meat distributor required
	Poultry must be processed at a state or federally inspected facility
	Warehouse freezer and producer's vehicle must be inspected to ensure it is sanitary and that frozen meat will be maintained frozen
	Unfrozen poultry products must be maintained and delivered at internal temperature of 41°F or below using any effective method (freezer, dry ice, cooler, etc.)
	Poultry must be fully labeled

STATE REQUIREMENTS BY PRODUCT AND MARKET

RABBITS	
Type of Sale	Regulations
Producer Selling from Farm	No license or inspection required for home slaughter or sale
	Producer maintains custody of meat until sold
	Meat can only be sold directly to consumer
	Meat must be handled in a way that assures food safety
	Frozen meat must be maintained frozen
Producer Selling Door-to-Door or at Farmers Market	Mobile retail food establishment license required
	Local ordinance may apply
	Rabbit must be processed at a licensed food or meat processing plant
	Frozen meat must be maintained frozen
	Meat must be fully labeled including "Not inspected"
Producer Distributing from Farm to Grocery Store, Restaurant, or Institution	Finished product must come from a licensed food processing plant
	Frozen meat must be maintained frozen
	Unfrozen meat products must be maintained and delivered at internal temperature of 41°F or below using any effective method (freezer, dry ice, cooler, etc.)
	Meat must be fully labeled including "Not inspected"
VEGETABLES—Cut, frozen, or otherwise processed fruits and vegetables	
Type of Sale	Regulations
Producer Selling from Farm	Retail food establishment license required
Processed in commercial kitchen Producer Selling Door-to-Door or at Farmers Market	Finished product must come from a licensed retail food establishment, food processing plant, or mobile retail food establishment
	Additional license may be required - depends on type of produce sold and local ordinances
	Finished product must be fully labeled
Producer Distributing from Farm to Grocery Store, Restaurant, or Institution	Finished product must come from producer's licensed retail food establishment or food processing plant
	Finished product must be fully labeled

STATE REQUIREMENTS BY PRODUCT AND MARKET

VEGETABLES—Frozen	
Type of Sale	Regulations
Producer Selling from Farm	Retail food establishment license required
	Processed in commercial kitchen
Producer Selling Door-to-Door or at Farmers Market	Finished product must come from a licensed retail food establishment or food processing plant
	Additional license may be required - depends on type of produce sold and local ordinances
	Frozen vegetables must be kept frozen
	Finished product must be fully labeled
Producer Distributing from Farm to Grocery Store, Restaurant, or Institution	Finished product must come from producer's licensed retail food establishment or food processing plant
	Finished product must be fully labeled
VEGETABLES—Naturally Dried Produce	
Type of Sale	Regulations
Producer Selling from Roadside Farm-stand, Farmers Market or a Community Event	No license required if dried and threshed in the harvest field
Producer Selling Door-to-Door	No license required if dried and threshed in the harvest field
Producer Distributing from Farm to Grocery Store, Restaurant, or Institution	No license required if dried and threshed in the harvest field

STATE REQUIREMENTS BY PRODUCT AND MARKET

VEGETABLES— Pickled (acidified and canned)	
Type of Sale	Regulations
Producer Selling from Roadside Farmstand, Farmers Market or a Community Event.	An individual may process in a home kitchen without a food processing plant license within parameters of s. 97.29 (2) (b)2, including: food products are pickles or other processed vegetables or fruits with an equilibrium pH value of 4.6 or lower, person receives less than \$5,000 per year from the sale of the food products, and the person displays a sign at the place of sale stating: "These canned goods are homemade and not subject to state inspection"
	Successfully complete an Acidified Food Training Course or utilize a scheduled recipe approved by a process authority or from Ball or Kerr Blue Book
	Product must be fully labeled
Producer Selling Door to Door	Finished product must come from a licensed food processing plant
	Local ordinances may apply
	Finished product must be fully labeled
	Not allowed under license exemption (home processing)
Producer Distributing from Farm to Grocery Store, Restaurant, or Institution	Finished product must come from a licensed food processing plant
	Finished product must be fully labeled
	Not allowed under license exemption (home processing)
VEGETABLES—Raw intact fruits and vegetables (excludes sprouts)	
Type of Sale	Regulations
Producer Selling from Farm	No license required
Producer Selling Door-to-Door or at Farmers Market	No license required
Producer Distributing from Farm to Grocery Store, Restaurant, or Institution	No license required

WHAT IS GAP/GHP?

