Farmers Market and Vendor Registration and Inspections

Who is to be Registered and How/ and what to expect from an Inspection?
Definitions to Know for inspections:

• §19-35-2 Traditional Farmers Market - Two or more vendors gather to sell farm and food products directly to consumers at a fixed location.

• 3.27. “Online farmers market” means a farmers market in which two or more vendors collectively market farm and food products digitally and retain ownership of those products until they are delivered by the vendor directly to the consumer.

• 3.8. “Consignment farmers market” means a farmer’s market in which two or more vendors deliver their own farm and food products to a common location maintained by a third party that markets the vendor’s products and receives a percentage share of the profits from sales, with the individual vendor retaining ownership of the farm and food product until it is sold. A consignment farmers market may also be mobile, or in a stationary location.
3.27. “On-Farm Markets” or “Farm Stand” means a retail location on a vendor’s farm property. This location must produce 60% of farm products sold and register with the Department. The sale of vendor-produced cottage foods is permitted at this location and still requires farmers’ market permitting.

3.11. “Farm and food product” means any agriculture, horticulture, agroforestry, animal husbandry, dairy, livestock, cottage food, beekeeping, or other similar product.

19-35-2 – “Homemade food item”- means a nonpotentially hazardous food item, including a nonalcoholic beverage, which is produced and/or packaged at the private residence of the producer.

3.33. “WVDA” means the West Virginia Department of Agriculture.
• 3.12. “Farm kitchen” means an on-premise cottage food preparation facility manufacturing items for sale at a qualified farmers market for direct consumer purchase.

• 3.19. “Home kitchen” means a kitchen located in a residence that is equipped with non-commercial appliances and facilities and that is used to produce cottage foods.

• 3.2. “Commercial kitchen” means a facility designed for food production and food safety, manufacturing facility, or food establishment intended for interstate commerce.

• 3.17. “Food establishment” means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for consumption.
• 3.19. “**Food sampling**” means a small portion of food product that is offered to consumers.

• 3.22. “**Label**” means a panel(s) found a package food or cosmetic item. The principal basic information elements are contained in the provisions of 21 CFR parts 701 and 740 and reviewed by the West Virginia Department of Agriculture.

• 19-35-2 “**Retailer**” - means and includes every person engaging in the business of selling, leasing, or renting tangible personal property.

• 19-35-2- “**Seller**” - means the person who sells a homemade food item to a consumer. The seller of the homemade food item may be the producer of the item, an agent of the producer, or a third-party vendor, such as a retail shop or grocery store.
• 3.26. “Non-potentially hazardous foods” means foods that do not require time or temperature controls in order to remain safe for consumption. It includes jams, jellies, candy, dried mixes and other such food that do not meet the definition of potentially hazardous food.

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

• 3.30. “Potentially hazardous foods” means any food that consists whole or in party of milk or milk products, eggs, meat, poultry, fish, shellfish, cut or sliced fruits and vegetables, edible crustaceans or other ingredients which is in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms, with natural or an acidified pH (see 3.1) of 4.6 or below and a water activity (aw) of greater than 0.85.
• 3.1. “Acidified” foods mean 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.

• 3.24. “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.

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

• 3.29. “Pickled products” means a food product that has been processed for preservation either through an anaerobic fermentation in brine or immersion in vinegar.
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.1</td>
<td>All farmers markets shall register with the Department on a form provided by the Commissioner and shall include, at a minimum, the following: <em>(includes all types of farmers markets - traditional, online, farm stand, consignment)</em></td>
</tr>
<tr>
<td>4.2</td>
<td>Farmers market registrations are effective from April 1 through March 31 of the following year.</td>
</tr>
<tr>
<td>4.3</td>
<td>All applications for farmers market registrations must be received by March 1. If applications are received after the March 1 deadline, the applicant will be charged a late fee of $20.</td>
</tr>
<tr>
<td>4.4</td>
<td>The Department shall take action upon all completed farmers market permit applications within thirty (30) days of receipt.</td>
</tr>
</tbody>
</table>
Farmers Market Registration, cont’

No Cost to Register

Must have on the application:

- Applicant’s Name and Contact Information
- The type of farmers market;
- Dates and Hours of operation
- Any other information deemed relevant by the Commissioner. (List of Vendors)
Consignment Farmers Market §61-38-5.

