WEST VIRGINIA DEPARTMENT OF AGRICULTURE

HOMEMADE COTTAGE FOODS PRODUCT *Guide*

Non-Potentially Hazardous (NPH) and Potentially Hazardous (PH) Cottage Food Items

Version – Oct 2026

This document is updated when revisions to legislation, rules or other authorities occur.

The Cottage Food Guide provides standards, guidelines and consistent information for food vendors selling non-potentially hazardous (NPH) and potentially hazardous cottage foods (PH) in West Virginia.

Cottage food is a homemade food item intended for human consumption that is produced, packaged, and labeled at the residential property of the producer and sold directly to a consumer. The term includes non-potentially hazardous (NPH) and potentially hazardous (PH) foods, but **exclude** meat, meat products, poultry, seafood, and Grade A dairy products.

Depending upon the product sold, a cottage food seller may be required to obtain a Cottage Food Vendor Permit from WVDA at no cost.

What's the Difference?

Non-potentially Hazardous (NPH) cottage foods are baked goods, jams, jellies, and other non-potentially hazardous foods produced in a home kitchen and sold directly to consumers. Foods that do not require time/temperature control for safety may generally be produced and sold as cottage foods without the permit required under Rule 61CSR42. Applicable labeling and other legal requirements, e.g. state or local business licenses still need to be followed.

Potentially Hazardous (PH) cottage foods are items that require time/temperature control or other protocols to minimize the risk of foodborne illness due to pathogenic microorganism growth or toxin formation and require a cottage food vendor permit. Covered products require a WVDA potentially hazardous cottage food vendor permit before sale. Some products also require process-authority approval, label review and training certification.

Farmers markets PH vendors require a separate registration and vendor permit, however if a cottage food producer already has a Farmers Market vendor permit and additional requirements for it. No additional information is needed for PH Cottage Food vendor permit, but you must still register. Only products listed on Farmers Market vendor permit will be covered under PH Cottage Food permit.

**WVDA has a separate farmers market program and vendor guide.*

Definitions

"Acidified foods" means low-acid foods to which acid or acid foods are added with a water activity of greater than 0.85 and a finished equilibrium of pH 4.6 or below. Acidified foods are considered potentially hazardous foods.

"Commercial kitchen" means a permitted food manufacturing facility designed for food production and food safety and eligible for interstate commerce.

"Commissioner" means the Commissioner of the West Virginia Department of Agriculture.

"Community kitchen" means a kitchen that is used by community members for preparing foods and is considered a non-permitted kitchen.

"Cottage foods" means a homemade food item intended for human consumption that is produced and packaged at the residential property of the producer and sold directly to a consumer. The term includes non-potentially hazardous and potentially hazardous foods, but excludes meat, meat products, poultry, seafood, and Grade A dairy products.

"Cottage food vendor" means a home-based permitted business producing and selling cottage food.

"Delivered" means transferred to the consumer, either immediately upon sale or at a time thereafter.

"Department" means the West Virginia Department of Agriculture (WVDA).

"Farm kitchen" means an on-premises food preparation facility manufacturing items for sale at a qualified cottage food for direct consumer purchase and is considered a non-permitted kitchen.

"Fermented products" means food processed through the conversion of carbohydrates to alcohol or organic acids using microorganisms under anaerobic conditions.

"Freeze-dried" means that food has 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. The freeze-drying process consists of three separate processes: freezing, primary drying, and secondary drying.

"Kitchen" means a room or area in which food is prepared, produced, packaged, or cooked.

"Label" means a panel or panels found on a package food item.

"Local health department" means a health department serving one or more counties or one or more municipalities or a combination thereof.

"Low-acid canned food" means any food (other than alcoholic beverages) with a finished equilibrium pH greater than 4.6 and a water activity greater than 0.85, excluding tomatoes and tomato products having a finished equilibrium pH less than 4.7.

“Non-potentially hazardous cottage food” means a food item that does not require time/temperature controls for safety to limit pathogenic microorganism growth or toxin formation.

“Pickled products” means a food product that has been processed for preservation either through an anaerobic fermentation in brine or immersion in vinegar.

“Potentially hazardous cottage food” means any food item that requires time/temperature control or other protocols for safety to limit pathogenic microorganism growth or toxin formation.