There is an increasing focus in the marketplace on good agricultural practices to verify farms are producing fruits and vegetables in the safest manner possible. Third-party audits are being used by the retail and food services industry to verify their suppliers conform to specific agricultural practices. Good Agricultural Practices (GAP) include on-farm production and postproduction processes resulting in safe and quality food products. Good Handling Practices (GHP) include those used in handling and packing operations that minimize microbial contamination of fresh fruits, vegetables and tree nuts.

The U.S. Department of Agriculture (USDA) Agricultural Marketing Service, in partnership with state departments of agriculture, offers a voluntary, audit-based program to verify agricultural practices. GAP/GHP audits verify the implementation of a basic food safety program on the farm.

This includes examining the farm practices and handling/packing procedures focusing on packing facilities, storage facilities, and wholesale distribution centers. These audits are based on the U.S. Food and Drug Administration's Guidelines to Minimize Microbial Contamination for Fresh Fruits and Vegetables and are a fee-based service.

USDA-trained and -licensed auditors provide GAP/GHP certification. GAP certification audits are conducted during harvest when harvest crews are at work. GHP audits are performed when the packing operation is running and workers are present. This federal/state audit program does not cover processed fruits and vegetables. (Inspection of food processors is provided by DATCP's Division of Food Safety.)

The GAP certification process covers three sections of the USDA Federal/State Audit Checklist for farm operations that do not pack their own products:

1. General questions
2. Farm review
3. Field harvest and field packing

The GHP certification process is an add-on for farm operations that conduct packing of fresh fruits and vegetables. The process includes three additional sections in the audit checklist:

4. Packing house review
5. Storage and transportation (optional)
6. Traceback (optional)

Every operation must compile a food safety program that outlines the standard operating procedures and policies that are in practice for the requirements in each section of the audit. In certain circumstances, documentation must also be provided to substantiate practices or analyses of possible contamination.

Go to:

<http://www.ams.usda.gov/AMSV1.0/getfile?d- DocName=STELPRDC5091326>

to view the full USDA Audit Verification Checklist. General questions and parts 1–5 apply to GAP/GHP farm operation audits.

Contact Tim Leege at 715-345-5212 or via email at tim.leege@wisconsin.gov



Resources for On-Farm Food Safety

Wisconsin Department of Agriculture, Trade and Consumer Protection

<http://datcp.wi.gov/OnFarmFoodSafety/index.aspx>

Good Agricultural and Handling Practices

U.S. Department of Agriculture

A program brochure that includes answers to frequently asked questions.

<http://www.ams.usda.gov/AMSV1.0/getfile?DocName=STELPRDC5091326>

Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables

U.S. Food and Drug Administration

This comprehensive, 49-page guide offers tips and procedures for keeping produce safe.

<http://www.fda.gov/downloads/Food/GuidanceComplianceRegulatoryInformation/GuidanceDocuments/ProduceandPlanProducts/UCM169112.pdf>

Food Code Fact Sheet

Wisconsin Department of Agriculture, Trade and Consumer Protection

A comprehensive list of guides to Wisconsin Food Code.

<http://datcp.state.wi.us/>

Search "Food Safety Publications for Businesses"

Food Safety Begins on the Farm

Cornell University

Good Agricultural Practices Network for Education and Training

<http://www.gaps.cornell.edu/>

Food Safety Risk Management Guide

Kansas State University

Includes an overall checklist for food safety risks during production and marketing of beef, poultry, and produce.

<http://www.ksre.ksu.edu/bookstore/Item.aspx?catId=490&pubId=1040>

Sample Farm Safety Manual

Oregon Department of Agriculture

Sample Food Safety Program that can be modified to fit a farm operation.

www.oregon.gov/ODA/ADMD/docs/pdf/gap_safety_program.pdf

Taxation

Farm taxation rules are detailed, complex and subject to frequent change. The general information that follows is not a substitute for consulting with a qualified attorney and/or tax professional.

This section is set up to provide resource necessary for starting and maintaining an operation both self-employed and supporting employees while also covering liabilities such as sales, excise, and property taxes.

As noted above, a thorough discussion of the intricacies of business tax is beyond the scope of this Guide. This is particularly true of business income taxes, in which complex rules specific to each type of entity, base income and any deductions and/or credits depend upon the operations of the particular business.

