Food at Fairs and Festivals
Temporary Food Establishments and Mobile Food Establishments

Jennifer Hutson, Food Program Manager, August 28, 2020, and Virtual Skype Training
Definitions and Applicable Rules

The Framework to Regulating Food at Events
2013 FDA Food Code

Food Establishment.

- An operation that stores, prepares, packages, serves, vends food directly to the consumer, or otherwise provides food for human consumption such as a restaurant; satellite or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; market; vending location; conveyance used to transport people; institution; or food bank; and relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

- Including an element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority; and an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premises; and regardless of whether there is a charge for the food.
WV64CSR30 Fees for Permit Rule

Food Service Establishment

- Any fixed or mobile restaurant; coffee shop; cafeteria; short-order cafe; soda fountain; tavern; bar; cocktail lounge; delicatessen; nightclub; roadside stand; industrial feeding establishment; private, public, or non-profit organization or institution routinely serving food; catering kitchen; commissary or similar place in which food or drink is prepared for sale or service on the premises or elsewhere; and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.
Table 64-30C  Food Service Establishment* Permit Fees

<table>
<thead>
<tr>
<th>Seating Capacity</th>
<th>Fee for Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 – 20</td>
<td>$125</td>
</tr>
<tr>
<td>21 – 50</td>
<td>$250</td>
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<tr>
<td>51 – 80</td>
<td>$375</td>
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<tr>
<td>81 and over</td>
<td>$500</td>
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</table>

* If the facility has a liquor license from the West Virginia Alcoholic Beverage Control Administration – an additional $125 fee shall be added to each seating capacity amount.

The fixed expiration date is June 30.
WV64CSR30 Fees for Permit Rule

Mobile Food Establishment - $125 Expires June 30th

- A food establishment that is mobile by means of mechanical, electrical, manual, or otherwise propelled vehicle operating on land or water that complies with 64CSR17 Food Establishment Rule - FDA Food Code Mobile Food Establishment Matrix recommendations based on the menu of food items provided.
# 2013 FDA Food Code

## FDA Food Code Mobile Food Establishment Matrix

<table>
<thead>
<tr>
<th>Areas/Chapter</th>
<th>Food Code</th>
<th>Time/Temperature for Safety Food (TCS) Menu</th>
<th>Prepackaged</th>
<th>Food Preparation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personnel</td>
<td>3-101.11</td>
<td>3-201.11 - 16, Applicable Sections of Part 3-3; 3-501.16; 3-501.18(A)</td>
<td>3-101.11</td>
<td>Applicable Sections of Parts 2-2 - 2-4, 5-203.11 (C)</td>
</tr>
<tr>
<td>Food</td>
<td>3-202.16</td>
<td>3-202.16; Applicable Sections of Part 3-3; 3-501.16</td>
<td>3-202.16</td>
<td>Applicable Sections of Parts 2-2 - 2-4, 5-203.11 (C)</td>
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<tr>
<td>Temperature</td>
<td>3-202.11; Applicable Sections of Parts 3-4 &amp; 3-5</td>
<td>3-202.11</td>
<td>NONE</td>
<td></td>
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<tr>
<td>Requirements</td>
<td></td>
<td>3-501.16</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Equipment</td>
<td></td>
<td>Applicable Sections of Parts 4-1 - 4-9 and 5-5</td>
<td>Applicable Sections of Parts 4-1 - 4-2; 4-6 and 5-5</td>
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<tr>
<td>Water &amp; Sewage</td>
<td>5-104.12</td>
<td>5-203.11(A) &amp; (C) Part 5-3, 5-401.11, 5-402.13 - 15</td>
<td>5-104.12</td>
<td>5-203.11(A) &amp; (C) Part 5-3, 5-401.11, 5-402.13 - 15</td>
</tr>
<tr>
<td>Physical Facility</td>
<td>6-101.11</td>
<td>6-201.11</td>
<td>6-101.11</td>
<td>6-201.11</td>
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<tr>
<td>Toxic Materials</td>
<td></td>
<td>Applicable Sections of Chapter 7</td>
<td>Applicable Sections of Chapter 7</td>
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<tr>
<td>Servicing</td>
<td>6-202.18</td>
<td>As necessary to comply with the Food Code</td>
<td>6-202.18</td>
<td>As necessary to comply with the Food Code</td>
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<tr>
<td>Compliance and Enforcement</td>
<td>Applicable Sections of Chapter 8 and Annex 1</td>
<td>Applicable Sections of Chapter 8 and Annex 1</td>
<td>Applicable Sections of Chapter 8 and Annex 1</td>
<td></td>
</tr>
</tbody>
</table>
WV64CSR30 Fees for Permit Rule

