

**Minnesota Department of Agriculture
Food Safety and Defense Task Force
Food Innovation Team Subcommittee**

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Data Privacy Tennessee Warning:

The Food Innovation Team (FIT) regularly requests data from food business owners (FBOs) interested in participating or gaining food business licensing guidance from FIT through the Pre-Screening Intake Form (PSIF), during FIT meeting proceedings, and as part of the regular processes of FIT. The information provided for these FIT activities will be used before, during, and after FIT meetings to answer licensing questions from FBOs. Information provided is public information and will be discussed at a meeting that is open to the public. If you have information that you want protected, please contact the Food and Feed Safety Division Director, Katherine Simon (Katherine.simon@state.mn.us or (651) 201-6596) before filling out this form and submitting it to FIT.

Exclusion of liability statement

The report generated is a *non-binding review* by the FIT Subcommittee; it is the role of the jurisdictional regulatory body to determine next steps for the FBO. Neither the FIT Subcommittee nor the FSDTF are the final decision maker regarding the future of a case. FSDTF and its subcommittees are advisory bodies only. The job of the FIT Subcommittee is to aid FBOs with complex questions as they relate to licensing, and offer suggestions based on member's experience and expertise. The FSDTF and its subcommittees do not have any enforcement or regulatory authority and are not liable for any issues or consequences arising out of the use of the FSDTF or any subcommittees thereof.

FIT Website Notification:

Please note that all information contained in this form is subject to public information requests. This form will be published on the FSDTF website.

Date of FIT Meeting: 07/16/2024

Meeting Participants:

- FIT Members:
 - Kathy Zeman
 - Jane Knott
 - Shelly Erickson
 - Blake Nordin
- Ad-Hoc Experts:
 - Nicole Droher
 - Matthew Finkenbiner
 - Jane Jewett
- Business Members:
 - Aaron Brand
- Other:
 - Amy Zagar – Senior Environmentalist (Hennepin County)
 - Journey Gosselin – Food Business Navigator (MDA)
 - Stephanie Anderson – Compliance Officer (MDA)
 - Collin Kappenman – Plan Review and HACCP Supervisor (MDA)
 - Vonda Canaan – Retail Food Supervisor (MDA)
 - Alida Sorenson – Response and Outreach Supervisor / Cottage Food Program (MDA)
 - Nicole Baysal – Produce Safety Program Manager (MDA)
 - Jeff Luedeman – Assistant Division Director (MDA)
 - Natasha Hedin – Outreach Coordinator / FIT Administrator (MDA)

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General Business Information (Do not include this section in public-facing online database)	
Name of business:	Brand Farms
Location of business:	Farmington, MN
Referred by:	<input type="checkbox"/> MDA <input type="checkbox"/> MDH <input checked="" type="checkbox"/> FIT member <input type="checkbox"/> MDA Delegated Agency <input type="checkbox"/> MDH Delegated Agency
Current license(s), registration(s), and/or exemption(s): (Please include date of issuance.)	<ul style="list-style-type: none"> - MDA – Retail Mobile/Seasonal Temporary Food Stand, Lic. # 20240966 - MDA – Retail Mobile/Food Vehicle, Portable Structure or Cart, Lic. # 20242423 - MDH – Mobile Food Unit 42389, Special Event Food Stand License 43377 - MDA – Registered Cottage Food Producer, Reg. # 20175959
Why was this business referred to FIT?	
Current business model:	<p>Brand Farms includes an apple orchard and a laying hen flock. There is an on-farm store that sells:</p> <ul style="list-style-type: none"> - Dried apple chips (product of the farm) - Eggs (product of the farm) - Apple cider (product of the farm) - Fresh apples (product of the farm) - Apple cider doughnuts and cottage food law compliant pies (Non-Potentially Hazardous Foods List – Cottage Foods) <p>Brand Farms works with a cannery as a co-packer that makes custom-labeled jarred apple products. They have a Retail Mobile/Food Vehicle, Portable Structure or Cart license for sale of those products at farmers’ markets.</p> <p>Brand Farms works with a butcher to get apple bratwurst and apple breakfast links. They have a Retail Mobile/Seasonal Temporary Food Stand license to sell those products out of a booth in a building at their county fair each year.</p> <p>Brand Farms serves apple cider (unpasteurized) slush and soft-serve ice cream out of a trailer that is licensed by MDH.</p>
Key issues examined by FIT:	<ul style="list-style-type: none"> • Product of the Farm or Garden Licensing Exclusion • Cottage Food Licensing Exemption • Specific Food Products
Other issues:	

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What issues were discussed?	
Summary of discussion:	<p>Product of the Farm or Garden Licensing Exclusion (POTF):</p> <ul style="list-style-type: none"> • Includes foods you grow or raise on land that you own or occupy. • May be processed (e.g., sliced, dried, etc.), but cannot include off-farm added ingredients. • The grower is responsible for providing a safe and wholesome product, that is not adulterated, mislabeled, or misbranded. • Many items can be sold from retail outlets, except for a few specific products (certain meats, pre-packaged unpasteurized juice, cottage foods). <p>Cottage Food Licensing Exemption (CF)</p> <ul style="list-style-type: none"> • Cottage foods can be sold direct to the end consumer from a home, farmers' market, or a community event. • Cottage foods cannot be wholesaled or sold at retail stores. • Cottage foods cannot be added to licensed food products for sale. <p>Food Product Discussion:</p> <p>Apple Chips – The apple chips contain no added ingredients and therefore can be sold under the POTF exclusion in a licensed establishment because they are being grown and cultivated by the food business owner. They also qualify to be sold under the Cottage Food Exemption. In this situation, the FBO can decide how to market the product. Keep in mind that cottage foods cannot be sold from a licensed establishment. If they are sold from a licensed establishment, they cannot be displayed/marketed as cottage food. These are currently sold as a packaged, labeled product.</p> <p>Apple Cider (POTF Exclusion) – Any POTF processing facility must meet applicable food safety standards (e.g., cGMP, MR1550). In this case, the cider is not pasteurized and is made for retail sales only. The unpasteurized cider may be dispensed in bulk containers and used as an ingredient in other products made in the licensed retail food establishment (same legal entity) provided the cider is produced in a facility that meets applicable food safety standards. If selling under the POTF exclusion, the raw, unpasteurized cider needs to comply with Minnesota Food Law (i.e., not adulterated and properly labeled, informing the consumer through labeling according to 21CFR that it is an unpasteurized product). None of the cider in this case is processed for</p>