- Must obtain a food establishment permit from its local health department and all cards/permits that are required by local health

- A copy of a valid food establishment permit is required on all consignment farmers market registration applications.
• WVDA Farmers Market Registration Form 2019
• Farmers Market and Farmers Market Vendor Complaint Form
• Farmers Market Vendor Permit Application Form
• Application to Register as a Commercial Food Manufacturer
• Application for Registration of Commercial Feeds (Bulk and Packages Larger than Ten Pounds)
• Semi-Annual Commercial Feed Report
• Application for Large Packaged Pet Food Registration (Over10#/Bulk)
• Application for Small Packaged Pet Food Registration (10#/Linner)
• Application for Specialty Pet Food Registration
• Application for Registration as a Seedsmen
• Quarterly Seed Poundage Report
• Request for Seed Stamps
• Seed Potato Distribution Report
• Application for Commercial Fertilizer Registration
• Application for Fertilizer Formulator Permit
• Application for Fertilizer Storage Facility Permit
• Application for Registration of Soil Amendments, Compost and Horticultural Growing Media
• Application to Register Agricultural Liming Materials
• Application to Register as an Agricultural Liming Materials Distributor
• Monthly Fertilizer Tonnage Report
• Quarterly Fertilizer Tonnage Report
• Semi-Annual Agricultural Liming Material Tonnage Report
• Application for Frozen Deserts Manufacturer Permit
• Application for Dairy Distributors Permit
• Application for Egg Distributor Certification of Authorization-Small Producer
• Application for Egg Distributor Certification of Authorization
• “Farmers market vendor” means a person or entity that sells farm and food products at a farmers market.

• Only certain vendors must register to obtain a WVDA Farmers Market Vendor Permit, those selling:

  • Potentially Hazardous Foods
    • Canned Acidified Foods
    • Time and Temperature Controlled

9.2. Farmers market vendor permits are valid from April 1 through March 31 of the following year.

9.3. Farmers market vendor permit applications are due on March 1 each year.

9.3.a. The annual application fee for a farmers market vendor permit is $35.

9.3.b. Farmers market vendor permit applications that are received after March 1 shall be assessed a late fee of $20.

9.5. The following vendors shall be **exempt** from the requirement to obtain a farmers market vendor permit:

9.5.a. Producers delivering their products to a consignment farmers market only;
9.5.b. Vendors selling fresh uncut produce;
9.5.c. Vendors selling non-potentially hazardous foods;
9.5.d. Vendors selling farm and food products identified in section 6.1 of this rule; and (non pot. haz.)
9.5.e. Vendors selling farm and food products manufactured in an FDA-inspected facility.
For those Vendors selling Produce

• 12.3. Farmers market vendors shall be subject to any state or federal rules and regulations that apply to certain farm and food products sold at farmers markets or at a consignment farmers market under the Food Safety Modernization Act and interstate commerce regulations.
  • All vendors must have the name of the farm and home address on signage at your booth at the Farmers Markets.
  • No rules on size, type, or style of signage for vendors at markets.
§19-35-6
Direct sale of homemade food items
Started June 5, 2019

(a) The production and sale of homemade food items, when done in conformity with this section, are exempt from licensing, permitting, inspection, packaging, and labeling laws of this state.
§19-35-6 Direct sale of homemade food items

(b) The following conditions apply to the sale and delivery of homemade food items:

(1) The homemade food item must be sold by the producer to the consumer, whether in person or remotely, or by an agent of the producer or a third-party vendor; and

(2) The homemade food items must be delivered to the consumer by the producer, an agent of the producer, a third-party vendor, or a third-party carrier.
§19-35-6 Direct sale of homemade food items

(c) The following information must be provided to the consumer, in the format required by subsection (d) of this section:

(1) The name, home address, and telephone number of the producer of the homemade food item;
(2) The common or usual name of the homemade food item;
(3) The ingredients of the homemade food item in descending order of predominance; and
§19-35-6 Direct sale of homemade food items

