



West Virginia DEPARTMENT OF
AGRICULTURE
COMMISSIONER, KENT A. LEONHARDT

FARMERS MARKET

Vendor Guide



WEST VIRGINIA DEPARTMENT OF AGRICULTURE

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West Virginia Farmers Market Vendor Guide

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Introduction

The Farmers Market Vendor Guide was developed to provide standards, guidelines and consistent information for farmers, food vendors and inspectors about food items that may be sold at farmers markets and conditions that must be met at the point of sale. The Guide represents a collaborative effort of the West Virginia Department of Agriculture (WVDA), the West Virginia Farmers Market Association and the West Virginia University Extension Service.

All farmers markets operating in West Virginia must register annually with the West Virginia Department of Agriculture (WVDA) at no cost. Consignment farmers markets, in addition to registering with the WVDA, are **REQUIRED** to obtain a FOOD ESTABLISHMENT PERMIT from their local health department.

Depending upon the product sold, a vendor may be required to obtain a Farmers Market Vendor Permit from WVDA at a cost of \$35 per year. Vendors are exempt from obtaining a FARMERS MARKET VENDOR PERMIT if they are selling fresh, uncut produce or non-potentially hazardous food products.

Guide to Farmers Market Vendor Permits

	<i>Commodity</i>	<i>Farmers Market Vendor Permit WVDA</i>	<i>Food Establishment Permit DHHR</i>	<i>Other Permits/ Requirements</i>
Non-Potentially Hazardous Foods	<i>Apple butter</i>	<i>Not Required</i>	<i>Not Required</i>	<i>Not Required</i>
	<i>Cakes</i>	<i>Not Required</i>	<i>Not Required</i>	<i>Not Required</i>
	<i>Candies & Confections</i>	<i>Not Required</i>	<i>Not Required</i>	<i>Not Required</i>
	<i>Cereals, trail mixes, granola</i>	<i>Not Required</i>	<i>Not Required</i>	<i>Not Required</i>
	<i>Coated or uncoated nuts</i>	<i>Not Required</i>	<i>Not Required</i>	<i>Not Required</i>
	<i>Commercially harvested mushrooms</i>	<i>Not Required</i>	<i>Not Required</i>	<i>Not Required</i>
	<i>Condiments - Non-Potentially Hazardous</i>	<i>Not Required</i>	<i>Not Required</i>	<i>Not Required</i>
	<i>Dehydrated fruits and vegetables (whole)</i>	<i>Not Required</i>	<i>Not Required</i>	<i>Not Required</i>
	<i>Dog Food, Treats or Animal Feed</i>	<i>Not Required</i>	<i>Not Required</i>	<i>Must register with WVDA Regulatory Division to produce pet products</i>
	<i>Fresh, uncut produce</i>	<i>Not Required</i>	<i>Not Required</i>	<i>Not Required</i>
	<i>Fruit Pies</i>	<i>Not Required</i>	<i>Not Required</i>	<i>Not Required</i>
	<i>Honey</i>	<i>Not Required</i>	<i>Not Required</i>	<i>If selling value-added honey products, this may be potentially hazardous food and require a Farmers Market Vendor Permit. Apiarist must be registered with WVDA.</i>
	<i>Breads, rolls, biscuits</i>	<i>Not Required</i>	<i>Not Required</i>	<i>Not Required</i>
	<i>Molasses</i>	<i>Not Required</i>	<i>Not Required</i>	<i>Not Required</i>
	<i>Jams & jellies (made with standard fruits, i.e., grape, strawberry, raspberry, etc.)</i>	<i>Not Required</i>	<i>Not Required</i>	<i>Not Required</i>
	<i>Popcorn, popcorn balls, cotton candy</i>	<i>Not Required</i>	<i>Not Required</i>	<i>Not Required</i>
	<i>Pepperoni rolls</i>	<i>Not Required</i>	<i>Not Required</i>	<i>Pepperoni and cheese only</i>
	<i>Sorghum</i>	<i>Not Required</i>	<i>Not Required</i>	<i>Not Required</i>
	<i>Tomato sauce & juice</i>	<i>Not Required</i>	<i>Not Required</i>	<i>Not Required</i>
<i>Tree Syrup</i>	<i>Not Required</i>	<i>Not Required</i>	<i>Not Required</i>	
<i>Whole or chopped canned tomatoes</i>	<i>Not Required</i>	<i>Not Required</i>	<i>Not Required</i>	
Potentially Hazardous Foods	<i>Acidified Foods</i>	Required	<i>Not Required</i>	<i>Process Authority, WVDA label review and training certification</i>
	<i>Condiments-Potentially Hazardous</i>	Required	<i>Not Required</i>	<i>ACIDIFIED: Process Authority, WVDA label review and a training certificate. TIME/TEMP ONLY: Farmers Market Vendor Permit, WVDA label review, training certification</i>
	<i>Cut Produce</i>	Required	<i>Not Required</i>	<i>Not Required</i>
	<i>Eggs</i>	<i>Not Required</i>	<i>Not Required</i>	<i>Any vendor selling eggs shall be registered with WVDA as a Small Egg Producer.</i>
	<i>Fermented products</i>	Required	<i>Not Required</i>	<i>Process Authority and WVDA label review</i>
	<i>Fish</i>	Required	<i>Not Required</i>	<i>If processed at a processing facility, then must register as fish processing facility with WVDA and obtain a Fish Processing License</i>
	<i>Freeze Dried Products/Dehydrated</i>	May be required	<i>Not Required</i>	<i>The same requirements apply as before the freeze-drying/dehydrating process.</i>
	<i>Meats</i>	Required	<i>Not Required</i>	<i>WVDA distributors or commercial license or retail exemption</i>
	<i>Jams & Jellies (non-standard, i.e., basil, hot pepper, etc., no sugar added/artificially sweetened)</i>	Required	<i>Not Required</i>	<i>Process Authority, WVDA label review and training certification</i>
	<i>Other canned or preserved foods</i>	Required	<i>Not Required</i>	<i>Contact WVDA</i>
	<i>Pasteurized Milk and Cheese - Produced</i>	Required	<i>Not Required</i>	<i>Must be a Grade "A" Milk Producer</i>
	<i>Pasteurized Milk and Cheese - Retail Only</i>	<i>Not Required</i>	<i>Not Required</i>	<i>WVDA Dairy Distributor Permit Required</i>
	<i>Pickled products</i>	Required	<i>Not Required</i>	<i>Process Authority, WVDA label review and training certification</i>
	<i>Poultry</i>	Required	<i>Not Required</i>	<i>WVDA distributors or commercial license or retail exemption</i>
	<i>Salsas</i>	Required	<i>Not Required</i>	<i>Process Authority, WVDA label review and training certification</i>
	<i>Sauces - hot sauce, marinara, spaghetti</i>	Required	<i>Not Required</i>	<i>Process Authority and WVDA label review</i>
	<i>Raw Milk</i>	<i>Not Required</i>	<i>Not Required</i>	<i>Proper Labeling</i>
<i>Time/Temp Controlled Foods</i>	Required	<i>Not Required</i>	<i>Contact WVDA</i>	

Definitions and Common Abbreviations

A **Farmers Market** is defined as

1. A traditional market in which two or more vendors gather to sell a farm and food products directly to consumers at a fixed location.
2. An on-farm market or farm stand run by an individual producer that sells farm and food products.
3. An online farmers market in which two or more vendors collectively market farm and food products and retain ownership of these products until they are sold. Selling in this manner outside of WV requires use of a food establishment for production and FDA-compliant label.
4. A consignment farmers market means a farmers market in which two or more vendors deliver their own farm and food products to a common location maintained by a third party that markets the vendors' products and receives a percentage share of the profits from sales, with the individual vendor retaining ownership of the farm and food product until it is sold. A consignment market may be mobile or stationary.
5. A mobile farmers market in which two or more vendors sell farm and food products directly to consumers from a mobile unit.
6. An area within a fair or festival at which farm and food products are sold.
7. Any other form of farmers market approved by the Commissioner of Agriculture.

Food establishment (formerly commercial kitchen) means a permitted manufacturing facility or food establishment designed for food production and food safety and eligible for interstate commerce. Only those products inspected and permitted by the county or state health department, or a federal agency will be recognized as made in a food establishment. A vendor must be permitted for each product made in a food establishment.

A **Farmers Market Vendor** is defined as a person or entity that sells farm and food products at a farmers market.

The **Farmers' Market Vendor Permit** is a permit that is required for a Farmers Market Vendor that is selling a Potentially Hazardous Food. The permit can be obtained by registering with the WVDA on a form provided online and at the cost of \$35. This permit is valid April 1 – March 31 and can be used statewide at all farmers markets. All vendors must display this permit in a conspicuous manner at the point of sale. Holders are subject to an annual/periodic kitchen inspection.

Process Authority means a person who has been recognized by the Association of Food and Drug Officials as having expert knowledge of the thermal processing requirements for low-acid foods packaged in hermetically sealed container or has expert knowledge in the acidification and processing of acidified foods and is found in the food processing authorities directory.

Microgreens are soil or hydroponically grown plants, usually around two weeks old, with a stem and true leaves intended to be consumed.