An excellent place to start any research is *Publication 225: Farmer's Tax Guide*. The guide, published by the IRS, is available through the IRS

[Agricultural Tax Center website](http://www.ruraltax.org)

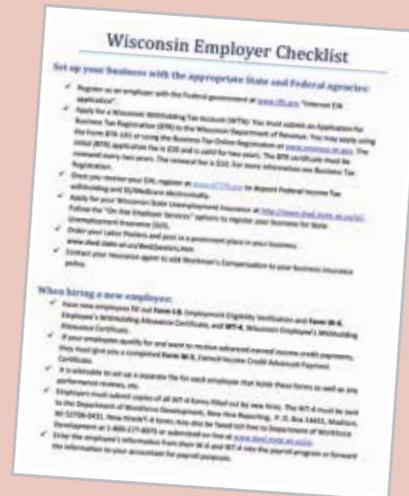
The guide covers tax issues specific to farming, including records, accounting methods, income and expenses, expenses associated with soil and water conservation, asset basis, depreciation/depletion/amortization, gains and losses, disposition of property, installment sales, casualties/theft/condemnation, self-employment tax, employment tax, excise tax, estimated taxes, filing a return, and where to get help. In addition, the website

www.ruraltax.org

covers a wide range of tax issues relevant to farmers and direct farm businesses, including who is a “farmer” for tax purposes, filing dates and estimated tax payments, self-employment taxes, and others.

For information and publications on the taxation of each type of business entity, as well as necessary forms, go to the online IRS

[A-Z Index for Businesses](#)



Wisconsin Employer Checklist

- Register as an employer with the Federal government at www.irs.gov “Internet EIN application.”
- Apply for a Wisconsin Withholding Tax account (WTN): You must submit an Application for Business Tax Registration (BTR) to the Wisconsin Department of Revenue. You may apply using the Form BTR-101 or using the Business Tax Online Registration at www.revenue.wi.gov. The initial (BTR) application fee is \$20 and is valid for two years. The BTR certificate must be renewed every two years. The renewal fee is \$10. For more information see Business Tax Registration.
- Once you receive your EIN, register at 222.EFTPS.gov to deposit Federal Income Tax withholding and SS/Medicare electronically.
- Apply for your Wisconsin State Unemployment Insurance at <http://www.dwd.state.wi.us/ui/> Follow the “On-line Employer Services” options to register your business for State Unemployment Insurance (SUI).
- Order your Labor Posters and post in a prominent place in your business. www.dwd.state.wi.us/dwd/posters.htm
- Contact your insurance agent to add Workmen’s Compensation to your business insurance policy.

Taxation of Business Income

Federal Taxation (26 U.S.C. Subtitle A)

A thorough discussion of the intricacies of business tax is beyond the scope of this Guide. This is particularly true of business income taxes, in which complex rules specific to each type of entity, base income and any deductions and/or credits depend upon the operations of the particular business.

Resources for Tax Information and Forms

A-Z Index for Businesses

A directory of information and publications on the taxation of each type of business entity, as well as necessary forms.

<http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/A-Z-Index-for-Business>

Publication 225: Farmer's Tax Guide

This guide covers tax issues specific to farming, including records, accounting methods, income and expenses, asset basis, gains and losses, self-employment tax, filing a return and more.

<http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Agriculture-Tax-Center>

Rural Tax Education

Covers a wide range of tax issues relevant to farmers and direct farm businesses, including who is a "farmer" for tax purposes, filing dates and estimated tax payments, self-employment taxes, and others.

www.ruraltax.org

Sole Proprietorships

Sole proprietorships file taxes along with the owners' income tax using Form 1040. The IRS considers a sole proprietor as self-employed, and also liable for self-employment tax, estimated taxes, social security and Medicare taxes, income tax withholding (if the business has employees), and federal unemployment tax (FUTA). These taxes are imposed on all employers and discussed in detail in Section 4, below.

Partnerships

Partnerships file Form 1065 to report earnings, but do not pay taxes. Rather, the tax liability "passes through," meaning that each partner pays taxes on her share of the partnership's earnings as part of her personal income

taxes. Accordingly, a partner who owns a 70% share in the business would pay taxes on 70% of the partnership's earnings. Each partner must pay taxes on their share of partnership's earnings, even if no distribution is made. For instance, if the partnership reinvests all of the earnings in expanding the business, partners would still pay taxes on their share of the undistributed earnings. Similarly, partnership losses pass through to individuals and are deductible by the individual up to the partner's basis in the partnership.