“Potentially hazardous cottage food vendor permit” means a permit which allows potentially hazardous cottage foods to be produced and sold.

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

“Sanitize” means to adequately treat cleaned surfaces by a process that is effective in destroying vegetative cells of pathogens, and in substantially reducing numbers of other undesirable microorganisms, but without adversely affecting the product or its safety for the consumer.

“Uncut produce” means fruits and vegetables that have not been cut beyond field harvest and are offered for sale as a whole item.

“WVDA” or **“the Department”** means the West Virginia Department of Agriculture.

Non- Potentially Hazardous Cottage Food Products

A Non-Potentially Hazardous (NPH) food does not support the growth of dangerous bacteria and the formation of toxins. A NPH food does not require time or temperature control for safety due to their pH (acidity or sugar content) values, water activity (aw) or a combination of pH and water activity values. In short, NPH foods are inherently stable at room temperature for an extended period. In contrast, Potentially Hazardous (PH) products require time or temperature control to limit the growth of dangerous microorganisms and the formation of toxins. When PH foods and beverages are not prepared and held with the proper controls, they can be unsafe to consume due to the risk of foodborne illness.

WVDA allows non-potentially hazardous foods to be sold as cottage foods without a potentially hazardous cottage food vendor permit.

Examples of Non-Potentially Hazardous Foods

Breads, rolls, biscuits

Cakes

Candies & confections

Cereals, trail mixes, granola

Coated or uncoated nuts

Commercially harvested mushrooms

Condiments (non-potentially hazardous)

Dehydrated fruits and vegetables (whole)

Dog food, treats, or animal feed

Fresh, uncut produce

Fruit pies

Honey

Jams & jellies (standard fruits, e.g., grape, strawberry, raspberry)

Molasses

Pepperoni rolls

Popcorn, popcorn balls, cotton candy

Sorghum

Tomato sauce & juice

Tree syrup

Whole or chopped canned tomatoes

Honey and syrups

Plain honey and non-infused tree syrups are non-potentially hazardous products as well as apple butter, molasses, certain condiments, dehydrated fruits and vegetables, fresh uncut produce, and some tomato products among products.

Determination of Non-Potentially Hazardous & Potentially Hazardous Foods – pH & Water Activity

To confirm cottage food product is non-potentially hazardous, the finished product would not require time/temperature control for safety. Do not assume food is automatically exempt because it is homemade, sold in a jar, baked in an oven or offered at a farmers market or residence.

The following characteristics of the product are used to determine if a food is NPH or PH:

- pH value
- Water activity
- Interaction of pH and water activity
- Heat treatment
- Packaging