A **Non-Potentially Hazardous Condiment** is a spice or sauce that is added to food, typically after cooking, to impart a specific flavor or complement a dish. These products must be non-potentially hazardous, shelf stable and need no refrigeration. This does not include any product that requires time and/or temperature control. Examples may include salt, pepper, granulated garlic, honey, syrups.

A **Non-Potentially Hazardous Food (NPHF)** is a food that does not require a time/temperature control for safety as determined through pH and/or aw (water activity) testing.

A **Potentially Hazardous Food (PHF)** is a food that requires time/temperature control to keep the food safe for human consumption, or have water activity > 0.85, protein and a pH between 4.6 and 7.5.

A **Potentially Hazardous Condiment** is a spice or sauce that is added to food, typically, after cooking. This product will be acidified with a pH of 4.6 or below and water activity above 0.85. This product must have Process Authority, and a WVDA Certificate of Label Review. This product may require time and/or temperature control. Examples may include mustard, ketchup, horseradish, etc.

A **Sprouted Seed** refers to germinated seeds that are water grown with the stem and seeds and intended to be consumed.

WVDA refers to the West Virginia Department of Agriculture.

WVBPH refers to the West Virginia Bureau for Public Health.

Labeling Requirements

All food products made or packaged in West Virginia for direct, non-wholesale, purchase by consumers - whether made in a food establishment inspected by WVDHHR or local health departments under its jurisdiction, or made in a home, farm or community kitchen – shall carry product labels, regardless of whether the product is potentially hazardous or non- potentially hazardous.

Labeling shall generally conform to U.S. Food and Drug Administration rules and guidance unless specifically noted.

Required label elements shall be of a size and style that is easily legible to the average person and shall consist of:

1. Statement of identity, which is the common name of the product. Must be on Principal Display Panel.
2. Company name of producer, packer, or distributor. Unless the name given is the actual producer, the name must be accompanied by a statement noting the relation to the product.
3. City, state and zip code of the producer, packer, or distributor.
4. Ingredients listed in descending order from greatest weight to least. Single ingredient products shall include an ingredient list to ensure consumers that it is the only ingredient in the product. The ingredient list shall begin with "Ingredients:" followed by the list.
5. Net contents or numerical count located in bottom third of the primary label panel in standard U.S. measures, followed by the metric equivalent in parentheses. Honey shall be measured by weight. Syrups shall be measured by liquid volume (ounces pounds, fluid ounces, grams, kilograms, milliliters, liters).
6. A statement of any of the major food allergens contained in the product, as specified by U.S. Food and Drug Administration. The statement shall be placed directly below the ingredient list and shall begin with "Contains" followed by the allergens. The current allergens are milk, egg, fish, crustacean shellfish, tree nuts, peanuts, wheat, soy, and sesame. Products that contain tree nuts, fish, or crustacean shellfish must also declare the specific type of allergen in parentheses following the broader category of allergen.

Supplemental Elements:

7. Products that need to remain refrigerated or frozen should be stated on the label, as well as any cooking instructions, such as minimum internal temperatures.
8. Other elements on a label may include logos, such as the WV Grown logo (available in electronic form and printed stickers), product description, etc. The supplemental elements on the label should not interfere with the required criteria set forth above.
9. Please include any lot codes that would be used in the event of a recall as well as any safe handling instructions of the product.

Products made in a home, farm, or community kitchen, in addition to the above elements are subject to the following additional rules:

- **Product labels must include the following statement: "This product was made in a non-commercial kitchen establishment that may not be subject to inspection and may contain cross-contact allergens not included in the allergen statement."**
- **Non-potentially hazardous products may include hand-written net content statements if they remain legible to the average person.**

Non-potentially hazardous products shall carry a label affixed to the package, or labeling requirements may be satisfied by:

- Display of a placard showing the label information at the point of sale if the item is not packaged or displayed in a bulk container;
- Providing label information on a receipt or other document; or
- Publishing the label information on an internet site if the product is sold online.

Food producers shall submit product labels and any associated forms or fees to WVDA for review for the following products and in the following circumstances:

- Foods products intended for direct consumption by the purchaser that are made or packaged in a food establishment inspected by WVBPH or a county health department under its jurisdiction.
- Food products made or packaged in a non-permitted home, farm or community kitchen that are potentially hazardous.

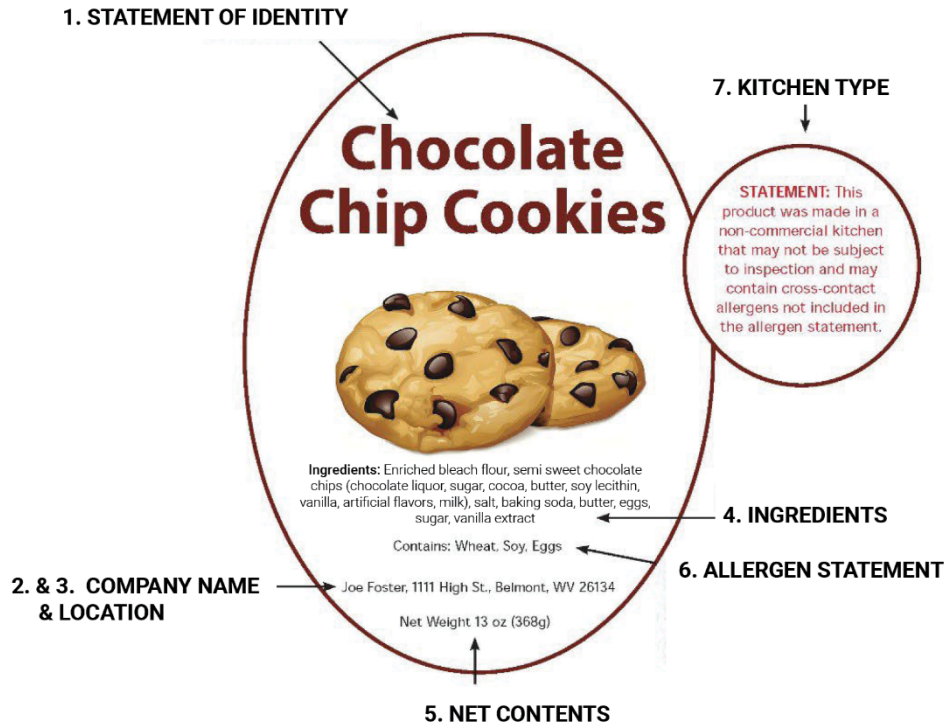
For additional information refer to:

<https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-industry-food-labeling-guide>

LABEL EXAMPLES

PRODUCTS MADE IN A HOME, FARM OR COMMUNITY KITCHEN (see below)

LABEL EXAMPLE 1



LABEL EXAMPLE 2



This mock-up is representative of a typical label as is required of a “small producer” as defined in the West Virginia Marketing of Eggs Rule §61-7A-3.1. These are standard 2” X 4” labels as can be printed on computer labeling on a home computer. “from the chickens of...” terminology is not required (added as optional). Minimum 5/8” type required is measured top to bottom of the two words, and (on Microsoft Word software) is font size 26. You may have to experiment on your computer & printer to get an accurate size. This mock-up is only a suggestion. As long as your label meets the requirements, you may design it per your liking.

from the chickens of...
John Doe, Rt. 1, Box 182E, Mt. Monroe, WV 29217

Eggs Packed On 077

**UNGRADED
EGGS**
Keep Refrigerated

OR

Here’s another optional suggestion for your label. A couple of producers have said the required “packed on” date is confusing some folks who think it’s an expiration date. So designing your label (similarly as seen at right and below) would satisfy the law, and maybe be less confusing. Use a “Julian Calendar” date (listed on back of this sheet) as your “packed on” date. Then add an optional “Use By” date, *set by you* (as a “general guideline,” make it four weeks to one month after the listed Julian calendar date).

Eggs Packed On (Julian) Use By (4weeks/1month later)

**UNGRADED
EGGS**
Keep Refrigerated
John Doe, Rt. 1, Box 182E, Mt. Monroe, WV 29217

from the chickens of...
John Doe, Rt. 1, Box 182E, Mt. Monroe, WV 29217

Eggs Packed On _____

**UNGRADED
EGGS**
Keep Refrigerated

from the chickens of...
John Doe, Rt. 1, Box 182E, Mt. Monroe, WV 29217

Eggs Packed On April 8, 2014

**UNGRADED
EGGS**
Keep Refrigerated

...

