

Stillwater County Environmental Health Department



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Farmers Market Guideline 2017

MCA 50-50-121 Requirements for Farmer's Markets

50-50-102-(8) MCA "Farmer's market" means a farm premises, a food stand owned and operated by a farmer, or an organized market authorized by the appropriate municipal or county authority under 7-21-3301 MCA.

MCA 50-50-121. Requirements for farmer's markets. (1) (a) A person selling food that is not potentially hazardous, including food listed in subsection (2), at a farmer's market is not a retail food establishment.

(b) A person selling food that is not potentially hazardous or otherwise listed in subsection (2) if selling only at a farmer's market is not required to register as a cottage food operation.

(2) Foods that are not potentially hazardous or are otherwise eligible to be sold at a farmer's market include:

(a) whole shell eggs if the whole shell eggs are clean, free of cracks, and stored in clean cartons at a temperature established by the department by rule;

(b) hot coffee or hot tea if the person selling the hot coffee or hot tea does not provide or include fresh milk or cream;

(c) raw agricultural commodities; and

(d) food identified by the department by rule as not being a potentially hazardous food.

(6) Food sold in a farmer's market must, if sold in a container, have a label similar to a label required of a cottage food product under [50-50-116](#).

Items Not Requiring a State Food License

Foods sold at farmers' markets must be non-potentially hazardous, specifically exempted, or approved and licensed as a retail food establishment.

Food identified by the department by rule as not being a potentially hazardous food 50-50-121(2)(d)

Non-potentially hazardous foods include:

- Loaf breads, rolls, biscuits, quick breads, and muffins that do not contain meat or cheese
- Cakes-all frostings or glazes must have a cook step or be made with ingredients (such as a large amount of sugar) that when combined are stable at room temperature
- Pastries or scones
- Cookies or pastry bars
- Crackers
- Cereals, trail mixes or granola

- Nuts and nut mixes
- Snack mixes
- Fruit Pies (no custard style pies, unbaked pies with fresh fruit, or pies that require refrigeration after baking, such as pumpkin pie)
- Dried fruits
 - The following fruits can be dried, packaged and sold as well as other fruits that have a pH of 4.6 or lower: Apples, apricots, grapefruit, lemons, limes, mangos, nectarines, oranges, peaches, plums, pomegranates, tangerines, blackberries, blueberries, cherries, cranberries, currants, gooseberries, grapes, raspberries, strawberries and huckleberries.
 - Must have a minimum internal food temperature of 160°F within 60 minutes of cutting fruit.
 - Must have a minimum internal temperature of 135°F during the entire drying process.
 - Cannot be packaged in vacuum, reduced oxygen or modified oxygen packaging
- Jams, jellies and fruit butters made from the following fruits, and contain at least 67% sugar by weight. They cannot contain large chunks of fruit.
 - Fruit butters made with apple, apricot, grape, pear, plum, prune, quince, and combinations of these fruits.
 - Fruit jellies made with apple, apricot, blackberry, black raspberry, boysenberry, cherry, crabapple, cranberry, dewberry, fig, gooseberry, grape, grapefruit, guava, loganberry, orange, peach, pineapple, plum, pomegranate, prickly pear, quince, raspberry, currant, strawberry and youngberry and combinations of these fruits.
 - Fruit preserves and jams made with the same fruits as fruit jellies, as well as blueberry, elderberry, huckleberry, rhubarb, tangerine, nectarine, cranberry and tomato and combinations of these fruits.
- Recombining and packaging of dry herbs, seasonings, or mixtures (dry soup, teas, coffees, spice seasonings)
- Popped popcorn, popcorn balls, or cotton candy
- Fudge, candies or confections that require a cook step and do not require refrigeration after cooking
- Molded chocolate using commercial chocolate melts

Specifically exempted foods include the following:

➤ ***Whole shell eggs that are clean, free of cracks, and stored in clean cartons at < 45°F. 50-50-121(2)(a)***

➤ ***Hot coffee or hot tea if the person selling the hot coffee or hot tea does not provide or include fresh milk or cream 50-50-121(2)(b)***

➤ ***Raw agricultural commodities 50-50-121(2)(c)***

50-50-102(17) (a) "Raw agricultural commodity" means any food in its raw, unaltered state, including fruits, vegetables, raw honey, and grains. A raw agricultural commodity may be in a container if putting the commodity in a container does not alter the raw state.

(b) The term does not include an agricultural commodity that has been altered by being:

(a) cooked;

(b) canned;

(c) preserved, except for drying;

(d) combined with other food products; or

(e) peeled, diced, cut, blanched, or otherwise subjected to value-adding procedures.

Wild mushrooms do not qualify as a food license exempted product.

Labeling

If products are packaged, they must be labeled. Below is an example of the information that needs to be on the label.