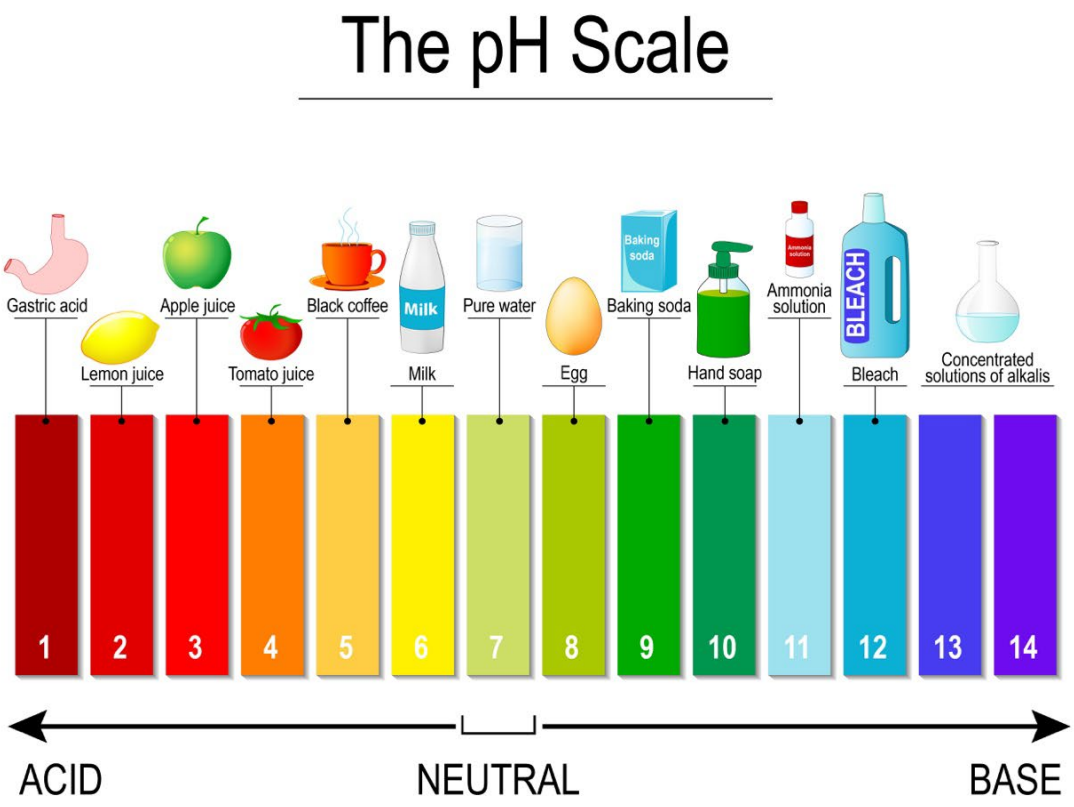
- **What is pH?**
    - pH is a scientific measure of how acidic or basic a substance is. pH is measured on a scale from 0 to 14. A lower pH value indicates the substance is more acidic, and a higher value indicates that the substance is more basic.
    - Pure water has a neutral pH value of 7.0. Lemonade and vinegar are acidic and have values between 2.0 & 4.0. Laundry detergent and bleach are basic, with pH values 11-14
    - Acidic food and beverage products at a pH of 4.6 or lower will control the growth of dangerous pathogens that cause botulism and other foodborne illnesses.
    - Why is pH important for food safety? Acidity can limit microbial growth in food. A pH of 4.6 is a key food safety threshold because Clostridium botulinum, the bacterium that produces the toxin that causes botulism, does not grow or produce toxins at a pH of 4.6 or below.
    - However, a pH of 4.6 or below does not mean that a food is automatically safe or NPH. Other microorganisms may survive or grow under acidic conditions. Depending on the product, water activity (aw), processing method, formulation, packaging, and other factors may also need to be considered when determining whether a food requires time or temperature control for safety.

- **What is water activity?**

    - Water activity (aw) measures the amount of water in a food that is available for microorganisms to use for growth. It is measured on a scale from 0.00 to 1.00, with pure water having an aw of 1.00.
    - Water activity is different from moisture content. Ingredients such as sugar and salt can bind water, making it less available for microbial growth.

- Foods with a water activity of 0.85 or less generally do not support the growth of foodborne pathogenic bacteria. For this reason, water activity is an important factor in determining whether a food requires time- and temperature-control for safety.

pH and water activity (aw) work together to determine whether a food can support the growth of harmful microorganisms. A food may have a pH or water activity that does not independently prevent microbial growth, but the combination of acidity and reduced water activity may be sufficient to control growth. For this reason, both pH and water activity should be considered together when determining whether a food requires time and temperature control for safety.



A **Potentially Hazardous Food (PHF)** is a food that requires time-temperature control to limit the growth of harmful microorganisms or the formation of toxins that cause foodborne illness.

Whether a food is considered potentially hazardous depends on several characteristics, particularly it's pH (acidity) and water activity (aw). Foods with a pH above 4.6 and a water activity above 0.85 may provide conditions that allow harmful microorganisms to grow and generally require additional evaluation to determine whether time and temperature control is necessary for safety.

Per WV61CSR42, WVDA has legislative authority to regulate potentially hazardous (PH) homemade cottage foods. A PH cottage food vendor permit is required for all home sales of products that are considered potentially hazardous. Some products also require process-authority approval, label review and other training certifications.

Examples of Potentially Hazardous Cottage Foods include acidified foods, items requiring temperature control, cut produce, fermented foods, freeze-dried or dehydrated products, salsas, non-traditional jams and jellies, juice, infused honey and tree syrups and pickled products.

WVDA's classification list is not exhaustive. If you plan to sell a product that is not clearly listed, call or email the Regulatory Program Division with the complete recipe, preparation process, packaging method and intended storage conditions.