Eggs Packed On _____ Use By _____

**UNGRADED
EGGS**
Keep Refrigerated
John Doe, Rt. 1, Box 182E, Mt. Monroe, WV 29217

Eggs Packed On 049 Use By April 8, 2014

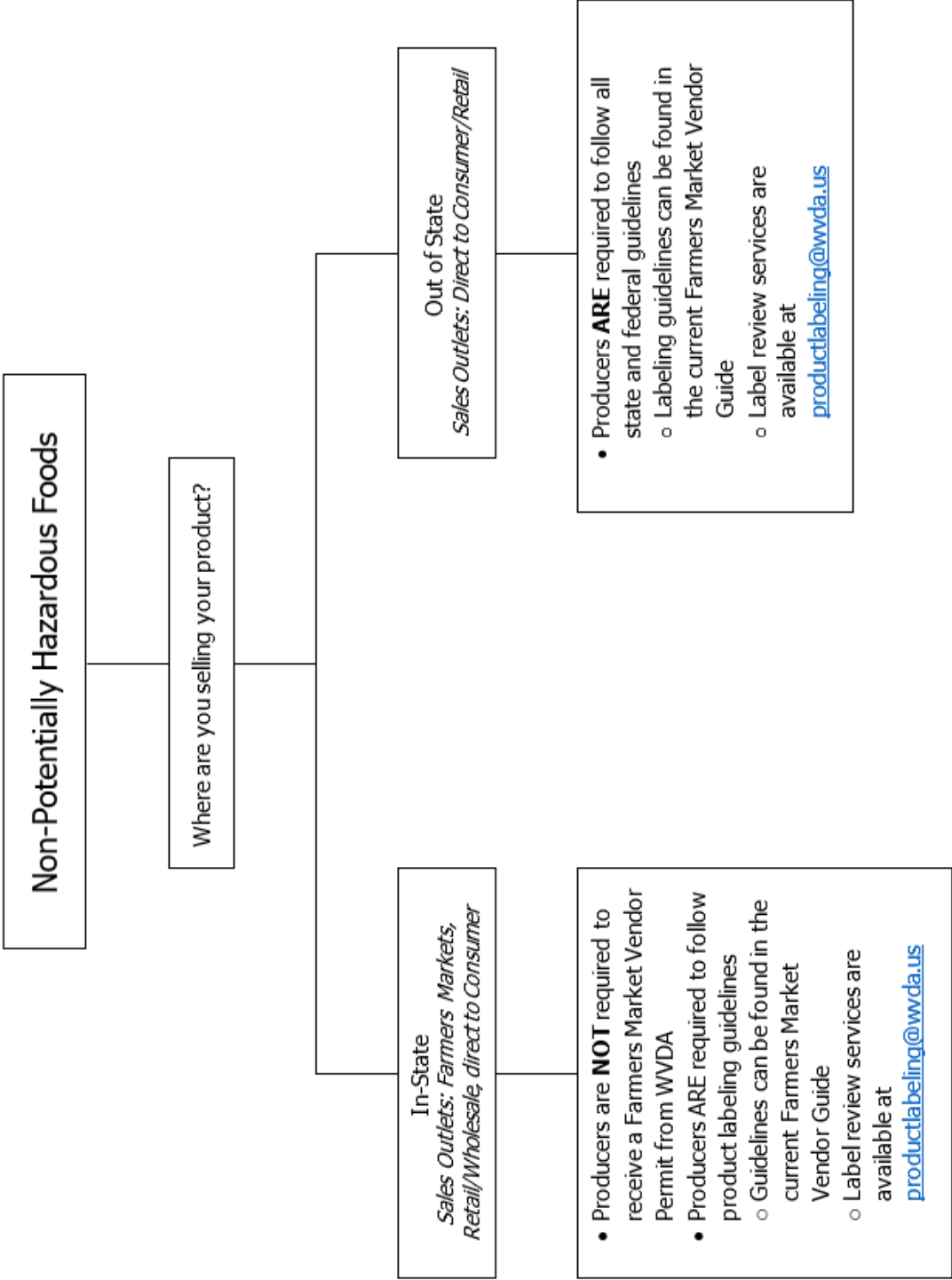
**UNGRADED
EGGS**
Keep Refrigerated
John Doe, Rt. 1, Box 182E, Mt. Monroe, WV 29217



Non-Potentially Hazardous Foods

A **Non-Potentially Hazardous Food (NPHF)** is a food that does not require a time/temperature control for safety determined through pH and/or aw (water activity) testing.





NON-POTENTIALLY HAZARDOUS FOODS

Apple Butter, Sorghum, Molasses and Tree Syrups

Due to the high sugar content and the high temperature of the product when it is jarred, such products are considered to be non-potentially hazardous.

Fruit butter is a smooth and creamy spread that is created by slow-cooking fruit and sugar until it reaches the right consistency. These types of spreads are not always translucent and are often opaque. Pumpkin butter is not considered a fruit butter.

Products that contain additional ingredients (i.e. peppers, nuts, infused vinegars, artificial sweeteners or added fruit juice or oils, etc.) are **not** included in this provision. They fall under the 'Potentially Hazardous' category. These items need additional analysis to determine their salability at WV markets.

Baked Goods

Baked goods and candy prepared in a home kitchen may be sold at a farmers market without a Farmers Market Vendor Permit as long as they are NOT potentially hazardous.

Products that are allowed for sale without a FMVP include cakes, fruit pies, yeast and fruit breads, and candy because these items are shelf-stable without refrigeration.

Whether these products do or do not present a hazard from a bacteriological standpoint, the food may be contaminated with filth or other extraneous matter. Therefore, the WVDA reserves the right to inspect the home kitchens based on observed health hazards or complaints from consumers.

WVDA requires that baked goods be pre-wrapped or protected from contamination during display and that they are properly labeled.

NON-POTENTIALLY HAZARDOUS FOODS

Fruits and Vegetables

To meet the current FDA Food Safety Modernization Act (FSMA) Produce Safety Rule requirements, farmers selling fresh produce must display a sign at their farmers market stall or table, visible to patrons, indicating the name of the grower or farm and their related contact information.

Fresh, uncut fruits and vegetables are considered non-potentially hazardous foods and can be sold without a Farmers Market Vendor Permit.

Microgreens can be sold at a farmers market, however, sprouted seeds are not permitted. Refer to **Definitions** page for further descriptions of both.

Other foods may or may not be allowed for sale. Approval for questionable products is at the discretion of the Commissioner of the West Virginia Department of Agriculture or his/her designee.

Honey

The sale of honey is permitted at farmers markets. The apiarist must be registered with WVDA. The product must follow labeling requirements for other products, plus a warning against feeding honey to infants under one year old. Honey is measured by weight, not volume.

If a producer wishes to sell value-added honey products such as toppings or honey infused with other products, some of these may fall under the 'Potentially Hazardous' products category and they must obtain a WVDA Farmers Market Vendor Permit and have an annual kitchen inspection. These products will be individually evaluated to determine if potentially hazardous.

Jams and Jellies

The sale of home-processed standard jam and jelly (containing sugar and no unusual ingredients) is permitted at farmers markets without acquiring a WVDA Farmers Market Vendor Permit as these products are not considered potentially hazardous. Fruits and berries usually associated with jam and jelly are grape, strawberry, raspberry, peach, orange, etc.

Jam is a mixture of fruit, sugar, and sometimes pectin, which is used as a thickener. It all gets boiled quickly until the fruit breaks down just enough to soften but still holds much of its shape. The result is something that is thick and spreadable but a bit clumpy here and there.

Jelly is made from sugar, pectin, acid, and fruit juice and is a clear spread that is firm enough to hold its shape. Jellies can also be made from ingredients other than fruit, such as herbs, tea, wine, liqueurs, flowers, and vegetables.

The biggest difference with jelly is it's made with fruit juice instead of actual fruit. Fruit juice is boiled with sugar and pectin to form a translucent spread that's semi-firm. Since whole fruit isn't used to make jelly, there won't be mashed pieces of fruit in it, like there typically is in jam.

Marmalade is a citrus spread made from the peel and pulp of the fruit. Marmalades are cooked for a long time, have no pectin and are used as spreads and glazes.

Preserves are spreads that have chunks of fruit surrounded by jelly.

*No sugar-added, artificially sweetened and jams and jellies with peppers or other uncommon ingredients are considered potentially hazardous.

Mushrooms

Sale of wild-foraged mushrooms is prohibited.

1. This guideline does not apply to:
 - a. Cultivated mushroom species that are grown, harvested and processed in an operation that is regulated by the West Virginia Bureau of Public Health-Office of Environmental Health (i.e. food establishment);
 - b. Mushroom species if they are in packaged form and are the product of a food processing plant that is regulated by the West Virginia Bureau of Public Health-Office of Environmental Health
2. List of approved cultivated mushroom species* that can be sold at West Virginia farmers markets with spore source documentation:

Blewit (<i>Lepista nuda</i>) Button (<i>Agaricus bisporus</i>) Cauliflower Mushroom (<i>Sparassis crispa</i>) Chestnut Fungi (<i>Pholiota adiposa</i>) Chicken of the Woods (<i>Laetiporus spp</i>) Clemson (<i>Stropharia rugoso-annulata</i>) Cremini (<i>Agaricus bisporus</i>) Enoki (<i>Flammulina velutipes</i>) Lion’s Mane Mushroom (<i>Hericium spp</i>) Maitake (<i>Grifola frondosa</i>)	Matsutake (<i>Tricholoma matsutake</i>) Morel (<i>Morchella esculenta</i>) Nameko (<i>Pholiota nameko</i>) Oyster or Pleurotte (<i>Pleurotus ostreatus</i>) Portobello (<i>Agaricus bisporus</i>) Shiitake (<i>Lentinus edodes</i>) Straw or Chinese (<i>Volvariella volvaceae</i>) Truffle (<i>Tuber spp</i>) White (<i>Agaricus bisporus</i>) Wood ear (<i>Auricularia auricular-judae</i>)
<p>*Other mushrooms may be allowed as other spawns/spores become available, but producer must be able to provide documentation of the purchase of the spawns/spores.</p>	

NON-POTENTIALLY HAZARDOUS FOODS

Out of State Sales

Non-potentially hazardous foods may be sold across state lines but must be in compliance with any federal and state (West Virginia) regulations. Other states may have additional regulations for these types of foods.