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wholesale distribution. Wholesale processing is subject to juice HACCP under 21CFR. Raw, unpasteurized juice does not qualify for the cottage food exemption.

Meats – Meat and meat products sold at retail must be processed under inspection (USDA or Minnesota’s “Equal To” inspection) and bear the mark of inspection.

- A license is required to sell meat and meat products with added ingredients.
- Meat and meat products that are considered product of the farm, without added ingredients may be sold without a license.

Custom exempt processed meat and poultry products must be returned to the owner of the animal (purchased the animal before slaughter).

Poultry – all poultry needs to have a mark of inspection. PL exempt (raised and slaughtered by the owner can be sold from the farm) would not be an approved source in a retail location. Birds can be slaughtered and processed at a custom exempt facility if sold live and returned to the owners of the birds for their personal use.

MDH approved a Mobile Food Unit License (licensed food establishment) with the menu of soft serve ice cream and apple chips. Cottage food items cannot be sold from the Mobile Food Unit that is licensed by the MDH or the MDA.

A Retail Mobile Food Handler License can be classified in different ways. It’s important to know what is happening at the point of sale.

The FBO currently has two Retail Mobile Food Handler Licenses from the MDA: one Seasonal Temporary, and one Retail Food Vehicle/Portable Structure/Cart for a storage trailer and sales at an additional location. This allows the business to sell licensable food at two sites at once (e.g., at a farmers’ market and onsite at the farm at the same time). It also allows the business to store licensable products on the trailer at the farm. If not planning on being at two sites at once, only one license would be needed.

- Portable Structure or Cart (Trailer) – can be used to store products.
- Question: Do you have to take the trailer with you to an off-site location? Answer: Yes, if you are going to use the provision of “Time

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	<p>as a Public Health Control”. The operator is responsible for following the guidelines.</p> <ul style="list-style-type: none">• Only pre-packaged products are being sold from these locations/unit (no food preparation can take place under these licenses)• If the food business owner wanted to add open food preparation or sales to the Seasonal Temporary Food License, a retail plan review would be required first.• Seasonal Temporary licenses are for food establishments that are disassembled and moved from location to location and operates for no more than 21 days annually at any one location unless approved to do so by the regulatory authority. <p>If the food business owner decides to keep the products in the shed (fixed building), a retail license needs to be pursued. However, no license is needed if only POTF items are stored in this location.</p> <ul style="list-style-type: none">• More discussion is needed as there is confusion with co-mingling products (cottage foods & POTF). Any POTF product (that does not have a restriction on where it is sold at retail), can be co-mingled. Some products (e.g., poultry that can only be sold from the farm) are not allowed to be co-mingled and have additional restrictions.• Meat and meat products with no added ingredients must be processed under inspection (USDA or Minnesota’s “Equal To” inspection) and bear the mark of inspection. <p>Water source and waste water standards need to be met regardless of license type (retail or wholesale). This business is principally retail sales and would be allowed to wholesale under a retail license.</p> <p>The food business owner expressed concerns with farm set-up for the upcoming season. The MDA and MDH have offered a pre-opening walk-through to ensure all questions are answered and there are no remaining questions or issues with the licensing or exempted/excluded products. The proposed group for additional discussions:</p> <ul style="list-style-type: none">- Aaron Brand- Jane Jewett- Collin Kappenman- Matt Finkenbiner- Keri Plude
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Other notes:	<ul style="list-style-type: none"> • There is confusion around products that can be sold under multiple exemptions (POTF or cottage food). • Complaints can be filed with MDA compliance anonymously. • Time as a Public Health Control (TPHC) was discussed in reference to certain products and the requirement for providing a safe, wholesome product. <ul style="list-style-type: none"> ○ TPHC requirements apply to licensed food establishments. ○ The trailer is licensed as a Retail Mobile Food Handler – Cart and therefore MR4626.0395D applies. <ul style="list-style-type: none"> ▪ For a special event food stand, delivery vehicle, retail food vehicle, portable structure, or cart, dry ice or cold packs may be substituted for mechanical refrigeration required in this part and part 4626.0375 if the temperatures in parts 4626.0370 to 4626.0420 are maintained. Mechanical refrigeration must be provided for Time/Temperature Control for Safety (TCS) foods held for 4 hours or longer. ○ The seasonal temporary license is not included in the exemption to using mechanical refrigeration for less than four hours (4626.0395D).
Licensing authority representative (name and organization):	MDA and MDH
Recommendations / Lessons Learned	
FBO:	
Internal (FIT):	
Licensing agency:	MDA, MDH
Rules / Statutes:	MS 28A.02, MS 28A.15, MS 31.02, MS 31.175, MR 1550, MR 4626, and parts of 21 CFR.