Acidified Foods	Process Authority, WVDA label review and training certification
Condiments-Potentially Hazardous	ACIDIFIED: Process Authority, WVDA label review and a training certificate. Time/temp only: Cottage Food Vendor Permit, WVDA label review, training certification
Cut Produce	No process required
Fermented products	Process Authority and WVDA label review
Freeze Dried Products/Dehydrated	The same requirements apply as before the freeze-drying/dehydrating process.
Non-standard Jams & Jellies i.e., basil, hot pepper, etc., no sugar added/artificially sweetened)	Process Authority, WVDA label review and training certification
Other canned or preserved foods	Contact WVDA
Pickled products	Process Authority, WVDA label review and training certification
Salsas	Process Authority, WVDA label review and training certification
Sauces – hot sauce, marinara, spaghetti	Process Authority and WVDA label review
Time/Temp Controlled Foods	Contact WVDA
Infused honey and syrups	Contact WVDA

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 Cottage Food Vendor Permit issued by the WVDA is required.

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

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.

Potentially Hazardous Freeze-Dried/Dehydrated Foods:

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 makes 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.

POTENTIALLY HAZARDOUS FRUITS AND VEGETABLES

Cut produce:

Cutting can change a product's classification and handling requirements. 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 Cottage Food Vendor before sale.

Wild-harvested mushrooms are NOT permitted to be sold at West Virginia Cottage Foods.

POTENTIALLY HAZARDOUS SAUCES, CONDIMENTS, PRESERVED & CANNED FOODS

The sale of potentially hazardous home-canned, preserved or processed foods is permitted if the vendor registers with the WVDA for a PH Cottage Food 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. Sauces and salsa:

Fermented foods: Products such as sauerkraut, kimchi and other fermented require a permit and documented processing approval.

A potentially hazardous 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.

***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 Cottage Foods 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 Authority must be supplied to the WVDA to sell certain potentially hazardous foods, such as sauces, salsas, fermented and picked products.

Please contact the WVDA at 304-558-2227 if you if your product requires Process Authority.

***Label Review Certificate** from the WVDA.

The WVDA Business Development Division offers a free label review service to ensure food product labels comply with state and federal guidelines.

There is no cost for food product label submissions, and Label Review is optional for most general food items but **required** for potentially hazardous foods such as sauces, salsas, fermented foods, pickled items, and other acidified foods.

A completed and approved label review is a mandatory step required to secure a **Vendor Permit** for potentially hazardous cottage foods.

Key Label Elements Evaluated:

- **Statement of Identity:** The common or usual name of the food product prominently displayed.
- **Ingredient & Net Weight Declaration:** Ingredients listed in descending order by weight/predominance and net weight displayed in US and metric equivalents.
- **Allergen & Location Data:** Major food allergens and the producer, packer, or distributor name and location.
- **Kitchen Disclaimers:** Proper non-commercial or private residence kitchen disclaimers when products are prepared in uninspected home or farm settings.

Labeling and packaging requirements:

Before printing labels, verify the following:

- Product name that accurately describes the food.
- Ingredients listed in the required order.
- Required allergen declarations.
- Net quantity, when required.
- Producer or business identification and address/contact details, as applicable.
- Any required cottage food statement, warnings or storage instructions.
- Additional process, source or product-specific information required for your category.
- WVDA label approval for products that require review.

How to Obtain a Potentially Hazardous Cottage Food Permit:

- Identify every product you intend to sell.
- Prepare a product list, ingredient lists and recipes. Identify any products that are canned, fermented, acidified, pickled, cut or temperature controlled.
- Confirm the product classification with WVDA.
- Ask whether each product requires a permit, a process-authority letter, label review, training or other approvals.
- Complete any required processing and food-safety training.
- For products requiring a process authority, obtain the appropriate approval for the formulation and preparation/preservation method. Complete any required training certification.
- Prepare compliant labels.
- Submit labels for WVDA review when required. Confirm ingredient, allergen, identity and other applicable labeling requirements.
- Apply for the permit and prepare for inspection.
- Use the official WVDA potentially hazardous cottage food vendor application. The agency requires a kitchen inspection before issuing the permit.
- Wait for approval before selling covered products.