Corporations

Corporations pay taxes on their profits (and can deduct a certain amount of their losses). Generally, the corporation must make estimated tax payments throughout the year (using form 1120-W). At the end of the year it makes a final calculation and reports its taxes using Form 1120.

As noted in the introduction, shareholders must pay taxes on the corporate profits distributed to shareholders. Corporations may distribute profits in several ways, such as dividend payments, increased stock ownership, changes in types of stock, etc. The IRS considers all of these distributions as taxable income. Of course, if shareholders work for the corporation, a common situation in small corporations, the shareholder/employee must pay individual income taxes on their wages/salary.

S corporations

S corporations, except in limited circumstances, do not pay taxes. Instead, earnings and losses pass through to the shareholders, who pay taxes on these earnings based on their individual income level. The earnings are allocated on a per share, per day basis, with shareholders liable for taxes on these earnings even if there is no cash distribution. An S corporation reports earnings and losses on Form 1120S.

Limited Liability Companies (LLC)

Owners of an LLC may elect to organize as a sole proprietorship (as an entity to be disregarded as separate from its owner, or "disregarded entity"), partnership, or corporation. If the LLC has one owner, the IRS automatically will treat the LLC as a sole proprietorship unless the LLC elects treatment

as a corporation. Similarly, if the LLC has two or more owners, the IRS automatically will treat the LLC as a partnership unless it elects otherwise. The LLC may elect corporate status using Form 8832. Sole proprietorships or partnerships do not have to file Form 8832 unless they wish to be treated as a corporation.

Single-member/owner sole proprietorship LLCs file an individual tax return (1040, Schedule C, E or F). Multiple-member/owner LLCs file a partnership return (Form 1065). LLCs electing corporate treatment file a corporate return (1120 or 1120S).

Cooperatives

Subchapter T of the Internal Revenue Code governs federal taxation of cooperatives. A cooperative, as a non-profit, typically is not taxed, as any earnings pass through to individual patrons of the cooperative. The cooperative reports profits on Form 1120-C and patrons report income on form 1099-patr. For a primer on the federal taxation of cooperatives, the USDA Rural Development maintains a website that contains many publications related to the taxation of cooperatives, including *Cooperative Information Report 23, The Tax Treatment of Cooperatives*, published by the USDA Rural Development program. *IRS Publication 225: Farm Income* also touches on cooperative reporting of taxes.



Insurance

To best determine the insurance needs of a direct farm business, start with a visit to a qualified insurance agent - preferably one who is familiar with how direct farm businesses operate. Farmers should be prepared to explain their operation in detail, and should request an insurance proposal from the agent that addresses the operation's every risk and potential amount of loss. Businesses may also wish to compare policies from multiple agents. Necessary insurance products may include premises liability (to cover liability for injuries that may occur on the property), workers' compensation, physical damage to business property, product liability, motor vehicle, crop insurance, and some kind of casualty insurance to cover transactions until title passes to the purchaser.

Many of these insurance needs may be incorporated into a basic farm insurance policy. These include losses to the farm dwellings and outbuildings, personal property (including tractors and other equipment), and premises liability arising from some incidental on-farm business operations. Depending upon the scale of the operation and the insurance company, roadside farm stands and U-pick enterprises may or may not be covered under incidental business operations in the basic farm insurance policy. Agritourism, petting zoos or seasonal farm festival activities generally are not considered incidental farm business operations for insurance purposes and will require specific endorsements. Insurance field agents can review all of these operations in order to implement best management practices that are designed to eliminate or reduce potential risks.

Additionally, farmers must consider their liability for selling produce contaminated with harmful bacterial pathogens. Though product liability issues generally are minimal in the commodity agriculture production business, especially when selling products for further processing later in the food supply chain. But when selling direct to the consumer, the risk of product liability increases, as the injurious product may be traced directly to the direct farm business. Many farmers mistakenly believe that their general farm insurance policy will protect them against liability resulting from harmful pathogens (e.g., Salmonella; E. coli) in raw and unprocessed fruits and vegetables.

