

September 19, 2007

Gilbert Roberts, Director of Environmental Health  
Torrington Area Health District  
350 Main Street  
Torrington, CT 06790

RE: Farmers' Markets as an Approved Source for Foods and Beverages Purchased for Service  
in Food Service Establishments and for Food and Drink Sold Directly to Consumers

Dear Mr. Roberts:

Thank you for your March 20, 2007 letter requesting a regulatory interpretation concerning the above subject.

Definition of Farmers' Market

The Connecticut General Statutes (CGS) Section 22-6r(a), as amended in 2007, defines a "farmers' market" (in pertinent part) as "...a cooperative or nonprofit enterprise or association that consistently occupies a given site throughout the season, which operates principally as a common market place for a group of farmers...to **sell Connecticut-grown farm products directly to consumers and to sell fresh produce to food service establishments** (emphasis added), as defined in section 19-13-B42 of the regulations of Connecticut state agencies, and where the farm products sold are produced by the participating farmers with the sole intent and purpose of generating a portion of household income."

Public Health Code (PHC) Approved Source Requirements

PHC Section 19-13-B42(n) requires (in pertinent part) that, "all food and drink in food service establishments shall be from sources approved or considered satisfactory by the director of health based on a determination of conformity with principles, practices and generally recognized standards that protect public health; shall be in compliance with applicable state and local laws and regulations; shall be transported and delivered at required temperatures; and shall be clean wholesome, free from spoilage, free from adulteration and misbranding and safe for human consumption..."

In addition to the above general requirements, the section further provides specific approved source requirements for molluscan shellfish, finfish, fluid milk and milk products and for shell eggs.

As stated above, the Director of Health is the designated authority for determining that food and beverages in food service establishments are from an approved source but the determination must be based on a conformity with principles, practices and generally recognized standards that protect public health and in conformance with applicable state and local laws and regulations.

#### Department of Public Health (DPH) Opinion

#### **A. Farmers' Market Source of Food for Food Service Establishments**

Farmers' markets, based on the definition provided in the above-cited CGS Section 22-6r(a)(1), operate as a common marketplace to sell farm products directly to consumers, **and, as a result of a 2007 amendment, may sell fresh produce to food service establishments**. In general, with the exception of fresh produce (fruits and vegetables that have not been processed in any way), farmers' markets should not be considered an approved source for food and beverages served or sold in food service establishments.

Foods and beverages considered acceptable for sale and service in food service establishments, as described in the above PHC Section 19-13-B42(n) reference, must originate from inspected and regulated approved sources and must be adequately labeled and transported at required temperatures. An exception to this requirement would apply to raw fresh produce for which currently there is no nationally recognized definition of an approved source.

Based on CGS Section 22-6r(c)(2), amended in 2007, **a food service establishment purchasing fresh produce from a farmers' market, shall request and obtain an invoice from the farmer or person selling fresh produce. In addition, the farmer or person selling fresh produce shall provide to the food service establishment an invoice that indicates the source of the fresh produce at the time of sale.**

#### **B. Farmers' Market Source of Food for Sale Directly to Consumers**

Based on CGS Section 21a-24a and 21a-24b, "Jams and Jellies" and "Maple Syrup" prepared from ingredients grown on a residential farm may be sold on the farm (emphasis added) without regulation or inspection if labeled, "not prepared in a government inspected kitchen." By inference, CGS Section 22-6r(b) extends the same exception (with the same labeling requirement) to the sale of jams and jellies and maple syrup directly to consumers at kiosks located at certified farmers' markets.

All other food and drink sold directly to consumers must conform to PHC Section 19-13-B40, "Sanitation of food stuffs" and other applicable state and local laws and regulations.

It should be noted that PHC Sec. 19-13-B40(a) requires (in pertinent part) that all food and drink shall be "...wholesome, free from spoilage and so prepared as to be safe for human consumption." While the requirements don't specifically use the term "approved source," we have interpreted the stated provision that food be "... so prepared as to be safe for human consumption," to include the requirement that it originate from an approved source. The definition of approved source that would apply is the definition cited above in PHC Section 19-13-B42(n) for food service establishments.

The regulations enforced by the State of Connecticut Department of Consumer Protection (DCP) governing the retail sale of food and beverages to the public, including consumers at farmers' markets, are much more comprehensive than are the requirements contained in PHC Sec. 19-13-B40. Title 21A of DCP's "Consumer Protection Sanitary Standards for Food Establishments," specifically requires that all food in food establishments be from an approved source.

Based on an interpretation of PHC Section 19-13-B40, the following food items described in your March 20, 2007 letter may be sold directly to consumers at farmer's markets if the markets are in conformance with the provisions of PHC Section 19-13-B40 (copy attached) and are inspected and regulated by the Connecticut Department of Consumer Protection:

1. **Produce** – unprocessed produce may be sold directly to consumers. Processed produce must be properly packaged, and labeled and must originate from inspected approved sources regulated by the Federal Food and Drug Administration (FDA) and/or DCP and must be maintained at required temperatures.
2. **Shell Eggs** – shall be clean and in sound condition and maintained at an ambient temperature of 45°F or below, and according to the FDA, must be labeled with the statement: "Safe Handling Instructions: To prevent illness from bacteria: keep eggs refrigerated, cook eggs until yolks are firm, and cook foods containing eggs thoroughly." Eggs that originate from small producers with 3,000 or fewer birds may be exempt from specific grading requirements. Questions about the adequacy of labeling, packaging, grading or transportation of shell eggs should be referred to Frank Greene, Department of Consumer Protection (860-713-6160) for evaluation.
3. **Jams/Jellies and Maple Syrup** – prepared from ingredients grown on a residential farm are permitted to be sold on the residential farm by CGS Section 21a-24a and 21a-24b if labeled, "not prepared in a government inspected kitchen." CGS Section 22-6r(b) states that "a farmer's kiosk at a certified farmers' market shall be considered an extension of the farmer's business and regulations of Connecticut state agencies relating to the sale of farm products on a farm shall govern the sale of farm products at a farmer's kiosk. By inference this would allow the sale of jams, jellies and maple syrup at a farmers' market kiosk with the same statutory exceptions and requirements that apply to the sale of these items on the farm.

4. **Honey** – must originate from a source acceptable to the Connecticut Department of Consumer Protection.
5. **All other food and drink**- including meat, poultry, seafood, shellfish, juices and processed food offered for direct sale to consumers must be properly packaged and labeled and must originate from commercial approved sources that are regulated and inspected by the appropriate authorities.

I hope that the above DPH Food Protection Program opinion provides sufficient guidance to allow you to enforce a standardized interpretation of requirements regarding approved source for food and drink sold at farmers' markets.

If you require further clarification please contact me or Tracey Weeks at (860) 509-7297.

Sincerely,

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