Kitchen Inspection Checklist:

- Before your inspection, organize the following items for review:
- The application and list of proposed products.
- Complete recipes, ingredient sources and preparation procedures.
- Process-authority documentation for products that require it.
- Training certificates, where required.
- Draft labels and any required label-review documentation.
- Information on water supply, handwashing, sanitation, cleaning and food storage.
- A plan for preventing cross-contamination and controlling food temperatures where applicable.

- Product identification and lot/date records where required.

This is a practical preparation checklist, not a representation that every item is a separately mandated document for every vendor. Confirm the exact inspection and application requirements with WVDA.

WEST VIRGINIA DEPARTMENT OF AGRICULTURE

Regulatory Programs Division
304-558-2227
agriculture.wv.gov

POTENTIALLY HAZARDOUS COTTAGE FOODS VENDOR PERMIT APPLICATION

Permit Period: January 1, 202__ through December 31, 202__

Date:	Name on Permit:
Applicant Full Name:	Telephone:
Applicant Address:	
Email:	County:

Types of Potentially Hazardous Cottage Foods Offered for Sale

☐ Pickled Products ☐ Sauce(s) ☐ Salsa(s) ☐ Fermented Products

☐ Acidified Fruits/Vegetables ☐ Freeze Dried/Dehydrated

☐ Time/Temperature Controlled ☐ Other_____

Do you have a current WVDA Farmers Market Vendor Permit: YES☐ NO☐

Vendors with a valid Farmers Market Vendor Permit for a specific product are not required to submit additional documentation for that product, if the permit remains current and the product process has not changed. (FM Vendor Permits run April 1-March 31 and must be renewed annually)

Products Covered Under Current Permit

Water Source

☐ Municipal Water Source ☐ Private Water Well (attach testing results)

Kitchen Information

☐ Home ☐ Commercial ☐ Farm ☐ Community

Address of Kitchen Used:

Important Information

All acidified products, including pickled products, fermented products, sauces, salsas, and acidified fruits and vegetables must have a completed WVDA Label Review and Process Authority approval for each individual product before a permit will be issued.

All Potentially Hazardous Cottage Food Vendors are subject to a kitchen inspection with a fee of $27.00 per hour, excluding travel hours. Amount may be prorated as necessary. Invoice will be issued at time of kitchen inspection.

Complete and return this application and support documents if applicable to:

WV Department of Agriculture
Regulatory Programs Division
1900 Kanawha Blvd East
Charleston WV 25305-0170
cottagefood@wvda.us

Signature: _____ Date: _____

WEST VIRGINIA GROWN

Trademark Licensing Agreement

Program Guidelines

New Member Application *for* Producers, Partners, *and* Supporters

WEST VIRGINIA GROWN
EST. 1986

Scan for Fillable PDF

304-558-2210

wvgrown@wvda.us

https://agriculture.wv.gov/ag-business/west-virginia-grown/

West Virginia Department of Agriculture
1900 Kanawha Boulevard East, Charleston, WV 25305

West Virginia DEPARTMENT OF AGRICULTURE
COMMISSIONER, KENT A. LEONHARDT

WV GROWN PROGRAM INFORMATION

West Virginia Grown is WVDA's official marketing program for West Virginia products and the entities that sell, serve, and support. **The program's goals are:**

- For consumers to easily identify and purchase agricultural products and value-added items grown and/or manufactured in the state,
- To expand the overall local food economy to support farmers, manufacturers, and other agribusinesses, and
- To create a more robust and resilient food system in the Mountain State.

WV 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 apply (See Trademark Licensing Agreement).

- Must be properly labeled according to WVDA labeling standards. Label reviews are a free service of the WVDA. A certificate of label review will be issued for approved labels.

- Some products may require special manufacturing certifications and process approvals. See the WVDA Farmers Market Vendor Guide for details. Farmers-Market-Vendor-Guide.pdf (wv.gov)

- 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.

- 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.

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

- WV Grown Supporters: (Must explain how they further the brand and mission).

- Periodic membership renewal is required to help WVDA maintain up-to-date company and product info.

WV GROWN PROGRAM BENEFITS

- Official Certificate of Membership.

- Use of the WV Grown logo.

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

- 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 and/or electronic WV Grown member directory (additional information is required-see page 2 of Membership Application).
- No cost to join!

APPLICATION INSTRUCTIONS - MANDATORY PROCEDURES!

