



# **Department of Health Guidance**

## **Information Bulletin for Public Market Managers**

**Government of the District of Columbia  
Department of Health  
Health Regulations and Licensing Administration  
Food Safety & Hygiene Inspection Services Division (FSD)**

**April 2014  
Food Safety**

**This guidance represents the Department of Health's (DOH's) current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind DOH or the public.**

## **I. GENERAL INTRODUCTION**

This information bulletin provides regulatory guidelines for foods often found at farmers markets and other special events. In Washington, DC farmers markets are a type of public markets. This document also provides DOH information regarding some of the risks involved with various foods often distributed at public markets and similar venues, and contains basic guidance regarding safe transportation, delivery and display of foods.

The guidance and clarification regarding public markets and similar events is necessary because the number of public markets in the District has increased in the past few years. In addition, the range of food products sold at these venues has expanded from fresh, uncut, unprocessed fruits and vegetables to include a variety of food items including prepared foods. This guidance document is written in an attempt to clarify foods that are allowed when certain regulations are met. Given that certain foods pose potential health risks to the public, DOH needs potential operators to be aware of the requirement to participate in public markets and must be able to verify the source of foods distributed.

**This information bulletin is not all inclusive and operators are encouraged to become familiar with regulations from other agencies such as the Department of Consumer and Regulatory Affairs (DCRA) Fire and Emergency Medical Services (FEMS) and Department of Transportation (DDOT) for public space ordinances. Please see the Vending Regulations at: <http://dcra.dc.gov/publication/vending-regulations>**

## **II. PERMITS/LICENSES**

Operators of stands and concessions who wish to sell products other than fresh, uncut, unprocessed produce must contact the Food Safety & Hygiene Inspection Services Division (FSD) to register and become familiar with any and all specific regulatory requirements.

**Foods Allowed for Sale or Distribution at Public Markets or other  
Special Events with No Restriction**

- **Raw Agricultural Products** - Fresh fruits and vegetables, honey in the comb - as harvested and not further processed; only minimally rinsed to remove visible soil, but otherwise unprocessed and not packaged;
- **Popcorn, grains, seeds, beans and nuts** -- whole, unprocessed, unpackaged and un-sprouted;
- **Fresh herb sprigs (a little twig or spray); dried herbs in bunches** -only cut for harvesting, minimally rinsed to remove visible soil and unpackaged.

**Foods Allowed for Sale or Distribution at Public Markets or other  
Special Events with Certain Restriction**

- **Baked Goods** prepared as part of the Cottage Food Act. Only non-potentially hazardous baked goods (i.e., no cream or custard filled items, egg-based or custard pies, etc.) shall be prepared, produced or packaged in a residential kitchen and **MUST BE REGISTERED WITH** the DC Department of Health, Food Safety Division. All food items to be transported and held at a temperature to prevent bacterial growth and be protected from cross contamination; for cold items 410F and for hot items 1400F. Contact information for the DOH/FSD can be found at the end of this document. All packaged items must be properly labeled as indicated under the labeling section found on page 8 of this document.
- **Cut Fruits and Vegetables** shall be deemed to be ready-to-eat and shall be prepared and handled in accordance with the DC Food Code §806, §900.1 or 900.2; §901.1 or §903 or as specified in §900.4.
- **Milk and Cheese Products** shall be processed in a licensed facility. Products that have been pasteurized, processed and packaged in a licensed dairy plant may be sold at public markets and other food sales events. All potentially hazardous dairy products shall be stored at 41°F or below. All milk products must follow the labeling requirements found in the labeling section of this document on page 8. Raw milk cheeses may be sold if made in a licensed dairy plant and aged over 60 days. Title 21 Code of Federal Regulations (CFR) Part 133 addresses those standardized cheeses that are permitted to be manufactured from raw milk when the cheese is aged over 60 days.
- **Ice cream** may be sold if it is manufactured in a licensed dairy plant from commercially pasteurized ice cream mix and able to maintain temperature.
- **Herbs** - Chopped, blended, packaged, or otherwise processed herbs must be prepared in a facility inspected and licensed by the regulatory authority that has jurisdiction over the facility.
- **Honey** - Comb-honey is exempt from regulatory oversight, but extracted honey must originate from a facility inspected and licensed by the regulatory authority that has jurisdiction over the facility and must follow the labeling requirements found in the labeling section on page 8. If any sweetener is added, the product may not be called honey.