Non-potentially hazardous foods coming into West Virginia must be in compliance with any federal and state-of-origin regulations.

Sauces, Condiments*, Preserved and Canned Foods

The sale of home-canned, preserved or processed foods is allowed provided producers meet certain conditions.

*Note: Only condiments that do NOT require time and temperature control and do not require to be acidified are exempt from permitting.

If the firm is selling at farmers markets and at outlets other than farmers markets (i.e. stores, wholesale, mail order/online across state lines), they may be engaged in interstate commerce and may be required to meet other testing, education and food establishment utilization requirements.

Freeze Dried Foods are foods that have been subjected to a process in which water is removed from a product after it is frozen and placed under a vacuum, allowing the ice to change directly from a solid phase to a vapor. Freeze-drying is used to make products shelf stable while preserving nutrients. All foods that are considered non-potentially hazardous before the freeze-drying process will be considered non-potentially hazardous after the process. Freeze drying does not remove any potential contaminants or bacteria from the product. All kitchens that are used to freeze-dry non-potentially hazardous products will **not** need a WVDA annual kitchen inspection.

Unsure of where your product fits in?

Call the WVDA Regulatory & Environmental Affairs Division, 304-558-2227, to determine eligibility for sale through all market channels.



Potentially Hazardous Foods

A **Potentially Hazardous Food (PHF)** is a food that requires time-temperature control to keep the food safe for human consumption or a food that contains moisture (water activity > 0.85), protein and a pH 4.6 or below



POTENTIALLY HAZARDOUS FOODS

For potentially hazardous products to be sold at farmers markets in West Virginia, basic requirements must be followed to ensure the products are safely handled and prepared. An outline of this may be found on page 20, but requirements set forth in WV 61CSR38 include:

***Record Keeping:** Producers of canned acidified foods must keep records to demonstrate the source of the produce in these products. Recordkeeping shall include, but not be limited to:

- Name of product;
- Number of units prepared;
- Record of raw ingredients used and vendor from which ingredients were sourced;
- Date/Lot code; and
- Where product/lot was distributed.

***Water Supply Testing:** A producer who has a private water supply must have the supply tested prior to permitting and at least annually thereafter and demonstrate through a quantitative written record of testing for coliform bacteria to signify that the water supply is potable. The WVDA may require more frequent testing, or additional testing, if circumstances dictate that such testing is necessary to ensure food safety. Maximum coliform levels shall be <1 cfu/100mL, as the WVDA will require a quantitative test (needs numbers) not a present/absent test.

***Training:** Producers of certain potentially hazardous foods for sale at farmers markets shall attend and keep current one or more of the following and provide documentation of successful completion of the scope of curriculum from a WVDA-approved food-safety course:

- Statewide Food Handlers Card (ONLY applicable for time/temp controlled foods. This is not applicable for canned/acidified foods)
- Better Process Control School
- Acidified Foods Manufacturing School
- Good manufacturing practices (GMP) certificate program; or
- Other curriculum approved by the WVDA.

***Letter of Process Authority:** A copy of the approval letter from a process approval must be supplied to the WVDA to sell certain potentially hazardous foods, such as sauces, salsas, fermented and pickled products. A partial list of these may be found on page 30. Please contact the WVDA at 304-558-2227 if you have a question about if your product requires Process Authority.

***Label Review Certificate** from the WVDA. Note the label requirements are listed on page 9 of this guidance document.

Farmers Market Vendor Permit: All potentially hazardous foods that are prepared and sold for human consumption at WV farmers markets shall apply for and receive a WV Farmers Market Vendor permit, prior to the sale of the PHF.

***The above items must be completed prior to submission for the vendor permit along with the associated \$35 annual fee.**

Note: For any potentially hazardous food that requires a time or temperature control, if the vendor is using another agent for the sale of the TTC product, it is also the responsibility of the agent to ensure proper storage and handling temperatures are maintained.

Baked Goods

Potentially hazardous baked goods include the following that must be time and temperature controlled:

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

To sell baked goods and other PHF, the vendor must obtain a Farmers Market Vendor Permit with the WVDA by March 1 to avoid a late fee, or before the date of sale. A WVDA kitchen inspection is also required.

Whether these products do or do not present a hazard from a bacteriological standpoint, the food may be contaminated with filth or other extraneous matter.

WVDA requires that baked goods be pre-wrapped or protected from contamination during display and properly labeled as required by WVDA.

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

Proper dairy product labels must include the following information:

- Fluid milk container must state “Grade A” or be approved by the WVDA by 61CSR40 WV Exempted Dairy Farms and Milk and Milk Products Processing Rules
- 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 in decreasing order of weight
- Allergens listed
- Milk plant name and address, or plant code.

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

The sale of raw milk (unpasteurized) for humans is allowable under West Virginia regulations. Raw milk **can** be used in livestock and pet foods following the below guidance:

If the commercial feed consists of raw milk, the words, “Raw (blank) Milk” shall appear conspicuously on the principal display panel. (Blank is to be completed by using the species of animal from which the raw milk is collected.)

Raw milk distributed as a commercial feed shall bear the following statement: **“WARNING: NOT FOR HUMAN CONSUMPTION - THIS PRODUCT HAS NOT BEEN PASTEURIZED AND MAY CONTAIN HARMFUL BACTERIA.”** This statement shall be displayed in a conspicuous manner and shall not be smaller than the height of the minimum font required by the Federal Fair Packaging and Labeling Act for the quantity statement as shown in the following table:

Panel Size Statement Type Size	Minimum Warning
≤ 5 in. ²	1/16 in.
≥ 25 in. ²	1/8 in.
> 25-100 in. ²	3/16 in.
>100≤400 in. ²	¼ in.
>400 in. ²	½ in.

RAW (UNPASTEURIZED) MILK REGULATION



Per WV §61CSR41 WVDA Raw Milk Rule, the following guidelines must be followed.

Labeling

All container of raw milk and raw milk product shall have a label affixed, and such label shall clearly indicate the following: “unpasteurized raw milk.” The label shall include the following warning: “consuming unpasteurized raw milk increase your risk of foodborne illness, especially for children, elderly, immunocompromised individuals, and persons with certain medical conditions.”

The label shall contain the following information:

- The name and physical address of the seller;
- The date of production; and
- The content(s) of the container and quantity of such content.

Handling and transport

It is lawful to transport, sell, and possess raw milk and raw milk products within the State of West Virginia (intrastate). Raw milk and any raw milk product intended for sale shall be stored in a device or system that maintains a temperature of 35 to 40 degrees Fahrenheit until the exchange of sale.

Adulteration

Any raw milk and any raw milk product shall be considered adulterated if:

It contains or otherwise exhibits a poisonous, infectious, deleterious substance, or compound in a quantity which may render it injurious to health; or it contains or otherwise exhibits an added poisonous or deleterious substance for which no safe tolerance has been established by federal law or regulation, or which is found to exist in the product at levels which are more than a legally established tolerance; or it contains a substance which is added thereto to make it appear better or of greater value than it is. Notwithstanding the provisions above, flavored raw milk and any flavored raw milk product shall not be considered adulterated so long as food-grade flavoring is used as the method for flavoring the raw milk or raw milk product.

POTENTIALLY HAZARDOUS FOODS

Eggs

A small producer may market up to 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 clean and free of debris and adhering dirt. All eggs being transported, stored or displayed for sale shall be maintained above freezing at 45°F or less ambient temperature; Provided that, refrigeration is not required for transportation of eggs when the period of transport is less than three hours.

Small producers are permitted to pack in recycled or used cartons when the original 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.

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 years.

Additional requirements are:

- Raw products must be kept in cold holding equipment capable of holding 41°F 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 Farmers Market Vendor Permit from WVDA by March 1 to avoid a late fee or 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 and net weight of the product.

Refer to §61CSR23A West Virginia Fish Processing Rules under WVDA for additional information.

Fruits and Vegetables

To meet the current FDA Food Safety Modernization Act (FSMA) Produce Safety Rule requirements, farmers selling fresh produce must display a sign at their stall or table, visible to patrons, indicating the name of the grower or farm and their related contact information.

Once cut, fruits and vegetables are considered potentially hazardous foods. These products, once cut, must be held below 41°F. Therefore, if offering cut fruits or vegetables, the vendor would have to obtain a WVDA Farmers Market Vendor Permit by March 1 (to avoid a late fee) or before the date of sale.

Sprouted seeds are germinated seeds that are water grown with the stem and seeds to be consumed. Sprouted seeds May NOT be sold at a farmers market.

Microgreens, soil or hydroponically grown plants, usually around two weeks old, with the stem and leaves to be consumed, ARE allowed to be sold at Farmers Markets.

Wild-harvested mushrooms are NOT permitted to be sold at West Virginia farmers markets.