Retail Food Store - $60 per register. Expires June 30th.

- Any place, structure, premise, vehicle, or any part thereof in which food is sold retail, offered for retail sale, or served not to be consumed on the premises. For the purpose of this rule, the term "retail food store" does not include establishments which handle only pre-packed non-potentially-hazardous foods; roadside markets that offer only fresh fruits or fresh vegetables; or the delicatessen operation of a retail food store.
WV64CSR30 Fees for Permit Rule

Temporary Food Service Establishment - $60 per unit.

- A food service establishment that operates at a fixed location for a period of time of not more than 14 consecutive days in conjunction with a single event or celebration and required by W. Va. Code § 16-6-3, to have a permit.
West Virginia Code Chapter 16 Article 6-3.

Hotel and Restaurant Defined; Hotels and Restaurants Not Subject to Provisions of Article.

- For the purpose of this article, every building where food and lodging are usually furnished to guests and payment required therefor shall be deemed a hotel, and every place where food without lodging is usually furnished to guests and payment required therefor shall be deemed a restaurant. But the provisions of this article, except those of sections twenty and twenty-two, shall not apply to any hotel wherein there are fewer than ten bed chambers, nor to any hotel known as a "summer hotel" which is not open for guests from November fifteenth to May fifteenth. The provisions of this article shall not apply to temporary food sales, not exceeding two weeks in length, by religious, educational, charitable or nonprofit organizations.
West Virginia Code Chapter 16 Article 2-17
Event Permit Fees Good for A Year, Reciprocity From Other State Health Departments

- A temporary food service permit issued by a local or county health department to an in-state vendor in their county of residence for preparing and selling non-potentially hazardous foods at a festival, scheduled event, or similar activity which is valid for any time period less than annual and any permit fee paid shall be valid for an entire calendar year for the vendor regardless of the length of time for which the first permit is issued and regardless of the number of subsequent festivals, events or activities for which the vendor requires the same permit. Non-potentially hazardous foods mean food that does not require time or temperature control for safety to limit pathogenic microorganism growth or toxin formation.

- The permit shall also be valid in the counties that border the vendor’s county of residence or 25 air miles, whichever is greater. No health department within these defined areas may charge a permit fee to any in-state vendor that has received a temporary food service permit to prepare and sell non-potentially hazardous foods by the other in-state health department during the same calendar year for the same type of activity, but may place conditions and limitations upon an issued permit to assure compliance with that health departments rules and standards for the type of permit being issued. Each vendor must provide notice to the local health department with jurisdiction at least 14 days prior to the start of the festival, event or activity. The permit must be visibly posted at the festival, event, or activity or the permit is not valid.
Approval of Temporary and Mobile Units
Application, Plan Review Process, and Opening Inspection
Required for:
- Mobile Food Establishment
- Retail Mobile Food Establishment
- Temporary Food Establishment
- Non-Potentially Hazardous Food/non-TCS Temporary Food Establishment in County of Residence Only