**Note:** Beehives must be inspected by the regulatory authority that has jurisdiction over the facility as well as the USDA.

- **Maple Syrup** must originate from a facility inspected and licensed by the regulatory authority that has jurisdiction over the facility and must follow the labeling requirements found in the labeling section.
- **Wild and Cultivated Mushrooms** - Commercially-raised mushrooms (i.e., common button mushroom, portabellas, shiitake, enoki, bavarian, etc.) must

have documentation detailing their source. "Wild-type" mushroom species picked in the wild shall not be offered for sale or distribution unless the requirements as described in the DC Food Code are met.

- **Apple Cider** and other fruit and/or vegetable juices shall be made in a facility inspected and licensed by the regulatory authority that has jurisdiction over the facility. Juice hazardous analysis critical control point (**HACCP**) plan regulations must be followed. Contact the DC FSD to arrange to have a facility and process of juicing reviewed for approval. See the following website for more information ([www.cfsan.fda.gov/-comm/haccpjuLhtm1](http://www.cfsan.fda.gov/-comm/haccpjuLhtm1)).

- Apple cider, packaged or in a container, must be treated to achieve a 5-log reduction of pathogens or show a warning statement on the label stating:

**"WARNING: This product has not been pasteurized and, therefore, may contain harmful bacteria that can cause serious illness in children, the elderly and persons with compromised immune systems."**

- **Herb Vinegars** shall be made in a facility inspected and licensed by the regulatory authority that has jurisdiction over the facility. All vinegars must follow labeling requirements found in the labeling section on page 8.
- **Garlic-in-oil** shall only be sold if processed in an inspected and licensed, commercial processing plant where it has been acidified to certain specifications (usually with citric acid). Garlic-in-oil is frequently contaminated with *Clostridium botulinum* spores and has been implicated in several foodborne outbreaks.
- **Other Flavored Oils** shall be made in a facility inspected and licensed by the regulatory authority that has jurisdiction over the facility. Labeling requirements must be followed as detailed in the labeling section on page 8.
- **Pickles, Relishes, Salsas, other "canned" items** - All canning and preserving shall be done in a facility inspected and licensed by the regulatory authority that has jurisdiction over the facility. The facility shall be inspected by DOH/FSD or licensed in the originating jurisdiction and the inspector shall verify the sources of ingredients and compliance of Title 21 Code of Federal Regulations Part 113 and 114. In addition, the canning process must be inspected and approved by the DOH/FSD or relevant regulatory authority in another state. **Home canning is not allowed** – See below information regarding prohibited foods.
- **Shell Eggs** - *Salmonella enteritidis* (SE) is the pathogen of concern with shell eggs. An egg license issued by the FDA/USDA is required for anyone who transports and sells eggs anywhere except on the farm where the eggs were produced. USDA rules stipulate that all eggs sold at public markets and other off-farm venues must be candled and graded, and held at 45°F or below during storage, transportation and distribution. Once the eggs are at the public market

or other retail location, the DC Food Code stipulates that the eggs shall be held at 41°F or below. Any form of refrigeration is acceptable, so long as the temperature requirements are met.

- **Meats and Poultry** are regulated by the USDA. Meat, meat products, poultry and poultry products must be derived from livestock or poultry (including rabbits) which were slaughtered under U.S. Department of Agriculture (USDA) inspection. A meat and poultry broker's license issued by USDA is required for anyone who sells meat, poultry, meat products or poultry products at a public market other than licensed meat and poultry processing establishments. Meat, meat products, poultry and poultry products offered for sale must bear an USDA inspection legend and other required labeling (product description, ingredients, etc.) on every container. Operators at public markets must meet any additional relevant requirements found in the DC Food Code or local food ordinances if applicable (contact your local health department).
- **Fish, Shellfish and/Molluscan** shall be processed in a facility inspected and licensed by the regulatory authority that has jurisdiction over the facility using a HACCP plan as required in Title 21 Code of Federal Regulations Part 123.
- **Commercially Produced Pre-Packaged Food Products** are allowed for sale at public markets, if they meet applicable regulations and requirements, including labeling requirements found on page 8.
- **Other Food Products** - Other food products will be assessed on an individual basis by the DOH/FSD. Below is a list of list of food items approved as of April 2014:
  - Baked goods, **without** cream, custard, or meat fillings, such as biscuits, breads, brownies, cakes, churros, cookies, muffins, pastries, pies, pretzels, rolls, scones, sweet breads and tortillas.
  - Candy, such as brittle and toffee.
  - Chocolate and Chocolate-covered nonperishable foods, such as nuts and dried fruits.
  - Crackers
  - Dried fruit.
  - Dried pasta.
  - Dry baking mixes.
  - Fruit pies, fruit empanadas, and fruit tamales.
  - Granola, cereals, and trail mixes.
  - Herb blends and dried mole paste.
  - Sweet sorghum syrup.