However, this may not be the case, because general farm insurance policies usually only cover injuries that occur on the farm premises, and foodborne illnesses typically occur somewhere else. In some cases, a general commercial liability insurance policy, or even separate product liability coverage, may be required.

Furthermore, once a direct farm business transitions from agricultural commodity to *production* of processed goods, or *direct sales* to consumers of any kind, a basic farm policy may not cover injuries that occur in connection with that processing or sale - even if they occur on the premises insured by the farm policy. Some farm policies define —farming‡ and —business‡ separately and exclude any —business‡ operations - including, in some cases, U-pick operations - from policy coverage. In such a case, insurance coverage would not extend to a patron who trips on a rock in a U-pick parking lot on the premises and sues the farm owner for payment of her medical bills. And certainly, an on-farm business with a commercial scale kitchen would not qualify as “incidental” to the farm operation, but rather a commercial undertaking with particular insurance coverage needs.

Due to the variability of insurance coverage and prices depending upon the specific direct farm business, insurance needs and costs should be assessed early in the business planning process. Moreover, bank financing may require insurance expenses to be incorporated as part of the cost structure and profitability models in the business plan. Further, some potential customers (e.g., restaurants, institutional sales) may require proof of adequate insurance.

Again, it is important to discuss these issues with an insurance specialist and an attorney to ensure the business owner *and* the direct farm business have the necessary insurance coverage to protect the business assets and minimize personal liability exposure.

Liability Concerns

Most farms and farm businesses, and certainly farms with direct and intermediate marketing enterprises, have complex mixtures of potential personal and business liabilities. Insurers nationwide are gaining experience with alternative farm enterprises. Because farm insurance needs are complex, you should work

directly with an insurance agent to identify your particular needs and to obtain the kinds of coverage necessary.

Farmers who market products need to regularly review their insurance needs with an insurance agent and attorney. Liability questions are more challenging than those raised by simple physical property coverage. Insurance companies offer a diverse range of coverage. Individual policies are available for physical loss of property, liability, and workers' compensation, as well as coverage for other specific needs. The alternative most local food marketers select is a package policy that combines all types of coverage in one policy.

Liability and Farm Insurances

Farmers are exposed to liability for their enterprises, whether conducted on the premises or away from them, such as while selling at a farmers market. You are also exposed as a result of injuries to you or one of your employees. If your product causes harm to the buyer, you may be held liable. Liability insurance is essential to pay for sums you may become legally obligated to pay.

The main areas of insurance needed typically include liability for products sold, for visitors to the farm, for farm workers, as well as coverage for the value of crops grown and property and equipment owned.

Product Liability

Liability for the food that you sell is called "product liability." This is handled differently depending on where and how much product you sell. On-farm sales may be covered through your regular property insurance package, but don't assume that is the case. Ask your insurance agent if you are covered if someone gets sick from food that you sold. If you are selling to grocery stores or food services, they may require you to carry separate product liability coverage. Some farmers markets require each vendor to carry their own liability coverage. If you are selling product through a distributor, you probably will be required to carry product liability coverage. Following safe food handling and food processing practices are necessary to limit your liability exposure and to guard against people becoming ill from your products. Some buyers may refuse your product if they realize you failed to follow safe food handling practices.

Premises Liability

Liability for people who visit your farm is called "premises liability." If your farm enterprises involve having visitors to the farm, ask your insurance agent if your policy covers all liability exposures. For example, a policy may cover visitors who are guests, but not customers of a farm-based business.

When you have a farm enterprise that invites customers to the farm, such as a Pick Your Own farm, a petting zoo, or a corn maze, there are safety measures you can take to minimize risk to your customers such as:

- Make sure the areas that customers visit are free of debris.
- Get rid of wasp and hornet nests near areas visited by customers.
- Eradicate harmful weeds such as poison ivy, stinging nettles, and ragweed.
- Strictly follow re-entry times for any pesticides.
- Lock up farm chemicals, if used.
- Keep farm equipment away from customer areas.
- Post signs to warn of any dangers you are not able to remove.
- Have a well-marked and large enough parking area.

Not only do such measures protect your customers, they give you some protection against claims of negligence should an injury occur at your farm.

Agriculture Tourism Liability

* Must post and maintain signage at each entrance or activity location that discloses the risk inherent in the agriculture tourism activity.