- ☐ **SATISFY** all registration and labeling requirements.
- ☐ **ENTER** company name and address on Trademark Licensing Agreement that follows.
- ☐ **SIGN** second page of Trademark Licensing Agreement.
- ☐ **COMPLETE** Membership Application form.
- ☐ **SIGN** Membership Application form.
- ☐ **RETURN** to wvgrown@wvda.us.

Continue to Licensing Agreement and Member Application

WEST VIRGINIA GROWN Trademark Licensing Agreement

Authority: W. Va. Code §19-1-3a.

Purpose: WVDA's mission is to promote the marketing and purchase of agricultural commodities grown, produced, processed, packaged, or manufactured in West Virginia. WVDA is the exclusive owner of the trademarked "West Virginia Grown" Name and Logo (the "Name and Logo"). WVDA wishes to license the Name and Logo for the limited purpose of promoting West Virginia agricultural products. This Agreement establishes the terms and conditions of Licensee's use of the Name and Logo.

The First Party shall be the West Virginia Department of Agriculture.

The Second Party shall be:

Company, Farm or Individual Name _____

Mailing Address _____

_____

1. **License.** WVDA hereby grants to Licensee a limited, worldwide, non-exclusive, non-transferable, license to use the Name and Logo attached hereto on Exhibit A on, or in connection with, Licensee's product offerings in accordance with this Agreement. As used in this Agreement, the term "Name and Logo" shall include the logo affixed on Exhibit A and the term "West Virginia Grown," or either one of the foregoing.
2. **Form of Use.** Unless authorized in writing by WVDA, Licensee shall use the Name and Logo only in the form and manner as the same appears in Exhibit A of this Agreement. Licensee shall not modify the shape, color, appearance, text, font, spacing or other aspect of the Name and Logo, nor shall Licensee add images, slogans, text or other elements to, on or around the Name and Logo; provided that Licensee may use the Name and Logo in a size or sizes of its own choosing.
3. **Use Review.** Upon request by WVDA, Licensee shall submit or make available to WVDA samples of the Licensee's products, artwork, advertising copy, product packages, and depiction of all proposed uses of the Name and Logo.
4. **Scope of Use.** Licensee shall use the Name and Logo only on products, or the packaging of products, which are produced in West Virginia or have at least fifty percent (50%) value added as a result of processing the product in West Virginia. The Commissioner of Agriculture has the sole and final authority to determine the percentage of value added processing, after reasonable, documented inquiry.
5. **Royalty.** Licensee shall not be required to pay a royalty, or any other fee associated with this license agreement.
6. **Reservation of Rights.** The parties to this Agreement recognize and agree that nothing in this Agreement may be construed or argued to have any effect on the WVDA's ownership of the Name and Logo. WVDA expressly reserves the sole and exclusive ownership of the Name and Logo. The Parties agree that, except for the license granted under this Agreement, Licensee shall not have any right, title or interest in or to the Name and Logo. Licensee agrees that it will take no action inconsistent with such ownership and that its use of the Name and Logo shall inure to the benefit of WVDA. WVDA shall retain the exclusive right to apply for and obtain registrations of the Name and Logo and any variations thereof throughout the world. Licensee agrees not to use the Name and Logo, or any confusingly similar mark or name, in its corporate or trade name. Licensee therefore agrees that, except for the rights granted herein, it has no interest in or ownership of the Name and Logo, and further agrees not to register or attempt to register or apply for any trademark, in any jurisdiction, that incorporates the Name and Logo or any confusingly similar mark or name.
7. **Website and Directory.** Licensee understands that WVDA intends to publish the information Licensee provides to WVDA on the West Virginia Grown Membership Application in both print and digital directories and on WVDA approved websites and social media to further the purposes of the West Virginia Grown program. Licensee expressly agrees to such publication.
8. **West Virginia Freedom of Information Act.** Licensee understands WVDA is a public body that must comply with the West Virginia Freedom of Information Act. All information Licensee provides to WVDA is subject to public release and publication in all forms of media, for all lawful purposes.
9. **Goodwill.** Licensee shall not take any action that would tend to destroy or diminish the goodwill in the Name and Logo. Licensee further agrees that its use of the Name and Logo shall not impugn the WVDA, or any of its divisions, or

be unreasonably offensive to the general public. Licensee shall not engage, participate or otherwise become involved in any activity that diminishes or tarnishes the image or reputation of the Name and Logo.

