

Farmers Market Vendor Guide

Information in this document is current as of July 1, 2009, and may change with LAW. Please refer to your local health department should questions arise .

West Virginia Department of Health and Human Resources (WVDHHR), West Virginia Department of Agriculture (WVDA), and the West Virginia Farmers Market Association have worked together with other members of the West Virginia Food Safety and Food Defense Task Force to develop this guide. This guide provides consistent information for farmers, food vendors, and sanitarians who work together to provide fresh, safe, and quality food for the consumer. This document is to be used for guidance to determine what food items may be sold and the conditions that must be met at the point of sale. Please see contact information listed at the end of this publication for further clarification.

Depending upon the product sold, a vendor may be required to obtain a permit from the local health department as a Food Establishment. Coordinate with the local health department to determine who will and will not need to obtain a Food Establishment permit and the amount of the permit fee. The definition of a Food Establishment from the FDA Model Food Code, which was adopted by the WV Legislature April 2, 2008 states: "Food establishment" means an operation that stores, prepares, packages, serves, vends or otherwise provides food for consumption". Further clarification of the definition is available on the WV Secretary of State's webpage, Code of State Rule 64-17, Food Establishment Rule.

Maximum allowable permit fees for Food Service Establishments may be found on the

Secretary of State's webpage, Code of State Rule 64-30, Fees for Permit Rule.

Baked Goods:

It is acceptable to sell baked goods and candy prepared in a home kitchen so long as they are **NOT** potentially hazardous. Potentially hazardous baked goods include:

- Meringue, custard or cream pies
- Cheesecake
- Cream-filled cupcakes, donuts, pastries
- Cream cheese based frostings or fillings

Products that are **allowed** for sale are cakes, fruit pies, yeast and fruit breads, and candy. WVDHHR requires that baked goods be pre-wrapped or protected from contamination during display and properly labeled as required by WVDA. The vendor shall register with the local health department before the date of sale. While these products do not present a hazard from a bacteriological standpoint, the food may be contaminated with filth or other extraneous matter. Therefore, the health department reserves the right to inspect the home kitchens if conditions warrant. Labels must include the following information:

- Common name of product, e.g. apple pie, wheat bread
- Name and address of processor
- Ingredient list with items in order from most to least
- Net weight or numerical

count, e.g. 1lb, 14 oz, 13 cookies. The weight should be in US and Metric equivalency.

- Major Allergens listed

Labels for baked goods may be considered provided if a placard is placed on the sales table and not on the individual package. However, if the product contains one of the eight (8) major food allergens (eggs, wheat, fin fish, shell fish, peanuts, tree nuts, milk products or soy) then a label must be provided with each product item. This could be a sheet of paper that includes the appropriate information.

WVDA is able to assist with labeling and WV Division of Labor, Weights and Measures office can assist with in determining

Applebutter, Sorghum, and Molasses:

These products may be sold at Farmers Markets so long as they are properly labeled as required by WVDA. Due to the high sugar content and the high temperature of the product when it is jarred, the product is not considered to be potentially hazardous. No other products (e.g. pumpkin butter) shall be considered in this category.

These products may be processed outside in copper kettles. The vendor shall register with the local health department before the date of sale. Labels must include the following information:

- Common name of product
- Name and address of processor
- Ingredient list with items in order from most to least
- Net weight in US and Metric equivalency
- Major Allergens listed

WVDA is able to assist with labeling and WV Division of Labor, Weights and Measures office can assist with determining net weights.

Dairy Products:

Pasteurized milk, cheese and other dairy products may be sold at Farmers Markets if the following guidelines are followed:

- Vendor has an approved Dairy Processing Plant
- Product is pre-packaged
- Product is kept at appropriate temperatures in coolers, refrigerated vehicles, or freezers with calibrated thermometers
- The vendor must have a valid Food Est. Permit from the local health department before the date of sale
- Products are properly labeled and includes the following information:
- Fluid milk container must state "Grade A"
- Common name of product and common name of the hooved mammal producing the milk shall precede the name of the milk or milk product when the product is or is made from other than cattle's milk, e.g. goat cheese

- Net quantity of contents
- Ingredient list with items in order from most to least
- Allergens listed
- Identity of the milk plant- Name and Address or Plant Code

Aged cheese may be made from raw milk (unpasteurized) so long as the cheese is processed in an approved processing facility and aged for at least 60 days at a temperature of thirty-five (35) °F or greater. Aging time and temperature may vary dependent upon the type of cheese processed. Contact regulatory agency for individual cheese aging requirements.