For additional information on 2013 Wisconsin Act 269 please visit:

<https://docs.legis.wisconsin.gov/2013/related/acts/269>

For the legislative brief please visit:

<http://legis.wisconsin.gov/lc/publications/act/2013/act269-ab746.pdf>

Workers' Compensation and Employers' Liability Insurance Coverage

You have liability for any farm worker you hire. Most employers—including family farmers—are required to carry workers' compensation insurance for employees. Under Wisconsin law, a person engaged in farming is required to obtain a workers' compensation policy when that person employs six or more employees for 20 consecutive or nonconsecutive days during a calendar year. Employees injured on the job receive medical and wage benefits. If workers' compensation doesn't apply, the injured party can still receive compensation from the employer for monetary loss and possibly pain and suffering.

As with product and premises liability, you need to talk to an insurance agent to discuss insurance coverage needs relating to your employees. If you are exempt from carrying workers' compensation, you still need to make sure you have adequate farm worker coverage on your regular farm property insurance package. Also, farmers who are exempt may still choose to purchase workers' compensation coverage as a benefit to their employees.

As a farm employer, you have liability not only for injuries to your employees, but for injuries or losses they may cause to others. To lessen this risk, post clear guidelines and written job descriptions for your employees and discuss this liability concern with your insurance agent.

Unpaid Interns

For many small farms, hiring unpaid interns is a common practice. They provide much needed labor, and the intern benefits by receiving valuable mentoring and experience. However, if the intern is doing work on the farm that contributes to the farm's profitability, he or she is an employee and the farm business must take care to comply with applicable employment laws. If a farm qualifies for the minimum wage exception delineated above (employing fewer than 500 man-days per quarter), the federal and Wisconsin rules set no minimum wage, thereby allowing employers not to pay interns. This is somewhat unusual—many states have minimum wages, even for agricultural employees, and there are numerous instances of the government assessing small farms large



fines for violating minimum wage rules. If interns are not being paid, the farm should nonetheless have them clock in and out as if they were paid employees. The farm should also keep meticulous records of their unpaid interns, including names, employment dates, and duration of service. If a disgruntled intern complains to the Department of Labor, and the farm becomes the subject of an investigation, it is important to have a paper trail documenting the farm's compliance with the laws. Even if an internship is exempt from the minimum wage requirements, the farm is not exempt from complying with the other employment laws. For instance, OSHA and FIFRA rules still apply, housing and transportation must meet minimum standards, and workers' compensation (see discussion below) is necessary if the farm employs more than 400 man-days per quarter. Farms employing paid and unpaid employees must count the unpaid employees' man-days toward the 400 for workers' compensation purposes.

Making an internship a positive experience for the farmer and the intern requires more than simply expecting the intern to show up and work. It requires carefully recruiting and selecting interns mentally and physically prepared for the nature of the work and developing a realistic plan for what and how they will learn. One of the best ways to ensure a positive experience is to develop an internship agreement that outlines the hours and work expected, the housing provided (if any), food and fresh produce arrangements, and what

mentoring the farmer will provide. Both the farmer and the intern should sign the agreement. Clearly defined expectations at the outset will help prevent conflicts, or worse yet, an intern who abandons the farm mid-season. It will also be beneficial to the farmer to have a clearly delineated agreement in case of a Department of Labor audit or inspection.

Resources for part-time/ seasonal workers

Guide to Wisconsin Child Labor Laws

Contains information for employers, minors, parents, school administrators, counselors and faculty

http://dwd.wisconsin.gov/dwd/publications/erd/pdf/erd_17231_p.pdf

Labor Standards for Wisconsin Employment of Minors

http://dwd.wisconsin.gov/dwd/publications/erd/pdf/erd_4758_pweb.pdf

Cultivating a New Crop of Farmers - Is On-Farm Mentoring Right for You and Your Farm? A Decision Making Workbook

New England Small Farms Institute

Contains worksheets covering all aspects of mentoring.

<http://www.smallfarm.org/main/bookstore/publications/>

The On-Farm Mentor's Guide – Practical Approaches to Teaching on the Farm

Provides more detailed guidance for on-farm mentoring.

