

CHAPTER 34
HOME FOOD ESTABLISHMENTS

481—34.1(137D) Inspection standards.

34.1(1) All ingredients must come from a licensed or approved source except for fresh fruits and vegetables, nonhazardous baked goods and honey or eggs. The use of food in hermetically sealed containers not prepared in a licensed food processing plant is prohibited.

34.1(2) All food products and ingredients shall be stored in original containers. If removed from the original container, food and ingredients must be stored in labeled and closed containers. Container must be of a material that will not cause the food to become adulterated.

34.1(3) All food shall be in sound condition, free from spoilage, filth or other contamination and shall be safe for human consumption. Food products shall not be stored on the floor.

34.1(4) All potentially hazardous food must be refrigerated at 41°F or less, or held at 135°F or higher, to control bacterial growth. Potentially hazardous foods that have been cooked and then refrigerated shall be reheated rapidly to an internal temperature of 165°F or higher before being placed in hot food storage holding units. Food warmers and other hot food holding units shall not be used for the reheating of potentially hazardous foods.

34.1(5) Food storage facilities must be kept clean and located to protect food from unsanitary conditions or contamination from any source at all times.

34.1(6) The floors, walls, ceilings, utensils, machinery, equipment and supplies in the food preparation area and all vehicles used in the transportation of food must be kept thoroughly clean. All food contact surfaces shall be easy to clean, smooth, nonabsorbent, and free of cracks or open seams.

34.1(7) All food must be protected against insects and rodents at all times. Outside doors, windows, and other openings must be fitted with screens and self-closing doors, if not otherwise protected. No dogs, cats, or other pets are allowed in the room where food is prepared or stored.

34.1(8) All garbage and refuse must be kept in containers and removed from the premises regularly to eliminate insects and rodents, offensive odors, or health or fire hazards. Garbage and refuse containers must be durable, easy to clean, insect- and rodent-resistant and of material that neither leaks, nor absorbs liquid.

34.1(9) All food handlers must be free from contagious or communicable diseases, sores or infected wounds, and must keep their hair covered and restrained.

34.1(10) All food handlers must keep themselves and their clothing clean. Hands must be washed as frequently as necessary to maintain good sanitation.

34.1(11) Smoking is not permitted while handling or preparing food or in food preparation or storage areas.

34.1(12) All establishments must have an adequate supply of hot and cold potable water under pressure from an approved source. Facilities must ensure that equipment, utensils, and containers used in the preparation of food shall be washed, rinsed and sanitized. If the residence is not served by a public water system, the water must be tested annually for nitrites and coliform. Records of water tests must be maintained by license holders who are not served by a public system. These records must be available to the regulatory authority upon request.

34.1(13) All establishments must have proper toilet facilities, equipped with a hand-washing lavatory, complete with hot and cold potable water under pressure and hand soap. A supply of sanitary towels or a hand-drying device providing heated air shall be conveniently located near the hand-washing facility.

34.1(14) Rescinded IAB 9/22/99, effective 10/27/99.

481—34.2(137D) Enforcement.

34.2(1) All critical violations shall be corrected within 10 days. Within 15 days, the license holder shall make a written report to the regulatory authority, stating the action taken to correct the critical violation. All noncritical violations shall be corrected within the time period required by the inspection, but in all cases the violation shall be corrected within 90 days of the routine inspection.

34.2(2) Violation of these rules or any provision of Iowa Code chapter 137D is a simple misdemeanor. The department may employ various remedies if violations are discovered.

- a.* A license may be revoked.
- b.* An injunction may be sought.
- c.* A case may be referred to a county attorney for criminal prosecution.

481—34.3(137D) Labeling requirement. All labels shall contain the following information in legible English:

1. Name and address of the person(s) preparing the food,
2. Common name of the food,
3. The names of all ingredients in the food, beginning with the one present in the largest proportion and continuing in descending order of predominance, and
4. The quantity of the contents in terms of weight, measure or numerical count.

481—34.4(137D) Annual gross sales. Annual gross sales shall not exceed \$20,000. The license holder shall maintain a record of sales of food licensed under Iowa Code section 137D.1(3). The record shall be available to the regulatory authority when requested.

481—34.5(137D) Criminal offense—conviction of license holder.

34.5(1) The department may revoke the license of a license holder who:

- a.* Conducts an activity constituting a criminal offense in the licensed home food establishment; and
- b.* Is convicted of a felony as a result.

34.5(2) The department may suspend or revoke the license of a license holder who:

- a.* Conducts an activity constituting a criminal offense in the licensed home food establishment; and
- b.* Is convicted of a serious misdemeanor or aggravated misdemeanor as a result.

34.5(3) A certified copy of the final order or judgment of conviction or plea of guilty shall be conclusive evidence of the conviction of the license holder.