- Jams, jellies, preserves, and fruit butter that comply with the standard described in Part 150 of Title 21 of the Code of Federal Regulations.
- Nut mixes and nut butters.
- Popcorn, grains, seeds, and beans.
- Vinegar and mustard.
- Roasted coffee and dried tea.
- Waffle cones and pizelles.

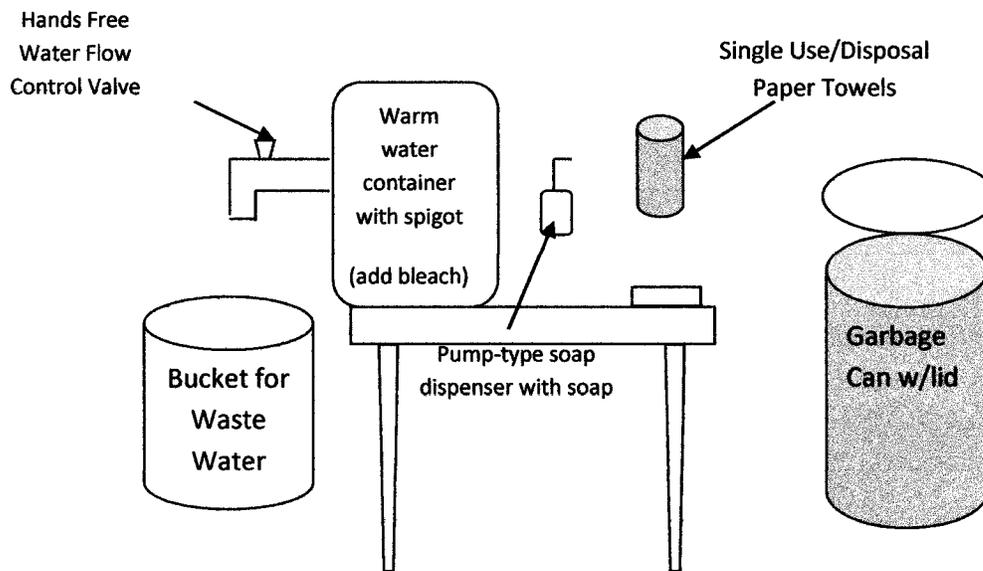
**Foods Prohibited for Sale or Distribution at Public Markets or other  
Special Events**

- **Raw Milk or any Dairy Products made with Raw Milk** - *(see page 3 for exemption regarding cheese aged over 60 days)* are prohibited for sale or distribution at public markets by the Grade A Pasteurized Milk and Milk Products Act. Raw dairy ingredients can be contaminated with *Campylobacter jejuni*, *Listeria monocytogenes*, *Salmonella*, and/or other pathogens.
- **Home-Butchered Meat, Poultry, or Wild Game Animals** - Home-butchered meat and poultry is for the owner's own household use and may not be transported to or sold at public markets. Wild game may only be donated to charitable or non-profit organizations if it is processed in a facility inspected and licensed by the regulatory authority that has jurisdiction over the facility.
- **Home-Canned Foods are Prohibited** - All low acid canned foods in hermetically sealed containers have a risk of containing surviving *Clostridium botulinum* and subsequent formation of toxin unless a scheduled process is filed with the U.S. FDA and followed. Some recipes for apple butters, jams and jellies may have been modified to use a substitute, pectin, or fruit juice in place of sugar, which will not give the same protection as a high sugar content. Without process controls and product analysis, it is extremely difficult to distinguish between safe and unsafe products. Therefore, home-canned foods may not be sold to the public. Any canned or preserved goods must be made in a facility inspected and licensed by the regulatory authority that has jurisdiction over the facility, and comply with DC Food Code.
- **Home Vacuum-Packaged Products are Prohibited** - The risk of *Clostridium botulinum* and other anaerobic pathogens occurs without strict controls and an approved HACCP plan.
- **Sandwiches Prepared at Home are Prohibited** - All potentially hazardous foods must be prepared in a facility inspected and licensed by the regulatory authority that has jurisdiction over the facility. Sandwiches made at home may not be sold to the public.
- **Ice-cream** made in an uninspected facility is prohibited.