The sale of Raw Milk (unpasteurized) for humans or pets is prohibited under WV Regulation. (DHHR Office of General Council interpretation of 64 CSR 34)

Eggs:

A small producer may market up to one hundred fifty (150) dozen eggs or less per week of their own production. The producer must register with the WVDA. Small producers must label their cartons with:

- The name and address of the person producing and selling the eggs
- The date the eggs are packed
- The words "Ungraded Eggs" in print of at least five-eighths (5/8) inch

Eggs shall be washed. Eggs shall be transported at forty five degrees F (45°), unless the time for transportation is less than three (3) hours. Eggs are to be stored and displayed at the Farmers Market in cold holding equipment capable of holding forty one (41°F) or less. The eggs must reach the forty one degree (41°F) temperature within four (4) hours of receipt at the market.

Small producers are permitted to pack in recycled or used car-

tons when the distributor's name, address, expiration date, size and grade are marked out and replaced with the labeling required for small producers. Cartons shall be clean and free of odor or debris. More information may be obtained by contacting WVDA.

Any vendor selling eggs shall have a valid Food Establishment Permit from the local county health department. *Reference: §61CSR19 Egg Marketing Rule, §64CSR30*

Honey:

The sale of honey is permitted at Farmers Markets. The Apiarist must be registered with WVDA. The product must be properly labeled according to WVDA with the following information:

- Common name of the product
- Name and address of processor
- Net weight in US and Metric Equivalency

Refer to WVDA for further information. WVDA is able to assist with labeling and WV Dept. of Labor, Weights and Measures office can assist with instructions on determining net weights.

Jams and Jellies:

The sale of home-processed non-dietary jam and jelly is permitted at Farmers Markets as these products are not considered potentially hazardous.

Fruits and berries usually associated with jams and jelly are grape, strawberry, raspberry, peach, orange, etc. (Hot pepper jelly must be acidified and therefore falls into the Preserved or Canned Foods category.) Persons wishing to offer jam and jelly products for sale shall register with the local health department before the date of sale. While these foods do not present a hazard from a bacteriological standpoint, the food may be contaminated with

filth or other extraneous matter. Therefore, the health department reserves the right to inspect the home kitchens if conditions warrant.

These products must be labeled according to WVDA with the following information:

- Common name
- Name and address of processor
- Ingredient list with items in order from most to least
- Net weight in US and Metric Equivalency
- Major Allergens listed

WVDA is able to assist with labeling and WV Division of Labor, Weights and Measures office can assist with determining net weights.

Preserved or Canned Foods:

The sale of home-canned, preserved, or processed foods, with the exception of non-dietary jams and jellies, is **NOT** permitted at Farmers Markets **unless** the products are from an approved Food Manufacturer. The vendor shall provide proof from WVDHHR that they are an approved Food Manufacturer. Persons wishing to offer these products for sale shall register with the local health department before the date of sale. Salsa, pickled vegetables, sauces, and dressings are examples of preserved foods. A food manufacturing "approval" is required to thermally-process or acidify food products that are offered for sale. Contact WVDHHR for more information on being an approved Food Manufacturer. Some requirements are listed below:

- Separate approved kitchen facility
- Certificate of attendance from a Better Process Control School
- Processing methods must be approved and flow charts provided to WVDHHR

- Registration with FDA
- Approved label from WVDA
- Approval to distribute from WVDHHR

Meats:

Fresh or frozen meats may be sold at Farmers Markets if the following guidelines are followed:

- All products must be commercially slaughtered under USDA or WVDA inspection, passed, and labeled
- Raw products must be kept in cold holding equipment capable of holding the product at forty one (41°F) or less
- Meat products must be held, stored, and transported in a clean sanitary environment to keep products wholesome

The vendor shall receive a Food Establishment permit from the local health department before the date of sale. As part of the routine inspection the local health department may coordinate with WVDA and/or inspect the storage space of the product off premises of the sales area. Off premise storage should be in separate designated cold holding equipment that is stored in a clean, safe, and secure environment. Labels must be provided for the product that include

- Common name of the product
- Net weight of the product
- Other information as required by WVDA and USDA-safe-handling instructions

Cured, smoked or dehydrated meats for sale at Farmers Markets shall be USDA or WVDA inspected. (See 9 CFR 303.1) The vendor must supply appropriate documentation at the point of sale proving the product has been approved.