Not Required for:
- Non-profit temporary food events that do not exceed 14 days total
- Non-Potentially Hazardous Food Temporary Food Establishments with a permit from LHD in county of residence at an event in a neighboring county or within 25 air miles of residence.
Required for:
- Mobile Food Establishment
- Retail Mobile Food Establishment
- Temporary Food Establishment
- Non-Potentially Hazardous Food/non-TCS Temporary Food Establishment in County of Residence Only

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- Non-profit temporary food events that do not exceed 14 days total
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SF-35 Food Establishment Plan Review Application

Required for:
- Mobile Food Establishments
- Retail Food Establishments
- Events that exceed 14 days

Not Required for:
- Temporary Food Establishments
Additional Requirements of Application

All Applicants:
- Proposed Menu
- Water Source
- Wastewater Disposal Method
- Solid Waste Disposal Plan

Mobile and Retail Food Establishments:
- Plans drawn to scale showing location of equipment, plumbing, electrical services and mechanical ventilation.
- Manufacture Specification sheets for equipment.
Plan Review

- Must be formally conducted for Mobile Food Establishments and Retail Food Establishments.
- Should be conducted for non-PHS Temporary Food Establishments in the County of Residence.
- Must be based on the menu and the complexity of food being made.
  - Non-Potentially Hazardous/Non TCS Food
  - Process 1: Food Preparation with No Cook Step
    - Receive – Store – Prepare – Hold – Serve
  - Process 2: Preparation for Same Day Service
    - Receive – Store – Prepare – Cook – Hold – Serve
  - Process 3: Complex Food Preparations
    - Receive – Store – Prepare – Cook – Cool – Reheat – Hot Hold – Serve
Plan Review

Personnel:
- 2-2 Employee Health
- 2-3 Personal Cleanliness
- 2-4 Hygienic Practices
- 5-203.11 (C) Handwashing Sinks: If approved, when food exposure is limited and handwashing sinks are not conveniently available, such as in some mobile or temporary food establishments or at some vending machine locations, employees may use chemically treated towelettes for handwashing. (Prepackaged food may be the only time this is appropriate).
Plan Review

Food:

- 3-101.11 Safe/Unadulterated/Honestly Presented
- 3-201.11-17 Sources
- 3-3 Protection from Contamination after Receiving
- 3-501.16 Hot and Cold Holding
- 3-501.18 Ready to Eat Food Disposition
Temperature Requirements:

- 3-202.11 Specification for Receiving: Temperature
  *Eggs and milk at farmers’ markets may be an exception
- 3-4 Destruction of Organisms of Public Health Concern
- 3-5 Limitation of Growth of Organisms of Public Health Concern
Plan Review

Equipment Requirements:

- All of Chapter 4 Equipment Utensils, Linens
  - Materials for Construction and Repair
  - Design and Construction
  - Numbers and capacities
    - Hot and cold Holding
  - Manual Warewashing, Sink Compartment Requirements
  - Food Temperature Measuring Devices
- Maintenance and Operation
- Cleaning of Equipment
- Sanitation
- Laundering
- Protection of Clean Items
- 5-5 Refuse, Recyclables, and Returnables
Plan Review

Water and Sewage:

- **5-104.12 Water Distribution, Delivery, and Retention Alternative Water Supply**
  - Water meeting the requirements specified under Subparts 5-101, 5-102, and 5-103 shall be made available for a mobile facility, for a temporary food establishment without a permanent water supply, and for a food establishment with a temporary interruption of its water supply through:
    - A supply of containers of commercially bottled drinking water;
    - One or more closed portable water containers;
    - An enclosed vehicular water tank
    - An on-premises water storage tank;
    - Piping, tubing, or hoses connected to an adjacent approved source.
Water and Sewage:

- **5-203.11 Handwashing Sinks**
  - At least 1 HANDWASHING SINK, a number of handwashing sinks necessary for their convenient use by employees in areas specified under § 5-204.11, and not fewer than the number of handwashing sinks required by law shall be provided.
  - If approved, when food exposure is limited and handwashing sinks are not conveniently available, such as in some mobile or temporary food establishments or at some vending machine locations, employees may use chemically treated towelettes for handwashing.
Plan Review