Other foods may or may not be allowed for sale. Approval for questionable products is at the discretion of the Commissioner of the West Virginia Department of Agriculture or his/her designee.

Non-Standard Jams, Jellies and Vegetable Butters

Any jams or jellies not produced from the standard fruits (apple, grape, strawberry, etc.) are required to be sent to a Process Authority for approval. Examples of this may include basil jelly, hot pepper jelly, dandelion jelly and mint jelly. (No sugar-added, artificially sweetened and jams and jellies with peppers or other uncommon ingredients are considered potentially hazardous.

Hot pepper and some non-typical fruit butters and jellies (i.e. pumpkin and vegetable butters, hot pepper jelly, etc.) are acidified and may require additional ingredients or steps to prevent microbial growth. A Farmers Market Vendor Permit issued by the WVDA is required. While these foods may or may not present a hazard from a bacteriological standpoint, the food may be contaminated with filth or other extraneous matter. Therefore, the WVDA reserves the right to inspect the home kitchens based on observed health hazards or complaints from a consumer.

*No sugar-added, artificially sweetened and jams and jellies with peppers or other uncommon ingredients are considered potentially hazardous .

POTENTIALLY HAZARDOUS FOODS

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 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 Farmers Market Vendor Permit from the WVDA 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.

Product labels must be reviewed by WVDA's Meat & Poultry Inspection Division, and 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.

Canned products that include meat or poultry that will be sold to the public

Federal and state regulations require that the canning of any food products that will be sold to the public and that include either meat or poultry as a component must be conducted under the regulatory oversight of either the USDA's Food Safety Inspection Service or a state meat inspection program such as the WVDA Meat & Poultry Inspection Bureau. Canning (also referred to as thermal processing or retort processing) involves cooking the products inside of a metal, glass, or special plastic container that will either be sealed before the cooking process begins or will seal itself during the cooking/cooling process. The 'hermetic' seal will make the container airtight and watertight. Typically, finished canned products are stored without refrigeration (shelf-stable) because the canning process should have rendered the product sterile.

The canning process can be a very effective method for packaging and storage of meat and poultry products such as hot dog sauces, chili with meat, peppers and wieners, soups and stews with meat, etc. However, the canning process must be completed correctly to avoid the potential production of toxins within the canned products. These toxins are very poisonous to people and animals and therefore, if the canned meat or poultry products are to be sold to the public, then the process must be under the supervision of either the federal or state meat and poultry inspection agency.

For additional information about the requirements for producing this type of product under the appropriate inspection, contact the USDA Food Safety Inspection Service's Small Plant Help Desk at 1-877-374-7435 or the WVDA Meat and Poultry Inspection Bureau at 304-558-2206.

Poultry

- Fresh or frozen poultry may be sold at farmers markets if the following guidelines are followed:
 - Commercially slaughtered under USDA or WVDA inspection, passed and labeled, or
 - Produced under and meeting the requirements of either of the two poultry exemptions recognized in West Virginia.
- Raw products must be kept in cold-holding equipment capable of holding the product at 41°F or less
- Poultry products must be held, stored and transported in a clean sanitary environment to keep products wholesome.

The vendor shall receive a Farmers Market Vendor Permit from WVDA by March 1 to avoid a late fee or 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.

WV 1,000 Poultry Per Year Exemption

1. Poultry must be healthy
2. Birds must be slaughtered and dressed in a sanitary manner
3. Birds must be slaughtered on same premises where grown
4. Cannot cross state line
5. May sell to distributor
6. May sell to restaurant
7. May sell to any customer within the state
8. Label must have:
 - Processor's name
 - Processor's address
 - Product name
 - Net Weight
 - Safe handling instructions (uninspected product)
 - Pack date
9. Producer must record number of birds raised and to whom they were sold.

WV 20,000 Poultry Per Year Exemption

1. The producer/grower slaughters/processes no more than 20,000 healthy birds of his/her own raising, on his/her premises in a calendar year.
2. The producer/grower sells/distributes only poultry products he/she prepares under the Producer/Grower 20,000 Poultry Limit Exemption. He/she may not buy or sell poultry products prepared under another exemption in the same calendar year.
3. The poultry products can be sold only within West Virginia. The poultry products may not move in interstate commerce.
4. The poultry are healthy when slaughtered.
5. The slaughter and processing at the producer/grower's premises is conducted under sanitary standards, practices and procedures that result in products that are sound, clean, fit for human food and not adulterated. (Basic Sanitary Standards)
6. The producer/grower only distributes poultry products he/she produced under the Poultry/Grower Exemption. Note: The producer/grower can also distribute poultry products that he/she raised and had slaughtered/processed under USDA inspection.
7. With the exception of mobile slaughter units, the facility/location used to slaughter or process the poultry is not used to slaughter or process another person's poultry unless the State Director of Meat and Poultry Inspection grants an exemption.
8. All poultry or poultry products produced under this exemption must be labeled with the following:
 - Processor's name
 - Address
 - Product name
 - Net weight
 - Safe Handling Instructions (uninspected product)
 - Pack date
9. The producer/grower must keep accurate and legible records for at least two years necessary for the effective enforcement of the Act.
10. A poultry producer who otherwise meets the requirements of the exemption and that slaughters or processes 20,000 or fewer birds per calendar year under the federal Poultry Products Inspection Act, 21 64(c)(3), may not keep a poultry flock of more than 3,000 birds at any one time.

Cured, smoked or dehydrated poultry for sale at farmers markets shall be either USDA or WVDA inspected or produced under a food establishment permit from the local health department (see 9 CFR 303.1). The vendor must supply appropriate documentation at the point of sale proving the product has been approved.

Refer to §CFR19 and WVDA for further information.

Producers can contact the Meat and Poultry Division of the WVDA for further questions at 304-558-2206.

Rabbits

WV 20,000 Rabbits Per Year Exemption

1. Up to 20,000 rabbits per calendar year may be slaughtered and processed at the premises where they were raised. The resulting rabbit meat products may be sold without inspection within West Virginia. These sales include, but are not limited to, direct sales to individuals, at farmers markets, restaurants, grocery stores and wholesales/distributors.
2. Premises where rabbits are raised and procedures used for slaughtering and processing the rabbits must be registered annually with the West Virginia Department of Agriculture (WVDA).
3. No person with a contagious disease can process rabbits.
4. Only healthy rabbits are eligible for processing/sale.
5. Rabbits must be slaughtered using a humane method.
6. Rabbits must be slaughtered and dressed in a sanitary manner.
7. Cooling of rabbits must start immediately after slaughter and rabbits must be chilled to less than 40 degrees within 24 hours.
8. Rabbits may be sold fresh but must be frozen if not sold within 72 hours of slaughter.
9. Equipment used in the slaughter and processing of rabbits must be cleaned and sanitized as necessary but at least daily at the end of use.
10. Rabbit meat products must have a label on each package. The label must include the following information:
 - Processor's name and address
 - Product Name
 - Net Weight
 - Safe handling instructions (Make sure the instructions do not indicate that the product was prepared from inspected and passed meat.)
 - Slaughter Date
11. Please do not include any claims on the package labeling. (You may communicate information about raising practices, breeds, nutritional benefits, etc., on signage at the point-of-purchase or via social media.)
12. Sales and production records must be provided to a WVDA compliance officer/inspector if and when requested. The premises where the exempted rabbit slaughter occurs may be visited by WVDA staff without prior notice.
13. Producers must keep records for a minimum of two years.

POTENTIALLY HAZARDOUS FOODS

Sauces, Condiments, Preserved and Canned Foods

The sale of potentially hazardous home-canned, preserved or processed foods is permitted at farmers markets if the vendor registers with the WVDA for a Farmers Market Vendors Permit and has an annual home kitchen inspection or if the products are from an approved food manufacturer.

Salsa, pickled vegetables, sauces, dressings, infused honey and syrups are examples of potentially hazardous preserved foods.

A **Potentially Hazardous Condiment** is a spice or sauce that is added to food, typically after cooking. This product will be acidified with a pH of 4.6 or below and water activity above 0.85. This product must have a Process Authority, and a WVDA Label Review. This product may require time and/or temperature control. Examples may include mustard, ketchup, horseradish, etc.

Freeze Dried Foods are foods that have been subjected to a process in which water is removed from a product after it is frozen and placed under a vacuum, allowing the ice to change directly from a solid phase to a vapor. Freeze-drying is used to make products shelf stable while preserving nutrients. All foods that are considered potentially hazardous before the freeze-drying process will be considered potentially hazardous after the process. Freeze drying does not remove any potential contaminants or bacteria from the product. All kitchens that are used to freeze-dry potentially hazardous products will need a WVDA annual kitchen inspection.

Persons wishing to sell these products shall register with the WVDA by March 1 or before the date of sale.