WVDA is able to assist with la-

beling and WV Division of Labor, Weights and Measures office can assist with determining net weights.

Poultry: The vendor shall receive a Food Establishment permit from the local health department before the date of sale. As part of the routine inspection the local health department may coordinate with WVDA and/or inspect the storage space of the product off premises of the sales area. Off premise storage should be in separate designated cold holding equipment that is stored in a clean, safe, and secure environment. Labels must be provided for the product that include

- Common name of the product
- Net weight of the product
- Other information as required by WVDA and USDA-safe-handling instructions

WVDA is able to assist with labeling and WV Division of Labor, Weights and Measures office can assist with determining net weights. Refer to §CSR19 and WVDA for further information.

Fish:

Commercially raised and harvested fish may be offered for sale at Farmers Markets. Wild caught fish are **NOT** allowed. Fish vendors must provide to market managers a certificate of wholesomeness that states for all species of product that the product was farm raised, at what farm it was raised, and whether or not the product was administered FDA approved medication. These documents must be provided every time fish is brought to the market. The required water tests shall be submitted once per year per water source to insure safe water samples. Markets shall keep a copy of these for two (2) years. Additional requirements

are:

- Raw products must be kept in cold holding equipment capable of holding 41° or less
- Annual Scale certification
- Fish must be gutted at an approved facility
- Fish products must be held, stored, and transported in a clean sanitary environment to keep products wholesome

The vendor shall receive a Food Establishment permit from the local health department before the date of sale. As part of the routine inspection, the local health department may inspect the storage space of the product off premises of the sales area. Off premise storage should be in separate designated cold holding equipment that is stored in a clean, safe, and secure environment. Labels must be provided for the product that include

- Common name of the product
- Net weight of the product
- Other information as required by WVDA

WVDA is able to assist with labeling and WV Division of Labor, Weights and Measures office can assist with determining net weights. Refer to §61CSR23A WV Fish Processing Rules under WVDA for further info.

Fruits and Vegetables:

Whole, uncut fruits and vegetables may be offered for sale without registering with or receiving a Food Establishment permit from the local health department. Once cut, many fruits and vegetables are considered potentially hazardous foods. Melons and tomatoes are just two examples. These products, once cut, would have to be held below forty-one degrees (41°F). Therefore, if offering cut fruits or vegetables the vendor would have to re-

ceive a Food Establishment permit from the local health department before the date of sale.

Sprouted seeds are **NOT** allowed for sale at a Farmers Market without having a HACCP plan and variance from WVDHHR and a valid Food Establishment permit.

Wild harvested mushrooms are **NOT** allowed for sale at a Farmers Market. However, there are several mushroom species that can be commercially grown from spores. The sale of mushrooms cultivated on the farm from spores and are harvested by the grower may be offered for sale at the Farmers Market. Proof of identity of the species and proof that the mushroom is edible shall be displayed at the sales area.

Chef Demonstrations:

Any cooking demonstration will be regulated under the guidelines of the 2005 Food Code and 64CSR17 "WV Food Es-

Other foods may or may not be allowed for sale. Approval for questionable products is at the discretion of the Commissioner of the Bureau for Public Health or his/her design-

establishment Rule". A Food Establishment permit shall be required for any type of cooking demonstration in which samples are offered to the public. Please contact the local health department for requirements to operate a food establishment.

Sampling:

WVDHHR allows the distribution of samples at Farmers Markets given:

- Hand Washing Station is present
- Sanitary procedures are followed
- Proper food storage temperatures are maintained

- Appropriate tools for dispensing samples are used
- Adequate trash receptacles are available

Foods that are potentially hazardous such as cut melons, cooked meats, cut vegetables, cut tomatoes, eggs and dairy products may only be offered as samples when the vendor has obtained a Food Establishment permit from the local health department. Non-potentially hazardous foods (foods that do not require temperature control due to pH of <4.6 or water activity of <.85 fall into this category) may be offered as a sample without obtaining a Food Establishment permit.

A sample is defined as a food product where only a small portion is offered. A whole meal, sandwich, or an individual hot dish is not recognized as a sample.

