Farmers Market and Vendors

New Farmers Market Law and Rule
Senate Bill 375

- Became §19-35 Farmers Markets Law
- Removes local health departments from farm markets permitting process
- Transfers rules and regulations for farmers markets, cottage foods, acidified foods, nonpotentially hazardous foods, and exempted foods to WVDA
61 CSR 38 Farmers Market Rule

• Framework for regulation of farmers markets and farmers markets vendors
  • Includes registration, permitting, inspection, and labeling
  • Is being used as an Emergency Rule now
  • Incorporated by Reference
    • The Farmer’s Market Vendor Guide - WVDA
    • Regulatory Guidance for Best Practices, Cottage Foods (2012) - AFDO
Established what is a Farmers Market and what is a Farmers Market Vendor

- Farmers Market is “two or more vendors gather to sell farm and food products directly to consumers at a fixed location, mobile location, digitally, for share of profit, and run by an individual producer selling farm and food products.
  - Traditional Farmers Market
  - On Farm Market or Farm Stand
  - Online Farmers Market
  - Consignment Farmers Market

• “Farmers market vendor” means a person or entity that sells farm and food products at a farmers market.
  • Only certain vendors must register to obtain a WVDA Farmers Market Vendor Permit
4.1. All farmers markets shall register with the Department on a form provided by the Commissioner and shall include, at a minimum, the following:

- Annual Registration
- Permit is April 1- March 31
- No Cost to Register
- Can be completed online and emailed to the WVDA
- Inspected once every two years

9.5. The following vendors shall be exempt from the requirement to obtain a farmers market vendor permit:

9.5.a. Producers delivering their products to a consignment farmers market only;
9.5.b. Vendors selling fresh uncut produce;
9.5.c. Vendors selling non-potentially hazardous foods;
9.5.d. Vendors selling farm and food products identified in section 6.1 of this rule;
9.5.e. Vendors selling farm and food products manufactured in an FDA-inspected facility.
• Annual Registration
• Permit is April 1- March 31
• $35 to register
• Forms must be completed and mailed to WVDA with money
• Inspected every year / $27 per hour plus mileage to inspect
• Only those vendors making “Potentially Hazardous” Foods we be licensed
• Must have a process review of their products
• Will not be double inspected; if WVDHHR, FDA, USDA does an inspection, then WVDA will not
Vendors selling these products need only a WVDA Vendors Permit

- §61-38-6.2 The following farm and food products may be sold at farmers markets if a vendor permit has been obtained:
  - 6.2.a. Canned acidified foods, including but not limited to;
  - 6.2.a.1 Pickled products;
  - 6.2.a.2 Sauces, such as hot sauce, marinara, or spaghetti sauce;
  - 6.2.a.3 Salsas;
  - 6.2.a.4 Fermented products; and
  - 6.2.a.5 Acidified fruits and vegetables; and
Vendors selling these products need only a WVDA Vendors Permit

- §61-38-6.2.b. All farm and food products that are required to be time- or temperature-controlled.
§61-38-6.3. The following farm and food products may be sold at farmers markets if a vendor has obtained both a vendor permit and a food establishment permit from a local health department:

6.3.a. Meat;
6.3.b. Poultry;
6.3.c. Dairy;
6.3.d. Fish;
Prohibited from being sold at a Farmers Market

• §61-38- 6.4. The following foods are not permitted to be sold at a farmers market:
  6.4.a. Wild mushrooms; and
  6.4.b. Sprouted seeds.
7.2. All farm and food product labels shall include the words “MADE IN A WV ________ KITCHEN” in capital, bold, 10-point type or larger, with the blank space to state whether the product was made in a home, farm, community or commercial kitchen.
§61-38-12. Local permit requirements.

12.2. The local health department in the jurisdiction in which the farmers market is located has the right to inspect and suspend the food establishment permit of a farmers market vendor that sells or serves food for which a food establishment permit is required.
§61-38-12. Local permit requirements.

12.3. Farmers market vendors shall be subject to any state or federal rules and regulations that apply to certain farm and food products sold at farmers markets or at a consignment farmers market under the *Food Safety Modernization Act* and interstate commerce regulations.
Farmers Market and Farmers Market Vendor
Complaint Forms

1. Can be found at the same place as the other applications
2. To be used for any complaint with a market, vendor, or product
3. Will trigger an investigation by the WVDA, WVDHHR, or both.
4. Can be mailed, emailed, or called into WVDA at 304-558-2227.
   - Attention Stacy Stewart Farmers Market Program Coordinator, Chad Linton, Assistant Director or Amie Minor, Director