Potentially Hazardous Foods (Not All-Inclusive)

Baked goods with custards, dairy, or other time/temperature control ingredients	Barbecue sauce	Cheese
Cooked and canned beans	Cooked rice and pasta	Cooked soybean products (tofu)
Cut/prepared fresh fruits & vegetables (melons, tomatoes, salad greens)	Dairy products – including all desserts	Fermented foods – kefir, sauerkraut, tempeh, natto, kombucha, miso, kimchi, salami, chichi, ganjang, ketchup, sour cabbage, sour milk
Fish	Foods containing meat such as lasagna, calzones, sauces, casseroles, curries	Fresh herb-in-oil mixtures
Garlic-in-oil mixtures	Jellies and jams with added ingredients – hot pepper, jalapeño, habanero, green/red chili, pumpkin spice, bourbon, ghost, scorpion, beer, margarita, Thai, rhubarb, ginger, hot huckleberry, lemon basil, lime, coconut	Mayonnaise
Meat – raw or cooked – including bacon, beef, pork, and processed meats	Meringue pie	Mustard
Pasteurized milk	Pickled products – including piccalilli, horseradish, chutneys, corn relish, chow chow, gherkin, ginger pickle, kimchi	Poultry
Raw seed sprouts	Relish	Salad dressing
Salsas	Sauces – hot, marinara, spaghetti, chimichurri, sweet & sour, tartar, creole, garlic, cranberry, pico de gallo, Romesco, cocktail, sofrito, steak, satay peanut, vinaigrette, wine, Worcestershire	Seafood
Sweet potato pie	Three-bean salad	Wild mushrooms

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Sampling, Chef Demonstrations and Hand Washing Stations

Chef Demonstrations: Farmers markets are not required to obtain a Food Establishment Permit to conduct chef demonstrations or sampling, however they must register with the WVDA and a representative from the market must have taken a WVDA-approved food safety course.

All sampling shall be performed in consultation with the WVDA. The WVDA allows the distribution of samples at farmers markets provided the farmers market ensures that vendors are following the guidance established below in this Farmers' Market Vendor Guide.

- A representative of the farmers market participates annually in a WVDA-approved food safety course
- A handwashing station is used
- Sanitary procedures are followed
- Proper food storage temperatures are maintained
- Appropriate tools for dispensing are used
- Adequate trash receptacles are available
- Samples are not exposed to environmental contaminants or pests

A vendor is only subject to inspection by the local health department in the jurisdiction in which the farmers market is located if the local health department determines that the vendor's food products is misbranded pursuant to W.Va. Code §19-35-5(c), adulterated, or if a consumer complaint has been received. The local health department is to notify the WVDA immediately upon receiving a complaint or finding a problem.

All sampling and inspection shall be performed in consultation with the West Virginia Department of Agriculture.

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 Farmers' Market Vendor Permit issued by WVDA.

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 before 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 or above 135°F and cold foods below 41°F. A properly calibrated food thermometer must be used to check food temperatures.

Sampling, Chef Demonstrations and Hand Washing Stations

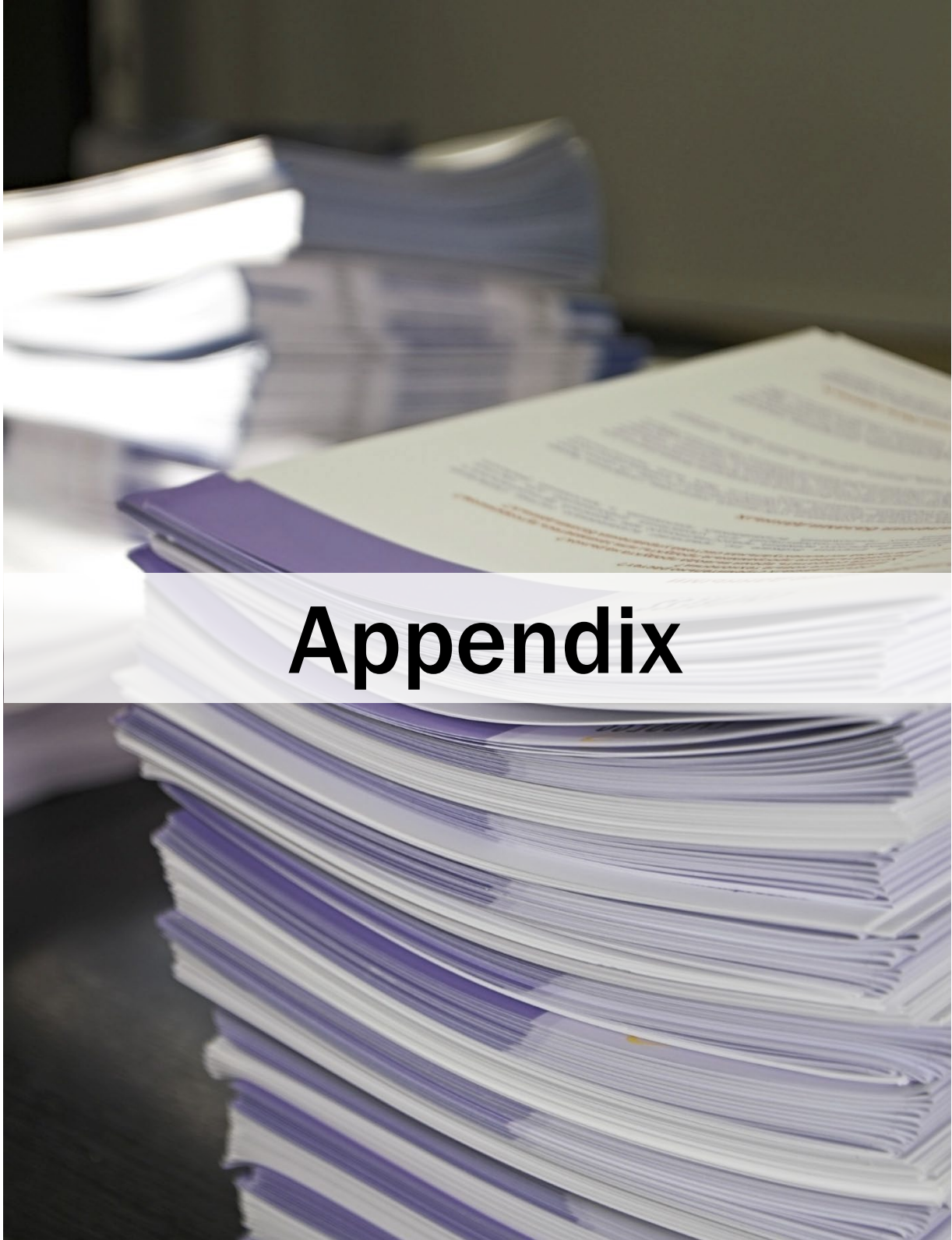
continued

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.

WVDA requires the following minimum handwashing station set-up for any farmers market that includes sampling.

- Adequate supply of water
- 5-gallon cooler with a free-flow spigot
- Catch basin for wastewater
- Soap
- Paper towels
- Trash receptacle







“WEST VIRGINIA GROWN” Program Information

West Virginia Grown is the official marketing and branding program for agricultural products grown or produced in West Virginia. The program’s goals are (1) for consumers to easily identify and purchase agricultural products grown and/or manufactured in the state, (2) to expand the overall local foods economy to support farmers, manufacturers and other agribusinesses, and (3) to create a more robust and resilient food system in the Mountain State.

The WV Grown Partner Program seeks to broaden the brand’s footprint by recognizing “Sold Here - Served Here - Supported Here” individuals and establishments. Retailers, restaurants and supporters play a critical role in our local food economy and are important ambassadors who help expand the WV Grown brand.

“WEST VIRGINIA GROWN” Program Requirements

WV Grown Producers: Products must be grown in West Virginia, or manufactured products must have at least 50 percent of their value added within the state. Other requirements may apply (see following page).

WV Grown Partners: Must sell or serve at least one WV Grown product in their retail establishment or food service business. Supporting partners must explain how they further the WV Grown brand and mission.

Membership is made through application to - and acceptance by - the WVDA. Simply applying does not make you a member.

Members understand that they agree to have their contact and product information shared with the public. This does not include proprietary information that WVDA may be privy to.

Biennial membership renewal is required to help WVDA maintain up-to-date company and product information.

“WEST VIRGINIA GROWN” Program Benefits

Official Certificate of Membership.

Use of the “WEST VIRGINIA GROWN”® logo.

Use of marketing materials available for purchase from the WVDA (see promotional materials request form).

Inclusion in public member listings.

Promotional coverage through the WVDA’s Market Bulletin, social media platforms, outreach efforts and special events.

Inclusion in the printed “WEST VIRGINIA GROWN”® member directory (requires response to special survey).

No cost to join!

Food products that are accepted by the West Virginia Department of Agriculture (WVDA) must meet the following requirements.

Criteria for “WEST VIRGINIA GROWN”[®] Manufactured Food Products

To be accepted into the WV Grown Program, manufactured food products must meet the following requirements:

1. Manufactured products must have at least 50 percent of their value added within the state.
2. Must be properly labeled according to WVDA labeling standards. Label reviews are a free service of the WVDA, which will issue a certificate of label review for approved labels.
3. Packaging for products must be of high quality and appropriate for the product. Tamper-evident sealing is recommended to ensure that products will remain of the highest quality.
4. Some products may require special manufacturing certifications and process approvals. See the WVDA Farmers Market Vendor Guide for details.
6. Meat products must be processed and packaged in a facility that is inspected by the United States Department of Agriculture (USDA) or WVDA’s Meat and Poultry Inspection Division (MPID). Producers must have a valid Distributor Permit when applicable. Contact MPID at 304-558-2206 for details.
7. Dairy products, eggs, hemp, animal feeds and seeds must meet additional regulatory and labeling requirements. The WVDA Regulatory and Environmental Affairs Division (READ) handles the registration and product label reviews for these specific products. Call 304-558-2227 for details. Honeybee colonies must be registered with WVDA’s Animal Health Division (AHD). Call 304-558-2214 for details.