Hand washing is the number one way to prevent the spread of illness. Therefore, at a minimum, a hand wash station shall be located in close proximity to each vendor that is providing samples. The hand wash station shall be equipped with the following items:

- Five (5) gallon cooler modified with a free-flow spigot or other similar unit
- Catch basin for waste water
- Soap
- Paper Towels
- Adequate supply of warm water
- Waste receptacle

Sampling must occur under a roof. A tent or large umbrella may provide adequate cover if the vendor is not under a structure.

Samples may not be exposed to insects or other environmental contaminants. A fan or fly screen may be necessary. No bare hand contact with ready to eat food is allowed. Food handlers must wash their hands with soap and water be-

fore using deli tissue or gloves to touch the food. All utensils used must be cleaned and sanitized before use and as often as necessary throughout the day. Hot foods shall be maintained at one hundred thirty five degrees (135°F) and cold foods below forty one degrees (41°F) unless 'time as a Public Health control' is implemented. A properly calibrated food thermometer must be provided to check food temperatures. Samples must be served individually on plates, in cups, toothpicks, or similar items. It is vital that vendors control access to samples so that customers cannot touch any sample that is not theirs. Adequate waste receptacles must be provided. Animals shall not be allowed in any food preparation or sampling display area.

Contacts:

WVDHHR

Linda Whaley
Food Program Manager
304-558-6727

Jessica Lucas,
Assistant, Food Program
304-558-6999

WVDA

Jean Smith
Marketing & Development
304-558-2210

Teresa Halloran
Connie Tolley
Labeling
304-558-2210

Herma Johnson
Eggs and Aquaculture
304-558-2227

Dr. Robert Pitts
Quinton Jones
Perry Ferguson
Meats
304-558-2206

Weights and Measures

Elvin Kelly
304-722-0602

WV Farmers

Market Association

Jack Dunbar
304-772-5175

West Virginia University Extension Service

Tom McConnell
304-293-6131

BECKLEY DISTRICT OFFICE

100 East Prince Street
Beckley, WV 25801
Telephone (304) 256-6666
Fax (304) 256-6672

Fayette	574-1617
Greenbrier	645-1539
Logan	792-8630
McDowell	448-2217
Mercer	324-8836
Mingo	235-3570
Monroe	772-3064
Nicholas	872-5329
Pocahontas	799-4154
Raleigh	252-8532
Summers	466-3388
Webster	874-2001
Wyoming	732-7941

FAIRMONT DISTRICT OFFICE

9395 Middletown Mall, Ste. 200
Whitehall, WV 26554
Telephone (304) 368-2530
Fax (304) 368-2532

Barbour	457-1670
Braxton	765-2851
Doddridge	873-1531
Gilmer	462-7351
Harrison	623-9308
Lewis	269-8218
Marion	367-1746
Preston	329-0096
Monongalia	598-5131
Randolph	636-0396
Taylor	265-1288
Tucker	478-3572
Upshur	472-2810

ST. ALBANS DISTRICT OFFICE

808 B Street, Suite G
St. Albans, WV 25177
Telephone (304) 722-0611
Fax (304) 722-0615

Boone	369-7967
Cabell	523-6483
Clay	587-4269
Jackson	372-1093
Kanawha	348-8050
Lincoln	854-3330
Mason	675-3050
Putnam	757-2541
Wayne	272-6761

KEARNEYSVILLE DISTRICT OFFICE

1948 Wiltshire Blvd.
Kearneysville, WV 25430
Telephone (304) 725-0348/9543
Fax (304) 725-3108

Berkeley	267-7130
Grant	247-4922
Hampshire	496-9641
Hardy	530-6355
Jefferson	728-8415
Mineral	788-1321
Morgan	258-1513
Pendleton	358-7565

WHEELING DISTRICT OFFICE

117 Methodist Building
1060 Chapline Street
Wheeling, WV 26003
Telephone (304) 238-1145/1001
Fax (304) 238-1002

Brooke	737-3665
Calhoun	354-6101
Hancock	564-3343
Marshall	845-7844
Ohio	234-3682
Pleasants	684-2461
Ritchie	643-2917
Roane	927-1480
Wetzel/Tyler	337-2001
Wirt	275-3131
Wood	485-1416

Funding for this guide is provided to the WV Food Safety and Food Defense Task Force through FDA grant # 1R13FD003595-01

Information in this document is current as of July 1, 2009, and may change with LAW. Please refer to your local health department should questions arise.