<http://www.smallfarm.org/main/bookstore/publications/>

Wisconsin Statue for Migrant Workers

103.915 Migrant work agreements.

<http://statutes.laws.com/wisconsin/103/103.915>

Checklist

- Have you read and understood the agricultural exceptions to the FLSA and Wisconsin's minimum wage law? If you intend to take advantage of the exceptions, have you verified that employees' activities qualify?
- If you intend to employ minors, do you understand the restrictions on the hours and activities in which they may be employed? Have you obtained necessary certificates for each minor?
- Have you obtained equipment and developed operational procedures necessary to comply with OSHA, FIFRA

and other employee-protection laws?

- Have you complied with any necessary paperwork and disclosure requirements for migrant workers you may employ?
- If employing unpaid interns, have you established reasonable recordkeeping for ensuring and verifying compliance with all minimum wage, hours and worker safety laws? Have you developed a plan for ensuring the experience meets yours and the intern's expectations?
- Have you discussed workers' compensation insurance, and any other employee liabilities, with your insurer or an attorney?

Property Insurance Coverage

Farm property includes buildings, vehicles, equipment, and inventory. A clear explanation in the policy is essential so you know what the policy provides.

Farm property insurance includes coverage for different types of farm structures, vehicles, machinery, equipment, inventory, livestock, and crops. Coverage options may vary depending on the type and cause of loss. Losses may include damage to or loss of physical items that are owned, leased, or contracted by your business. You must know the value of the property or equipment you wish to cover and today's replacement value of these items. You'll also want to evaluate what type of losses will impair your farm operation and for how long.

Read your farm property insurance policy carefully to know the risks covered and any conditions, restrictions, or exclusions that may limit insurance coverage. Review your insurance coverage annually and make any needed adjustments.

Crop Insurance and Livestock Price Insurance

The Risk Management Agency (RMA) of the USDA underwrites crop insurance for farmers. The RMA provides insurance for a wide variety of crops, including many fruits and vegetables. For a list of crops covered, go to www.rma.usda.gov and search “Crops Covered.” Then choose the list of crops covered for the most recent year.

RMA’s Adjusted Gross Revenue (AGR) product provides protection against low revenue due to unavoidable natural disasters and market fluctuations that occur during the insurance year. Covered farm revenue consists of income from agricultural commodities, including incidental amounts of income from animals and animal products and aquaculture reared in a controlled environment. For more information go to:

www.rma.usda.gov/policies/agr.html

AGR-Lite insurance is available through underwriting by the RMA. This whole-farm income insurance policy is based on a farm’s five-year history of revenue, plus the current year’s farm plan. This type of plan may be attractive to diversified enterprises since coverage is not tied to one specific crop or mix of crops.

For producers to qualify for disaster programs administered by the USDA’s Farm Service Agency, such as the Livestock Forage Program, Emergency Assistance for Livestock, Honey Bees, and Farm Raised Fish, and the Tree Assistance Program, farmers must have their own baseline crop insurance.

Noninsured Crop Disaster Assistance Program (NAP)

USDA’s Farm Service Agency’s (FSA) program provides financial assistance to producers of non-insurable crops when low yields, loss of inventory, or prevented planting occur due to natural disasters.

For a fact sheet on NAP go to:

https://www.fsa.usda.gov/Internet/FSA_File/nap_august_2011.pdf

For more information go to:

www.fsa.usda.gov

Search NAP or go to your local FSA office



Supplemental Revenue Assistance Program (SURE)

This program, while not an insurance, is available to eligible producers on farms in disaster counties that have incurred crop production or quality losses and whose economically significant crops are covered by crop insurance or NAP.

For a fact sheet on SURE go to:

http://www.fsa.usda.gov/Internet/FSA_File/sure_101212_factsheet.pdf

Resources for Risk Management and Insurance

Risk, Liability and Insurance for Direct Marketers

UW Cooperative Extension

A brief introduction to liability and insurance for direct marketers.

www.uwex.edu/ces/agmarkets/publications/documents/A3811-7.pdf

USDA Risk Management Agency (RMA)

Online publications and crop fact sheets.

www.rma.usda.gov/pubs/rme/fctsht.html

Agent Locator

USDA-Risk Management Agency

RMA’s online agent locator lists crop insurance and livestock price insurance agents.

www.rma.usda.gov/tools/agents/companies/RMA

For a fact sheet on SURE go to:

http://www.fsa.usda.gov/Internet/FSA_File/sure_101212_factsheet.pdf

NOTES



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Wisconsin Local Food Marketing Guide Publication Number: MK-DM-17 (rev.8/14)