10. **No WVDA Endorsement.** Licensee expressly acknowledges that use of the Name and Logo does not indicate or suggest that WVDA endorses or sponsors any of Licensee's products.
11. **Compliance with Laws.** Licensee's use of the Name and Logo shall comply with all applicable federal, state and local laws, rules and regulations.
12. **Termination.** Unless otherwise terminated by the parties, this Agreement shall remain in full force and effect until further revoked or amended. Either party may terminate this Agreement, with or without cause, by providing fifteen (15) days' written notice to the other party.
13. **Post-Termination Rights and Obligations.** Should WVDA cease to use the Name and Logo, WVDA shall provide Licensee with written notice to discontinue all use of the Name and Logo. If WVDA or Licensee provides written notice of its intent to withdraw from this Agreement, Licensee shall cease affixing the Name and Logo to promotional items and shall withdraw the Name and Logo from publication, wherever possible.
14. **Infringement Proceedings.** WVDA shall have the sole authority and right to prosecute any infringement and any unauthorized use of the Name and Logo, at its sole option. If Licensee learns of any unauthorized use of the Name and Logo, Licensee shall notify WVDA promptly, and, if requested to do so, shall cooperate with and assist, at WVDA's expense, in any infringement action that WVDA may bring.
15. **Indemnification.** Licensee shall indemnify, defend and hold harmless the State of West Virginia and WVDA from and against all claims, liabilities or judgments arising out of or in any way connected with Licensee's activities under this Agreement or Licensee's use of the Name and Logo.
16. **No Warranty.** WVDA makes no representations or warranties with respect to the Name and Logo.
17. **Applicable Law.** West Virginia law controls this Agreement. All disputes arising out of this Agreement shall be brought in Kanawha County, West Virginia.
18. **Notices.** Any notices required or permitted to be sent by one party to the other under this Agreement shall be sent by certified mail to the addresses specified below, or to such other address as a party shall have furnished in writing to the other party.
    a. To WVDA: West Virginia Department of Agriculture
    Attn: Business Development Division
    1900 Kanawha Blvd., East
    Charleston, WV 25305-0170
    b. To Licensee: To the address shown underneath Licensee's name on page one (1) of this Agreement.
19. **Assignment.** Licensee shall not assign or sublicense this Agreement or its rights hereunder without the written consent of WVDA.
20. **Modification and Waiver.** This agreement may not be amended or modified, except by written agreement, signed by both parties. It is agreed that no waiver by either Party hereto of any breach of any of the provisions herein set forth shall be deemed a waiver of any subsequent breach of or default under the same or any other provision of this Agreement.
21. **Severability.** In the event any term or condition of this Agreement is found to be unenforceable by a court of competent jurisdiction, the remaining terms and conditions shall remain in full force and effect.
22. **Integration.** This Agreement contains the entire agreement between WVDA and the Licensee, and supersedes all prior agreements, whether oral or written, between the Parties.

A typed or eSigned signature below constitutes a binding legal agreement

Applicant Signature: _____

Applicant eSignature: _____

Its: _____ , this _____ day of , _____ , _____
title *date* *month* *year*

WVDA Signature: _____

WVDA eSignature: _____

Its: _____ , this _____ day of , _____ , _____
title *date* *month* *year*

Exhibit A

The "WV Grown" Name and Logo

WEST VIRGINIA GROWN
Membership Application

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

- ☐ POTENTIALLY HAZARDOUS FOOD (PHF): IF SELLING AT A FARMERS MARKET-May require Process Authority, kitchen inspection, water test, approved food safety training and have a Farmers Market Vendor Permit. Contact 304-558-2227.
- ☐ NONPOTENTIALLY HAZARDOUS FOOD (NPHF): 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.
- ☐ EGGS: You must register as an Egg Distributor. Contact 304-558-2227.
- ☐ HEMP: You must register as a Hemp Product Distributor. Contact 304-558-2227.
- ☐ HONEY: Your 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.
- ☐ PRODUCT LABEL REVIEW: Email request form located at https://agriculture.wv.gov/ag-business/labelreview and labels to productlabeling@wvda.us. Contact 304-558-2210.