Food Product Labeling

Why Does It Matter?

Food product labels are important to consumers and producers alike. Consumers benefit by knowing exactly what they are getting in a food product, and producers benefit by having a trusted means of informing consumers about their products.



In West Virginia, there are two categories of labels

Products made in a commercial kitchen (inspected by health department):

- May be sold outside of West Virginia.
- Must carry an FDA-compliant product label, regardless of what type of product.

Products made in a home kitchen (potentially hazardous or non-potentially hazardous):

- May ONLY be sold inside of West Virginia.
- Non-potentially hazardous homemade foods generally do not need label reviews.
- Potentially hazardous homemade foods generally DO need label reviews.
- Potentially hazardous homemade foods must be sold directly to consumers at a registered farmers market.
- The producers of some potentially hazardous homemade foods may need permits, process approval and/or proof of specialized training.

FAQs

Standard Jams and Jellies

- These products contain sugar, which helps to preserve the fruit safely, and do not need label reviews.
- If they contain any other ingredients, such as peppers, they do require a label review.

Candy and Baked Goods

- Candy and baked goods generally don’t need label reviews unless they have dairy or other potentially hazardous ingredients.

Pepperoni Rolls

- Pepperoni rolls containing only pepperoni or only pepperoni and cheese are considered a bakery item and do not require a label review or any other permit.

West Virginia Grown Branding Program

- Label reviews and compliance with all other regulations are required for WV Grown Program membership.

For more detailed information, look for the WVDA Farmers’ Market Vendor Guide online, email productlabeling@wvda.us, or call WVDA’s Business Development Division at 304-558-2210.

Ready to get started designing your label?

Required Elements:

1. **STATEMENT OF IDENTITY**
The common name of the product.
2. **NET CONTENTS**
Either the weight or liquid volume in the container in standard measurements, followed by metric equivalents. This should be located on the bottom third of the main panel. FDA has specific minimum type sizes, so make the type face nice and big to be safe. Honey is measured by weight – maple syrup as a liquid.
3. **LOCATION**
Name/business name, city, state and zip of the producer, packer or distributor. (Unless the name is the actual manufacturer, it must contain a qualifying phrase, such as “manufactured for” or “distributed by.”)
4. **INGREDIENTS**
Ingredients should be listed after the word “Ingredients” followed by a colon in descending order of weight. Sub-ingredients must be listed in parentheses after an ingredient. Be on the lookout for hidden allergens in your sub-ingredients. For example, Worcestershire sauce often includes anchovies, a fish allergen.
5. **ALLERGEN STATEMENT**
Allergen statement for any of the eight major food allergens recognized by FDA. For example, “Contains: milk, egg, fish (species), crustacean shellfish (species), tree nuts (species), peanuts, wheat and soybeans.” Fish, crustacean shellfish, and tree nuts must also include the common species name in parentheses. For example, “Contains: tree nuts (walnuts).” Sesame will be added to the allergen list Jan. 1, 2023.
6. **KITCHEN/FOOD TYPES**
Products made in a home kitchen must ALSO include the following statement: “This product was made in a non-commercial kitchen that may not be subject to inspection and may contain cross-contact allergens not included in the allergen statement.”

Supplemental Elements:

7. **REFRIGERATION OR FROZEN**
Products that need to remain refrigerated or frozen should say so on the label. And any cooking instructions, such as minimum internal temperatures, should also be on the label.
8. **ADDITIONAL GRAPHIC ELEMENTS/DESCRIPTIONS**
You may include other elements on your label such as the WV Grown logo (available in electronic form and stickers), product description, etc. However, the required elements should be grouped together and non-required elements should not intervene.
9. **LOT CODES/SAFE HANDLING INSTRUCTIONS**
Please include any lot codes that would be used in the event of recall as well as any safe handling instructions for your product.



WVDA Application for Label Review

Company/Farm Name/Individual: _____

Contact Name: _____

Physical Address: _____

Mailing Address: _____

Contact Phone Number: _____ Email: _____

Please provide responses for below questions.

1. Please list product category and products for review (attach second if necessary) and email form and images of labels to productlabeling@wvda.us. Or mail to WVDA - Business Development Division, 1900 Kanawha Blvd. E., Charleston, WV 25305.

- | | | |
|---|---|---|
| <input type="checkbox"/> Adult Beverages | <input type="checkbox"/> Dairy Products/Distributor | <input type="checkbox"/> Orchards & Fruit |
| <input type="checkbox"/> Agritourism | <input type="checkbox"/> Eggs | <input type="checkbox"/> Pasta, Rice & Legumes |
| <input type="checkbox"/> Aquaculture | <input type="checkbox"/> Fiber | <input type="checkbox"/> Pet Products |
| <input type="checkbox"/> Baked Goods | <input type="checkbox"/> Flours, Meals & Mixes | <input type="checkbox"/> Pickled/Acidified/Preserved Products |
| <input type="checkbox"/> Bath & Body | <input type="checkbox"/> Hemp Products | <input type="checkbox"/> Produce |
| <input type="checkbox"/> Beverages (non-alcohol) | <input type="checkbox"/> Herbs & Spices | <input type="checkbox"/> Snack Foods |
| <input type="checkbox"/> Candy, Confections & Ice Cream | <input type="checkbox"/> Honey & Honey Products | <input type="checkbox"/> Syrups |
| <input type="checkbox"/> Christmas Trees | <input type="checkbox"/> Jams, Jellies & Butters | <input type="checkbox"/> Other |
| <input type="checkbox"/> Condiments | <input type="checkbox"/> Meat & Poultry | _____ |

PRODUCERS - BEFORE you submit in this application, you **MUST** complete the following requirements:

POTENTIALLY HAZARDOUS FOOD (PHF): IF SELLING AT A FARMERS MARKET- Must have a Farmers Market permit. May require Process Authority, kitchen inspection, water test, approved food safety training. Contact 304-558-2227 for more information.

NONPOTENTIALLY HAZARDOUS FOOD (NPHF): Must complete label review. No Permit required if selling at a farmers market.

DAIRY: You must obtain a Dairy Distributor Permit and if selling at a farmers market a Farmers Market Vendor Permit is required. Contact 304-558-2227 for more information.

APIARY: You must register as an Apiary Producer. Please provide your permit number. Contact 304-558-2227 for more information.

EGGS: You must register as an Egg Producer. Please provide your permit number. Contact 304-558-2227 for more information.

HEMP: You must register as a Hemp Product Distributor. Contact 304-558-2227 for more information.

HONEY: Must complete a label review. You must register your apiary. Contact 304-558-2214.

MEAT & POULTRY: You must obtain a Meat and Poultry Distributor License or Exemption and if selling at a farmers market a Farmers Market Vendor Permit is required. Contact 304-558-2206 for more information.

PRODUCT LABEL REVIEW: Send labels to productlabeling@wvda.us. Contact 304-558-2210.

PRODUCT	NET CONTENTS (WEIGHT, FLUID OZ. OR COUNT)	PRODUCT	SIZE
1.		11.	
2.		12.	
3.		13.	
4.		14.	
5.		15.	
6.		16.	
7.		17.	
8.		18.	
9.		19.	
10.		20.	
Total Number of Labels			

1. Product(s) is/are made in a:

- Home kitchen
- Community kitchen
- Food establishment

2. Product(s) will be sold:

Instate

- Farmers Markets
- Wholesale
- Retail
- On-Farm Sales
- Pick Your Own
- Direct to Consumer
- Online Sales

Out of State

- Out of State



For more information or an application,
 contact 304-558-2210 or
productlabeling@wvda.us

3. Are any products listed an acidified or fermented food?

- **Both types of foods are REQUIRED to have a letter of Process Authority on file and attend a Better Process Control School.**
- **If any products listed for product label review are an acidified or fermented food, complete 4a and 4b.**

a. Do you have a letter of Process Authority?

_____ **If Yes**, please provide copy.

By email: productlabeling@wvda.us

By mail: West Virginia Department of Agriculture
Business Development Division
1900 Kanawha Boulevard, E.
Charleston, WV 25305

_____ **If No**, contact the WVDA Business Development Division (304-558-2210) for forms and instructions for submission.

b. Have you attended a Better Process Control School?

_____ **If Yes**, please provide copy of certificate.

By email: productlabeling@wvda.us

By mail: West Virginia Department of Agriculture
Business Development Division
1900 Kanawha Boulevard, E.
Charleston, WV 25305

_____ **If No**, the WVDA offers this class annually OR you can search online and find a class (i.e. University of Tennessee has an online class)

4. All honey producers are REQUIRED to have hives registered with WVDA.

a. Is your Apiary registered?:

_____ **Yes**

_____ **No**

_____ **N/A (does not produce honey)**

b. Name the apiary is registered under: _____

c. [Annual Application for Apiary Registration \(https://bit.ly/2rjhRWF\)](https://bit.ly/2rjhRWF)

5. If you are meat producer, label approval goes through the WVDA Meat & Poultry Inspection Division. Please contact them at 304-558-2206.