### III. TEMPORARY HAND WASHING DIAGRAM

**Hand washing is required** when produce or any food item is sliced, cut or prepared on-site or off-site, therefore, hand washing facilities must be provided. It is highly recommended that if warm water under pressure is not available, a hand washing station such as the one shown below is utilized.

A temporary hand washing station is required at all licensed temporary food facilities. This must be set up prior to any food preparation. Provide a container with a spigot that allows hands-free flowing water (add at least one (1) capful of bleach or other sanitizer to water), a waste water bucket, a pump-type soap dispenser, single use/disposable paper towels, and a garbage can for disposable paper towels. All food workers must wash their hands when they return to the concession stand/booth and after using the restroom, after eating, smoking, or handling unclean items.



Water used for hand washing shall be from a potable source.

#### **IV. LABELING REQUIREMENT**

All food pre-packaged in advance of retail sale must bear the following label, sign or placard, or as a recipe available to the consumer. The information must be written in English.

- Name, address and zip code of farmer/grower, packer or processor;
- Common name of the product;
- Net contents (weight or volume) of the package;
- List of ingredients in descending order of predominance by weight, with ingredients shown with common or usual name;
- List of any artificial color, artificial flavor or preservatives used;
- Major allergens must be listed as specified by federal labeling requirements, and
- Other labeling information as required by federal, state or the regulatory authority that has jurisdiction over the facility;
- If your business is part of the Cottage Food industry, in addition to the above, you will also need to include:
- The CFBR identification number; AND
- **MUST HAVE THE FOLLOWING STATEMENT** in 10 pt or larger type in a color that provides clear contrast to the background of the label:

**MADE BY A COTTAGE FOOD BUSINESS THAT IS NOT  
SUBJECT TO THE DISTRICT OF COLUMBIA'S FOOD SAFETY  
REGULATIONS**

## **V. OTHER REQUIREMENTS**

### **DOH Food Protection ID Card**

Each Public market manager is to obtain a DOH issued Certified Food Protection Manager (CFPM) ID card. The ID card can be issued to a candidate that has successfully completed the certification exam for any one of the four nationally-recognized organizations listed in Appendix A the end of this document.

### **Vehicles**

During transportation and delivery, food and food equipment must be able to maintain temperature, be protected from insects, flies, animals, dust and dirt, unnecessary handling, chemicals and other contamination. Delivery vehicles or other equipment used for such transportation must be constructed so as to be easily cleanable, have a current registration and meet all other applicable regulations as stated in the DC Vending Regulations.

### **Premises**

The operator of each stand or sales area is responsible for maintaining it in a neat, clean and sanitary condition. An adequate number of tightly covered waste containers must be provided for disposal of garbage and refuse. These containers must be stored to eliminate potential for contamination of any food products. At the close of business, each vendor shall clean their stand and surrounding area.

### **Food Protection during Storage - Display And Sales**

Any prepared, processed, baked or cut food must be packaged or wrapped for protection and have required labeling (see page 8). Food on display in open air markets must be adequately protected from incidental public handling, dirt and other contamination. Food must be stored off the ground or off the floor. Any wrapping or container for prepared, processed, baked, or cut food must be constructed of safe, non-toxic and food-grade materials. Food products must be enclosed and protected from pests overnight.