(4) The following statement:

“This product was produced at a private residence that is exempt from State licensing and inspection. This product may contain allergens.”.
§19-35-6
Direct sale of homemade food items

(d) The information required by subsection(c) of this section must be provided:

• (1) On a label affixed to the package, if the homemade food item is packaged;
• (2) On a label affixed to the container, if the homemade food item is offered for sale from a bulk container;
• (3) On a placard displayed at the point of sale, if the homemade food item is neither 1 packaged nor offered for sale from a bulk container;
• (4) On the webpage on which the homemade food item is offered for sale, if the homemade food item is offered for sale on the Internet; or
• (5) On a receipt or other document provided to the customer with the homemade food item.
§19-35-6
Direct sale of homemade food items

(e) The homemade food item must not be meat, meat byproduct, meat food product, poultry, poultry byproduct, or poultry food product, as those terms are defined for purposes of the federal Meat Inspection Act and federal Poultry Products Inspection Act, unless the production and sale of the items are within the exemption in 9 C.F.R. §303.1(d), §381.10(c), or §381.10(d) and comply with other applicable federal regulations.
§19-35-6 Direct sale of homemade food items

(f) This section shall not be construed to:
   (1) Impede the authority of a local health department or the department to investigate or cease the 
       production or sale of food items reported to have caused a foodborne illness;
   (2) Preclude the department from providing assistance, consultation, or inspection at the request of the 
       producer of a homemade food item;
   (3) Preclude the production or sale of food items otherwise allowed by law;
   (4) Exempt a producer, seller, third-party vendor, or third-party agent from any applicable tax law;
   (5) Exempt producers or sellers of homemade food items from any law that requires the producer, seller, 
       third-party vendor, or third-party agent to register its business name, address, and other identification 
       information with the state;
   (6) Exempt producers or sellers of homemade food items from any applicable law of the federal 
       government, including any federal law prohibiting the sale of certain food items in interstate commerce; or
   (7) Exempt producers or sellers of homemade food items from any applicable law of another state.

(g) This section preempts county, municipal, and other political jurisdictions from prohibiting 
    and regulating the production and sale of homemade food items: Provided, That such 
    preemption shall not include space rentals at government-owned or operated facilities, 
    government-sanctioned or operated events, or product placement agreements with 
    government- owned facilities, as well as temporary events 14 days or less in duration.
§61-38-3.29 “Potentially hazardous foods”

- means any food that consists whole or in party of milk or milk products, eggs, meat, poultry, fish, shellfish, cut or sliced fruits and vegetables, edible crustaceans or other ingredients which is in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms, with natural or an acidified pH (see 3.1) of 4.6 or below and a water activity (aw) of greater than 0.85.
Products that when produced will need a Vendors Permit from the WVDA

6.2. The following farm and food products may be sold at farmers markets if a vendor permit has been obtained:

6.2.a. Canned acidified foods, including but not limited to;

6.2.a.1. Pickled products;
6.2.a.2. Sauces, such as hot sauce, marinara, or spaghetti sauce;
6.2.a.3. Salsas;
6.2.a.4. Fermented products; and
6.2.a.5. Acidified fruits and vegetables; and
6.2.c. All farm and food products that are required to be time- or temperature-controlled.
6.3. The following farm and food products may be sold at farmers markets if a vendor has obtained both a vendor permit and a **food establishment permit from a local health department**:

6.3.a. Meat;
6.3.b. Poultry;
6.3.c. Dairy; and
6.3.d. Fish;
6.4. The following foods are not permitted to be sold at a farmers market:

6.4.a. Wild mushrooms; and

6.4.b. Sprouted seeds.
§61-38-8. Requirements for Farmers Market Vendors

8.2. A producer of potentially hazardous foods must keep records to demonstrate that the majority of the produce in canned acidified foods shall be sourced from the vendor’s West Virginia farm or garden, and records of the source of the produce shall be maintained. Recordkeeping shall include, but not be limited to:

8.2.a. Name of product;
8.2.b. Number of units prepared;
8.2.c. Record of raw ingredients used/and or vendor from which ingredients were sourced;
8.2.d. Date/Lot code; and
8.2.e. Where product/lot was distributed.
§61-38-8. Requirements for Farmers Market Vendors

8.1 A producer of potentially hazardous foods must have the process for preparing and preserving the products approved prior to selling the products, and must be obtained in a manner approved by the Department, as provided in the West Virginia Farmers Market Vendor Guide.
9.1. Vendors required to obtain a farmers market vendor permit shall apply with the Department on a form provided by the Commissioner and shall include, at a minimum, the following information:

9.1.a. Applicant’s name, mailing address, phone number, and email address;

9.1.b. Type of products being sold;

9.1.c. Physical location of growing field(s);

9.1.d. Information about the markets where vendor anticipates selling products, including:

9.1.d.1. Name of markets;

9.1.d.2. Location of markets; and

9.1.d.3. Dates when vendor plans to participate in market;

8.5. All online cottage food sales shall be delivered in person and are not permitted to be shipped.

8.6. A home, community, farm, or commercial kitchen may be used by a cottage foods vendor. The Department reserves the right to limit the preparation and preservation of a particular cottage food to a certain type of kitchen to ensure food safety.

• 7.1. All farm and food products sold at farmers markets shall be labeled. Labels shall contain the following information:

  7.1.a. Product’s common name;
  7.1.b. Name and address of processor;
  7.1.c. Ingredient list, with items listed in order from most to least;
  7.1.d. Net weight or numerical count; and
  7.1.e. Major allergens contained in product.
7.2. All farm and food product labels shall include the words “MADE IN A WV ________ KITCHEN” in capital, bold, 10-point type or larger, with the blank space to state whether the product was made in a **home, farm, community** or **commercial** kitchen.

All products must have this label on the product or on the display card, that this product is not made in a commercial kitchen.
MADE IN A HOME KITCHEN
Registration number: 12345 County of Marin
Chocolate Chip Cookie
Joe’s Cookies
123 Pastry Lane
Cookieville, CA 94101
Ingredients: Enriched flour (Wheat flour, niacin, reduced iron, thiamine, mononitrate, riboflavin and folic acid), butter (milk, salt), Soy lecithin (as an emulsifier), walnuts, sugar, eggs, salt, artificial vanilla extract, baking soda
Contains wheat, eggs, milk, soy, nuts
Net Wt. 3 oz (89 g)
7.3. All farm and food products for which a farmers market vendor permit (potentially hazardous food) must be obtained must be labeled in compliance with the United States Food and Drug Agriculture’s labeling guidelines. All such labels must be reviewed by the Department. Label review reports will be issued, and farmers market vendors shall have copies of those label review reports available for inspection upon request.
For Specific Labeling:

The Farmers Market Vendors Guide has specific labeling for various products that will be manufactured.

WVDA is able to assist with labeling and West Virginia Division of Labor, Weights and Measures office can assist with determining net weights.
A process review of a commercial food product is a complete evaluation of how a food product is made, including all the steps of preparation, ingredients, and packaging. These procedures must be followed for each batch processed.
Searchable database of food process authorities by state:

- http://www.afdo.org/foodprocessing
- Regional food processing authorities who work with West Virginia food manufacturers (service charges may apply):
  - Virginia Tech
  - Joell Eifert, Director   Melissa Wright Assistant Director
  - (540)-231-5770
  - foodbiz@vt.edu
- Additional information:
  - http://www.wvdhhr.org/phs/food/Food%20Manufacturers/Product%20Evaluation%20Request%20Form%202018.pdf
A process authority review determines the food composition and its suitability to sell. In order to address issues that may be present in the home, farm or commercial kitchen used to manufacture West Virginia cottage food, an education requirement focusing on **Good Manufacturing Practices (GMP’s) is required**. During the rule transition, several programs are available to fulfill this requirements until the West Virginia Department of Agriculture and its partners can create educational materials that are state specific.