Water and Sewage:
- **5-3 Mobile Water Tank/Mobile Food Establishment Water Tank**
  - Materials Approved
  - Design and Construction
  - Numbers and Capacities
  - Operation and Maintenance
- **5-401.11 Sewage Mobile Holding Tank Capacity and Drainage**
  - A sewage holding tank in a mobile food establishment shall be sized 15 percent larger in capacity than the water supply tank and sloped to a drain that is 25 mm (1 inch) in inner diameter or greater, equipped with a shut-off valve.
Water and Sewage:

- **5-402.13 Conveying Sewage**
  - Sewage shall be conveyed to the point of disposal through an approved sanitary sewage system or other system, including use of sewage transport vehicles, waste retention tanks, pumps, pipes, hoses, and connections that are constructed, maintained, and operated according to law.

- **5-402.14 Removing Mobile Food Establishment Wastes**
  - Sewage and other liquid wastes shall be removed from a mobile food establishment at an approved waste servicing area or by a sewage transport vehicle in such a way that a public health hazard or nuisance is not created.

- **5-402.15 Flushing a Waste Retention Tank**
  - A tank for liquid waste retention shall be thoroughly flushed and drained in a sanitary manner during the servicing operation.
Plan Review

Physical Facilities:

- 6-101.11 Materials for Construction and Repair: Indoor Areas
- 6-102.11 Materials for Construction and Repair: Outdoor Areas
- 6-201.11 Design and Construction: Cleanability Floors, Walls, Ceilings
- 6-202.15 Design and Construction: Outer Opening, Protected
- 6-501.11 Maintenance and Operation: Repairing
- 6-501.12 Maintenance and Operation: Cleaning, Frequency/Restriction
- 6-501.111 Maintenance and Operation: Controlling Pests
Plan Review

Physical Facilities:

- **6-202.15 Design and Construction: Outer Opening, Protected**
  - Outer openings of a FOOD ESTABLISHMENT shall be protected against the entry of insects and rodents by:
    1. Filling or closing holes and other gaps along floors, walls, and ceilings;
    2. Closed, tight-fitting windows; and
  - If a temporary food establishment is not provided with windows and doors as specified under ¶ (A) of this section, the openings shall be protected against the entry of insects and rodents by:
    1. 16 mesh to 25.4 mm (16 mesh to 1 inch) screens;
    2. Properly designed and installed air curtains to control flying insects; or
    3. Other effective means.
  - Paragraph (D) of this section does not apply if flying insects and other pests are absent due to the location of the establishment, the weather, or other limiting condition.

- **6-501.111 Maintenance and Operation: Controlling Pests**
Physical Facilities:

- **6-501.111 Maintenance and Operation: Controlling Pests**
  
  The PREMISES shall be maintained free of insects, rodents, and other pests. The presence of insects, rodents, and other pests shall be controlled to eliminate their presence on the PREMISES by:

  (A) Routinely inspecting incoming shipments of FOOD and supplies;

  (B) Routinely inspecting the PREMISES for evidence of pests;

  (C) Using methods, if pests are found, such as trapping devices or other means of pest control as specified under §§ 7-202.12, 7-206.12, and 7-206.13; and

  (D) Eliminating harborage conditions.
Finishing out Plan Review

Provide Official Notice of Denial or Approval for Submitted Plans

- In writing.
- Within specified timeframe for your local health department but prior to the event.

8-303.30 Denial of Application for Permit, Notice: In Writing...

- State the reasons for denial with applicable code citations.
- Example: Cannot approve application for permit at this time because on establishment’s menu and SF-35 show food ingredients like raw chicken that need cold storage, but no source of continuous refrigeration is provided as required in 4-301.11 of the 2013 FDA Food Code as adopted by WV Legislative Rule § 64CSR17.