### **Bake Sales As Fundraisers**

Non-potentially hazardous foods such as cookies, cakes and fruit pies, which have not frequently been associated with food borne illness, may be prepared in non-inspected kitchens provided the products are sold or distributed on an occasional basis (e.g., a fundraiser for a non-profit organization) and not as a routine business. It is strongly recommended, however, that this preparation take place in a controlled environment such as a club or church kitchen or licensed food service establishment.

### **Scales**

The DC Department of Consumer and Regulatory Affairs (DCRA), Division of Weights and Measures regulate scales used for sales of items by weight. Commodities not in liquid form must be sold by weight, by measure, or by count. All scales used in commerce must have a National Type Evaluation Program (NTEP) Certificate of Conformance issued by the National Conference on Weights and Measures. Commercial scales are also subject to annual inspections by the Division of Weights and

Measures. For additional information, please contact the DCRA Office of Weights & Measures by calling 202-442-4400 or 202-698-2130 or on their website at [www.dkra.dc.gov](http://www.dkra.dc.gov).

## VI. REFERENCES

### **District of Columbia Vending Regulations:**

**<http://dkra.dc.gov/publication/vending-regulations>**

### **U.S. Food and Drug Administration (FDA) Food Labeling Guide -**

**<http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/LabelingNutrition/ucm2006828.htm>**

### **FDA Labeling Guide for Restaurants and Other Retail Establishments Selling Away-From-Home Foods -**

**<http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/LabelingNutrition/ucm053455.htm>**

### **FDA Food Allergen Labeling and Consumer Protection Act of 2004 (Public Law 108-282, Title II) -**

**<http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Allergens/ucm106187.htm>**

### **FDA Guidance for Industry: Questions and Answers Regarding Food Allergens, including the Food Allergen Labeling and Consumer Protection Act of 2004 (Edition 4); Final Guidance -**

**<http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Allergens/ucm059116.htm>**

## VII. APPENDIX

FSD is implementing the following policy for obtaining Certified Food Manager Identification Cards.

1. In accordance with the District of Columbia's Food Code, Section 203.1 of Title 25 of the District of Columbia Municipal Regulations, the Food Safety & Hygiene Inspection Services Division will accept an original food manager certificate for a period of three (3) years from the date of the exam from one of the following food safety testing organizations:
  - a. Prometric Inc. (PROM) (**Prometic** ® Certified Professional Food Manager Exam) Telephone No: **(800) 624-2736** [www.prometric.com](http://www.prometric.com)
  - b. Environmental Health Testing, LLC (NRFSP) (**NRFSP**® Certified Food Safety Manager) Telephone No: **(800) 446-0257** [www.nrfsp.com](http://www.nrfsp.com)
  - c. National Restaurant Association (NRAS) (**ServSafe** ® Certified Professional Food Manager Exam) Telephone No: **(800) 765-2122** [www.servsafe.com](http://www.servsafe.com)
  - d. 360training.com, Inc. (T360) (**Learn2serve** Food Protection Manager Certification)

Telephone No: (888) 360-8764 [www.360training.com](http://www.360training.com)

e. Dietary Manager's Association (Dietary Manager Credentialing Examination)

Telephone No: (800) 323-1908

2. To obtain a Certified Food Protection Manager (CFPM) Identification Card, you must bring the original certificate and test score, two (2) forms of identification, one of which must be a photo identification, such as a driver's license, passport, school ID, etc. and a check or money order for \$35 made out to DC Treasurer, to the Food Safety & Hygiene Inspection Services Division. For renewals, you must take the exam every three (3) years and bring the new original certificate and test score with you along with your expired Certified Food Protection Manager Identification Card and one (1) form of identification with payment of \$35 to the Food Safety Division. The replacement cost of a current lost card is \$15.
3. Until further notice, the Food Safety & Hygiene Inspection Services Division will not accept Food Manager Certification cards issued by other jurisdictions.
4. The District's Food Safety & Hygiene Inspection Services Division no longer approves the curriculum of trainers offering food safety manager courses or recommends training organizations. Training is also offered at many universities and other training organizations.

#### **VIII. CONTACT INFORMATION**

For more information on the Department of Health's Food Safety Program, please contact please feel free to email the Food Safety Hygiene Inspection Services Division at [food.safety@dc.gov](mailto:food.safety@dc.gov).