<p>MADE IN A HOME KITCHEN THAT IS NOT SUBJECT TO RETAIL FOOD ESTABLISHMENT REGULATIONS OR INSPECTIONS</p> <p>Chocolate Chip Cookies</p> <p>Net Wt. 8oz (227g)</p> <p>Ingredients: Enriched flour (Wheat flour, niacin, reduced iron, thiamine, mononitrate, riboflavin and folic acid), butter (milk, salt), chocolate chips (sugar, chocolate liquor, cocoa butter, butterfat (milk), soy lecithin as an emulsifier), walnuts, sugar, eggs, salt, artificial vanilla extract, baking soda. Contains: Wheat, eggs, milk, soy, walnuts.</p> <p>Ashley Bryant 2550 Helena Lane Helena, MT 59620</p>

This is the only statement on the label that needs to be in size 11 font.

MADE IN A HOME KITCHEN THAT IS NOT SUBJECT TO RETAIL FOOD ESTABLISHMENT REGULATIONS OR INSPECTIONS

Chocolate Chip Cookies ← Name of the Food Product

Net quantity, weight, count, or volume. Cannot be approximate. → Net Wt. 8oz (227g)

Ingredients listed from highest weight to lowest weight. Also include sub-ingredients.

Ingredients: Enriched flour (Wheat flour, niacin, reduced iron, thiamine, mononitrate, riboflavin and folic acid), butter (milk, salt), chocolate chips (sugar, chocolate liquor, cocoa butter, butterfat (milk), soy lecithin as an emulsifier), walnuts, sugar, eggs, salt, artificial vanilla extract, baking soda. Contains: Wheat, eggs, milk, soy, walnuts.

Name, address, city, state, and zip code of producer

Ashley Bryant
2550 Helena Lane
Helena, MT 59620

Allergens must be called out as shown. Allergens include wheat, eggs, milk, soy, peanuts, tree nuts (almonds, pecans, walnuts, etc.)

MCA 50-50-116 (2)(b) package cottage food products and label the cottage food products prior to sale, including on the label, at a minimum, the following:

- (i) the name, address, city, state, and zip code of the cottage food operation;
- (ii) the name of the cottage food product;
- (iii) the ingredients of the cottage food product, in descending order of predominance by weight;
- (iv) the net quantity, weight, count, or volume of the cottage food product;
- (v) allergen labeling as specified by federal and state labeling requirements;
- (vi) if a nutritional claim is made, an appropriate label if required by federal law; and
- (vii) the following statement, printed in at least the equivalent of 11-point font size in a color that provides a clear contrast to the background and is conspicuously placed on the principal label:

"Made in a home kitchen that is not subject to retail food establishment regulations or inspections."

Frequently Asked Questions

1. Q: *Can I sell salsas, pickles, salad dressings, herb-in-oil/vinegar mixtures, sauerkraut or pepper jelly?*

A: Not without a food license. They are required to be processed in a locally approved and licensed facility to sell these types of products anywhere, including at a farmers' market.

2. Q: *Can I sell cream puffs, cream pies, pumpkin pies, custard pies, cream or pudding filled pastries, cheesecakes or cheese breads?*

A: No. All of these products would be considered to be potentially hazardous, and would require local approval and a food license to sell these products at farmers' markets.

3. Q: *I want to sell my processed poultry/meats at a farmers' market. What do I need to do?*

A: A retail food license is required to distribute these types of products at farmers' markets. It is recommended that you contact the Montana Department of Livestock, Meat and Poultry Bureau at (406) 444-5202 (<http://liv.mt.gov/mi/default.mcp>) for information regarding the requirements for slaughter and processing. Contact your local sanitarian for information on how to obtain a retail meat market license.

4. Q: *Can I sell huckleberries at a farmers' market without a food license?*

A: Yes, as long as they are not processed. Unprocessed berries are raw agricultural commodities that are exempt from food licensing at farmers' markets.

5. Q: *I'm new to selling produce at Farmer's Markets and I heard something about needing a license to sell fruits and vegetables. How do I know if I need a license?*

A: If you grow all of your produce in Montana and achieve less than \$25,000 in annual produce sales, you do not need a license. If your sales are \$25,000 or greater, or you transport produce from out of state to be sold in Montana, you will need to obtain a Produce Dealer license from the Montana Department of Agriculture. If you have questions about produce licensing, please refer to Montana Code Annotated 80-3-301 through 80-3-314, or contact Larry Krum at Lkrum@mt.gov or 406-444-3730.

6. Q: *Do I need a food license if I'm handing out free samples?*

A: If you are a licensed manufacturer, cottage food operation, or a farmer's market vendor and the samples are exempt from licensure or are non-potentially hazardous, then no retail food license is required.

7. Q: *I've heard that washing whole produce is considered processing. Is that true?*

A: Field or harvest rinsing of whole produce to remove soil is not considered processing, however, washing of produce to sell as a ready-to-eat product, such as a bagged lettuce mix, is considered processing.

8. Q: *Can I sell a bag of mixed lettuces, or is that considered combining and is now processing?*

A: Putting several types of lettuce that has only had a harvest cut and field or harvest rinse described in #7 is not considered combining under the definition of processing.

The Stillwater County Environmental Health Department will perform inspections for compliance with this guideline. Should you have any questions or concerns please feel free to contact us:

Stephanie Moodry, R.S.

322-8055