34.5(4) The department's decision to revoke or suspend a license may be contested by the adversely affected party pursuant to the provisions of 481—30.13(10A).

This rule is intended to implement Iowa Code section 137D.8(3).

These rules are intended to implement Iowa Code chapter 137D.

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Home Based Food Operations

I. Sales of Non-Potentially Hazardous Food

A. To Consumer Customers

Based on a change in state law, non-potentially hazardous food products can be prepared in the home and sold to consumer customers for consumption off-the-premises. These are food products that are non-perishable and do not require refrigeration to control the growth of undesirable microorganisms. These products cannot be sold to restaurants, grocery stores, other types of retailers, schools or other institutions. These products must be labeled with the name of the food product, and the name and address of the person who prepared the food.

B. To Restaurants, Grocery Stores & Institutions (Wholesale Distribution)

To sell these products to retail food stores, restaurants, institutions, or wholesalers requires that the firm be licensed and inspected as a food processing plant by the State. There is one exception to this rule, home based bakeries that are licensed as home food establishments can sell up to \$20,000 annually of bakery products on a wholesale basis. If the gross sales of the home bakery are over \$20,000 a year, then the firm must be licensed as a food processing plant. The term “baked good” or “bakery product” is limited to the following items per state rule 481-30.1: “breads, cakes, doughnuts, pastries, buns, rolls, cookies, biscuits and pies, except meat pies.” (See Item II)

II. Sales of Potentially Hazardous Bakery Products

These are bakery products that are perishable (potentially hazardous) and require refrigeration to control the growth of undesirable microorganisms. Some examples are: pumpkin pies, cream pies, cream filled products and other bakery products with a PH of over 4.6.

A. Home based firms, that are licensed as home food establishments, can sell up to \$20,000 a year in bakery products only. Firms that sell over \$20,000 annually of bakery products, on a wholesale basis, must be licensed as a food processing plant by the State.

B. License fees for home food establishments are \$25.00 annually.
License fees for food processing plants vary based on gross sales (\$50,000 to \$250,000 annually).

III. Sales of Potentially Hazardous Food (Not Bakery Products in II above)

A. For Household Consumers

Firms that manufacture or process perishable food for direct sale to consumer customers, for consumption off-the-premise, are required to have a retail food establishment license.

B. For Wholesale Distribution (same requirement as I.B. Above)

Firms that manufacture or process food or food products for sale on a wholesale basis, that is, to sell to grocery stores, restaurants, retailers or institutions are required to have a food processing plant license.

Inspection Requirements

- I. Retail Food Establishments are establishments that prepare or distribute food for consumption off-the-premise (grocery stores) and are regulated under Chapter 137F of the Code and the 1997 FDA Food Code. Food service establishments are places that prepare food for individual portion service, which includes catering operations. Both retail food establishments and food service establishments are regulated under the 1997 FDA Food Code. The purpose of the Food Code is to safeguard the public health and provide food to consumers that is safe, unadulterated, and honestly presented. Both retail food establishments and food service establishments pay a license fee based on annual gross sales which ranges from \$30 to \$225 annually. The family kitchen cannot be approved for this purpose. The firm must have a separate "self-contained" food preparation area. The following are requirements for sinks in these types of establishments: a 3-compartment sink for ware washing or a commercial style dishwasher, a separate hand sink, and a mop or utility sink.
- II. Food processing plants are firms that primarily manufacture, package, or label food that is not directly sold to consumer customers. These plants sell food to restaurants, grocery stores, retailers, wholesalers, or institutions. The State has adopted FDA requirements for the regulation of these firms. In addition to the Good Manufacturing Practices, specific regulations have been adopted for bottling water, retort canning and processing of acidified foods. These firms are all licensed and regulated by the State, not by local county health departments.

The processing of low-acid food by retort canning or processing of acidified foods are not allowed, unless these products are commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and

distribution. Processing of these food products, without state and federal (FDA) permission is both a violation of state law and the Federal Food, Drug, and Cosmetic Act. Securing a food processing plant licenses from the State is one requirement to process these types of foods.

Labeling

A product's label must include the following:

1. Product name.
2. 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.
3. Name and address of the manufacturer, packer or distributor. Unless the name given is the actual manufacturer, it must be accompanied by a phrase stating the product is: "manufactured for" or "distributed by."
4. Net weight or volume.

More stringent requirements must be met for firms that are involved in interstate commerce, or make a "health" or "nutrient content" claim (such as "low fat" or "low sugar").

Farmers Markets

Farmers markets are not required to be licensed. The sale of certain product at these markets requires licensing by the vender at the market. See information in the FARMERS MARKETS GUIDANCE DOCUMENT, updated February 2, 2004, for more information on selling food at farmers markets.

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