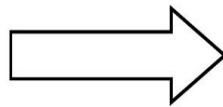
6. Along with this form, please submit a copy of all labels you are requesting a review. Most label applications are processed within 5-10 business days from date of receipt of reviewable materials.

7. Submit labels to: WV Department of Agriculture, Business Development Division, 1900 Kanawha Blvd. E., Charleston, WV 25305 OR email to productlabeling@wvda.us. If revisions are needed, you will be contacted by email, mail, or phone. Once revisions are made you will need to resubmit your label(s). The original Certificate of Label Review will be mailed to the applicant listed on this form and a copy will be sent to the WV Bureau of Public Health.

Which canner should I use?

Pressure Canners are necessary for:

- Vegetables
- Meat
- Fish/seafood
- Poultry
- Soups
- Stews
- Stocks
- Recipes that combine high-acid foods, such as tomatoes, with low-acid foods, such as vegetables or meats



Hot water bath Canners can be used for:

- Fruit
- Fruit juices
- Jellies and jams
- Pickles
- Pickled peppers
- Salsas
- Tomatoes with added acid
- Pickled relishes





West Virginia Farmer Market Registration Form

Application is for April 1, 20 - March 31, 20

Name of Farmers Market:		
Legal owner name:		
Physical Address of Farmers Market: (Location of the market (if not a mobile unit) OR your business location (if a mobile unit))		
County of Farmers Market:		
Email address:	Website:	Social Media:
Telephone #:	Fax#:	
Mailing address: (If different than above address)		<input type="checkbox"/> Same as above
Type of Farmers Market: <input type="checkbox"/> Traditional <input type="checkbox"/> On farm <input type="checkbox"/> Area within a fair or festival <input type="checkbox"/> Consignment <input type="checkbox"/> Online <input type="checkbox"/> Mobile <input type="checkbox"/> Other _____		
If you are a consignment farmers market, please attach your Food Establishment Permit		
Facility type: <input type="checkbox"/> Permanent structure or building <input type="checkbox"/> Parking lot or open-air market <input type="checkbox"/> Mobilized unit		Are you one of the following: <input type="checkbox"/> Veteran <input type="checkbox"/> Police <input type="checkbox"/> First Responder Other: <input type="checkbox"/> Fireman
Dates of operation:		

Days of Operation & Hours:

(Check days which apply & complete time facility is open)

<input type="checkbox"/> Monday	Time _____	<input type="checkbox"/> Friday	Time _____
<input type="checkbox"/> Tuesday	Time _____	<input type="checkbox"/> Saturday	Time _____
<input type="checkbox"/> Wednesday	Time _____	<input type="checkbox"/> Sunday	Time _____
<input type="checkbox"/> Thursday	Time _____		

Please provide your Farmers Market's definition of local (*50 mile radius, county, etc*):

Will sampling be permitted at your market?

Yes No

If yes, do you have an available hand washing area / station, describe below?

I give permission for WVDA to use my market information on website and social media for marketing purposes:

Yes No

Name of Responsible Person (Print)

Signature

Date

Complete this form and email or fax to:

farmersmarkets@wvda.us

fax: 304-558-3594

phone: 304-558-2227



Farmers Market and Farmers Market Vendor Complaint Form

West Virginia Department of Agriculture
Regulatory and Environmental Affairs Division
Charleston, WV 25305

Date:	Time:
Complainant's Full Name:	Telephone Number:
Address:	
Email Address:	
Farmers Market name & address:	
Vendor name & address (if applicable):	
Name of product(s) (if applicable):	
Date of purchase (if applicable):	Lot code or other identifiers:

If you require further space to thoroughly answer the following items, please use additional paper.
Describe the defect or problem encountered:

Farmers Market and Farmers Market Vendor Complaint Form, page 2

If contacted, what was the farmers market or vendor's response:

If you have contacted other divisions/agencies about the complaint, please provide the name of the agency and the person that you spoke with:

Signature of person completing form

Date

FOR INTERNAL USE ONLY	Date of Receipt:
Person receiving:	
Person assigned to investigate:	
Date closed:	

COMPLETE THIS FORM AND EMAIL OR FAX TO: farmersmarkets@wvda.us

Fax: 304-558-3594 Office: 304-558-2227

PROCESS AUTHORITIES

Below is a list of process authorities that can assist you with testing and questions about your product/process.

Melissa Wright MS, DIRECTOR

VA Tech Food Producer Technical Assistance Network
foodbiz@vt.edu Phone: (540) 231-5770

Food Type: Vinegars, Canned Foods (Acidified), Nuts, Jam/Jelly, Peanuts, High Acid Foods, Syrups, Pickled Products, Sauces, Condiments, Confectionary, Low Moisture Foods, Salad Dressings, Fruit or Vegetable Based Products, Beverages (Fermented), Acidified Foods, Baked Goods

Food Process: Fermentation, Non-thermal Food Processing, Thermal Processing, Acidification, Pickling

David A. French PhD, CFS, PCQI (Dave)

Aardvark Associates
dave@processauthority.com Phone: (717) 677-6781

Food Type: Vinegars, Canned Foods (Acidified), Condiments, Jam/Jelly, Juice, Fruit or Vegetable Based Products, Pickled Products, Syrups, Beverages (non-juice / non-dairy), High Acid Foods, Prepared Foods, Sauces, Salad Dressings, Acidified Foods

Food Process: Pickling, Pasteurization, Non-thermal Food Processing, Thermal Processing, Acidification

Luke F. LaBorde PhD, PROFESSOR OF FOOD SCIENCE

Penn State University
lfi5@psu.edu Phone: (814) 863-2298

Food Type: Beverages (non-juice / non-dairy), Jam/Jelly, Pickled Products, Salad Dressings, Sauces, Vinegars, Condiments, Canned Foods (Acidified), Produce, Fruit or Vegetable Based Products, High Acid Foods, Acidified Foods

Food Process: Acidification, Pickling, Fermentation, Thermal Processing

Nicholas Fragedakis

North Carolina State University
nfraged@ncsu.edu Phone: (919) 515-2920

Food Type: Vinegars, Refrigerated Foods, Fermented Foods, Fruit or Vegetable Based Products, High Acid Foods, Low Moisture Foods, Salad Dressings, Jam/Jelly, Canned Foods (Acidified), Acidified Foods, Pickled Products, Condiments, Dried/Dehydrated Foods

Food Process: Low-Temperature Processing, Pasteurization, Pickling, Non-thermal Food Processing, Acidification, Thermal Processing, Dehydration

Alan D. Parker, PRESIDENT

Parker Associates, LLC
alanparker@comcast.net Phone: (410) 349-8708

Food Type: High Acid Foods, Canned Foods (Acidified), Refrigerated Foods, Salad Dressings, Canned Foods (Low Acid), Beverages (non-juice / non-dairy), Produce, Low Moisture Foods, Fruit or Vegetable Based Products

Food Process: Acidification, Thermal Processing, Challenge Studies, Modified Atmosphere Packaging, HACCP, Pasteurization, Aseptic Processing

Brian Kellerman

Kellerman Consulting
info@kellermanconsulting.com Phone: (800) 535-1376

Food Type: Dairy (Milk & Milk Products), Soup/Soup Broth, Nuts, Meat (Raw), Produce, Spices, Pet Foods, Cereal/Grains, Dietary Supplements, Baked Goods, Beverages (non-juice / non-dairy), Sauces, Eggs, Seafood, Juice

Food Process: Fermentation, Drying/Curing, Pickling, Reduced Oxygen Packaging, Smoking

CONTACTS

WEST VIRGINIA DEPARTMENT OF AGRICULTURE (WVDA)

Aquaculture/Fish/Seafood

Regulatory and Environmental Affairs
304-558-2227
hsansom@wvda.us

Correspondence

Regulatory and Environmental Affairs
farmersmarkets@wvda.us
304-558-2227

Eggs – Small Producers

Regulatory & Environmental Affairs
304-558-2227
dgraley@wvda.us

Farmers Market and Vendor Registration

Regulatory and Environmental Affairs
304-558-2227
farmersmarkets@wvda.us

Labeling

Business Development Division
304-558-2210
productlabeling@wvda.us

Meats, Poultry and Rabbit Meat

& Poultry Inspection Division 304-558-2206
gjones@wvda.us

Produce Safety

Regulatory and Environmental Affairs
304-521-5968
produce@wvda.us

West Virginia Grown Branding Program

Business Development
304-558-2210
wvgrown@wvda.us

Other Contacts

Bureau for Public Health

Public Health Sanitation
304-352-5259
681-205-3347

WVU EXTENSION SERVICES

Agriculture & Natural Resources
304-293-9464
rrhelmondaoolar@mail.wvu.edu

WV FARMERS MARKET ASSOCIATION

304-398-5214
coordinator@wvfarmers.org



West Virginia Department of Agriculture

Kent A. Leonhardt, Commissioner

Amie Minor-Richard, Deputy Commissioner