- Methods of receiving approval without administrative appeal.
- Example: Applicant will be approved for permit pending inspection if updated SF-35 shows enough refrigeration to maintain products at correct temperature, or if menu change shows there is no longer a need for cold holding.

- How to seek an administrative appeal to the decision.
- WV 64CSR1 Rules of Procedure for Contested Case Hearings and Declaratory Rulings.
  - Must be granted or denied the petition withing 10 days after receipt.
    - Can be denied if request is excess of authority under law, serve no useful purpose, or happened more than 90 days prior to the request of hearing.
  - Heard within 45 days.
Temporary Food Establishments

Training
- Based on Local Health Department Requirements

Handwashing
- Can use a thermos with a spigot and a bucket
- Hand soap
- Paper towels

Cleaning and sanitizing
- Three wash basins
- Sanitizer and test strips

Hot and cold holding
- Coolers & Ice baths vs Refrigeration
- Sterno Warmers vs Steam Tables & Hot boxes

Cooking
- Open Air Cooking

Water
- Must be an approved source of water.

Wastewater
- Do not allow buckets and tanks to be dumped on the ground.

Refuse
- Must be collected and removed at a frequency that prevents pests and keeps it from overflowing.

Pest control
Opening Inspection

• Check with neighboring jurisdictions for compliance information when appropriate.
• Pre-Operational/before the permit is given
  • Must be turned on and running for long enough to show the entire unit is working.
• Should be able to verify at a minimum
  • Hot water
  • Handwashing
  • Cold holding
  • Hot holding
  • Clean
  • Outer opening protected
• Discuss how and where products are made.
• Check for
  • Gloves
  • Thermometers (probes and unit thermometers)
  • Sanitizer and test strips
  • Hair nets
• Do not issue the permit to operate unless there are zero items cited.
• Provide a timely option for corrective action follow up.
• Issue the permit when zero observations are cited.
Inspecting Food at Fairs and Festivals
Maintaining Professionalism.
Inspection Frequency.
Common Violations During the Event.
Being Prepared to Inspect

Items to Bring:
- Health Department ID/Credentials
- Inspection Reports
- Pens
- Permits (if doing opening inspections)
- Calibrated Probe Thermometer
- Alcohol Wipes
- QT10, QT40, and Chlorine Test Strips
- Flashlight

Be the Example:
- Wear a hair covering.
- Wear pants, not shorts.
- Wear t-shirts or long sleeves (do not wear sleeveless tops to inspect)
- Wear comfortable, sturdy shoes that are appropriate for any weather.
- Bring your own water and money to purchase any food or drinks you may need.
- Wash your hands at every stop.
Routine Inspection

- Review any previous routine inspections
- Should be done during normal hours of operation, unannounced.
- Conduct at least one routine (non-opening) inspection during the event/season.
- If there are priority or priority foundation observations sited on the inspection conduct a timely follow-up inspection.
Common Issues During Fairs & Festivals

- Power outages
- Water outages
- Equipment failures
  - Water heaters
  - Refrigeration
  - Grills
- Handwashing
- Glove usage issues
- Using time as a public health control
- Date marking
Foods at Fairs & Festivals

- Ice cream, Yogurt, Frozen Treats
- Dragons Breath
- Kettle Corn
- Hot Dogs/Hamburgers
- BBQ
- Funnel Cakes/Donuts
- Fried Pickles
- Fried Oreos
- Pizza
- French Fries, Ribbon Fries
- Cotton Candy
- Candy Apples
Food Festivals and Cook Offs

- Who is sponsoring the event?
- Who is participating in the event?
- Where is the food being made?

  - The Sponsor may choose to hold the permit for all participants.
  - Non-profit events are not required to have permits.
  - Food made from home should be discouraged but cannot be prohibited if the event is not permitted.
  - Sources of food should be discussed when considering heritage food festivals.
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