1. MEMBER CATEGORY (Mark all that apply):

- ☐ WV Grown Producer: I produce, grow, or manufacture in WV, or add at least 50% of value to product in WV. Complete sections 2, 3 & 6.
- ☐ WV Grown Partners: I am a retail or food-service establishment sourcing and selling WV Grown Product(s). Complete sections 2, 4, & 6.
- ☐ WV Grown Supporters: I am an individual or organization supporting the WV Grown brand. Complete sections 2, 5 & 6.

2. APPLICANT INFORMATION:

Company/Farm/Individual Name: _____ Contact Person: _____
Phone/Cell: _____ Email: _____
Physical Address: _____ City: _____ State:_____Zip: _____
Mailing Address: _____ City: _____ State:_____Zip: _____
County_____Facebook: _____Website:_____
Instagram:_____ Other:_____

1. Are you a Veteran, Active-Duty Military, Law Enforcement, Firefighter, Emergency Medical Service or First Responder?
   ☐ Yes ☐ No
2. If yes, would you like more information on the Veterans and Heroes to Agriculture Program?
   ☐ Yes ☐ No ☐ Already a member

****REQUIRED - By e-signing, typing a signature, or hand-writing a signature and submitting this WV Grown application form**

- I certify that all information given in this application is true, accurate and complete, and that I have the necessary authority to enter into this agreement.
- I understand that providing incomplete, inaccurate, or fraudulent information may result in denial or revocation of WV Grown Program membership.
- I understand that membership is at the discretion of the WVDA and may be denied or revoked at any time and for any reason.
- I agree to allow WVDA to share with the public this company's name, products, and other non-confidential information.

eSignature: _____ Date: _____

Typed or hand-written signature: _____

3. WV GROWN "PRODUCERS" (check all products that apply):

This category is intended for farmers who grow produce, livestock, or similar items - as well as manufacturers of value-added food products that have at least half of the value, added through ingredients and/or processes, completed in West Virginia.

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

4. WV GROWN "PARTNERS"

This category is intended for retail outlets that sell at least one official WV Grown product. WVDA wants to help expand the WV Grown brand so that shoppers will demand more, producers will make more, decision-makers will support more, and you will SELL more!

What WV Grown Products do you sell?

Estimated yearly gross of WV Grown product sales (optional, but helps us gauge effect of program).

5. WV GROWN "SUPPORTERS"

This category is intended to provide supporters of West Virginia agriculture, not directly involved in production or sales, a way to help expand the WV Grown brand and synergize promotional efforts. Supporters can be any organization or individual committed to the promotion and preservation of West Virginia's farm and food community.
Describe your organization?

How do you support/advance WV agriculture (services, financial, education, advocacy, etc.)?

6. WV GROWN DIRECTORY SUBMISSION:

To be included in the printed and/or electronic version of the WV Grown Directory for 2025 and beyond, you must complete the following in its entirety:

1. County where your company or business is located:

2. Description of company or business (please write description in third (3rd) person):

3. Products available for purchase and/or activities offered:

4. Where to purchase or find your products:

5. **PLEASE** attach your company or business logo to WVGrown@wvda.us.

6. **PLEASE** attach two horizontal, high-quality images of your company or business and/or products (JPEG works well) or send to WVGrown@wvda.us.

Process of Authority Contacts

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
lfl5@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

WVDA Contacts

WVDA Cottage Food Program
Email: cottagefood@wvda.us
Phone: 304-558-2227
https://agriculture.wv.gov/divisions/regulatory-and-environmental-affairs/potentially-hazardous-cottage-foods/

WVDA Label Review
Email: productlabeling@wvda.us
Phone: 304-558-2210
https://agriculture.wv.gov/ag-business/label-review/

Official References and Contacts

WV Legislative Rule 61CSR42 — Cottage Foods: Homemade Potentially Hazardous Food Items
https://apps.sos.wv.gov/adlaw/csr/ruleview.aspx?document=18454&KeyWord=

West Virginia Code, Article 40 — Cottage Foods
https://code.wvlegislature.gov/19-40/

AFDO Regulatory Guidance for Best Practices Cottage Food
https://www.afdo.org/resources_category/cottage-foods/