8.4. Persons engaged in the production of cottage foods for sale at farmers markets shall attend and keep current one or more of the following and provide documentation of successful completion of the scope of curriculum from a Department-approved food-safety course:

8.4.a. Department-developed cottage foods training (renewed biennially);
8.4.b. ServSafe curriculum;
8.4.c. Statewide food handlers’ card;
8.4.d. Good manufacturing practices (GMP) certificate program; and
8.4.e. Other curriculum approved by the Department.

8.2. A producer of potentially hazardous foods must keep records to demonstrate that the majority of the produce in canned acidified foods shall be sourced from the vendor’s West Virginia farm or garden, and records of the source of the produce shall be maintained. Recordkeeping shall include, but not be limited to:

- 8.2.a. Name of product;
- 8.2.b. Number of units prepared;
- 8.2.c. Record of raw ingredients used and/or vendor from which ingredients were sourced;
- 8.2.d. Date/Lot code; and
- 8.2.e. Where product/lot was distributed.
8.3. A cottage food operation that has a private water supply must have the supply tested prior to permitting and at least annually thereafter and demonstrate through a written record of testing for coliform bacteria and nitrates to signify that the water supply is potable. The Department may require more frequent testing, or additional testing, if circumstances dictate that such testing is necessary to ensure food safety.
8.3.a. Maximum coliform levels shall be <1cfu/100mL.

8.3.b. For municipal water sources, a certificate of testing must be available for review and kitchen operator should verify use during cottage food production if more than one water source is present.

8.3.c. The Department may establish additional water quality standards in order to meet state water quality guidelines.
Farmers Market Inspections

What we will look for during an inspection
§61-38-10. Inspections of farmers markets.

10.2. **Farmers market inspections shall occur, at a minimum, once every two years.** Inspections by the WVDA shall include, but are not limited to:

10.2.a. Display of current permit;
10.2.b. Current list of vendors; and
10.3.c. Compliance with sampling requirements listed in section 13 of this rule and in the Farmers Market Vendor’s Guide.
§61-38-10. Inspections of farmers markets.

10.1. Inspections shall be conducted by the Department of farmers markets, kitchens where cottage foods, acidified foods, or non-potentially hazardous foods are manufactured, vendors at farmers markets. **Local health departments may inspect a farmers market or vendor kitchen upon receipt of a consumer complaint, identification of a suspect case for adulteration, or to investigate a foodborne outbreak.**
10.3. **The local health department in the jurisdiction of the farmers market location may invoke a cessation of production**, if they have reason to believe that an **imminent health hazard exists** until it deems that the hazardous situation has been addressed to the satisfaction of the local health department. The local health department shall invoke cessation of production **in consultation with the Department**.
13.1. All sampling shall be performed in consultation with the WVDA. The WVDA allows the distribution of samples at Farmers Markets provided that:

13.1.a. The farmers market ensures that vendors are following the guidance established in the West Virginia Farmers Market Vendor Guide; and

13.1.b. A representative of the farmers market participates in a Department-approved training course identified in section 8.4 of this rule for good manufacturing practices on an annual basis.
Sampling and chef demonstrations

3.19. “Food sampling” means a small portion of food product that is offered to consumers.

- What is NOT a “Sample”
  - A whole meal
  - A sandwich
  - An individual hot dish

13.2.a. A hand washing station should be easily accessible for all food handlers;
13.2.b. Sanitary procedures are followed;
13.2.c. Proper food storage temperatures are maintained;
13.2.d. Appropriate tools for dispensing samples are used;
13.2.e. Adequate trash receptacles are available; for trash generated from sampling and should be covered and emptied frequently; and
13.2.f. Samples are not exposed to environmental contaminants or pests.
What is an acceptable Handwashing Station?

A working bathroom that provides running water, paper towels or similar single use towel or dryers, and a waste receptacle.
What is an acceptable Handwashing Station?

The hand wash station shall be equipped with the following items:

• Five gallon cooler modified with a free-flow spigot or other similar unit
• Catch basin for waste water
• Soap
• Paper Towels
• Adequate supply of warm water
• Waste receptacle.
13.2.b. Sanitary procedures are followed;

• No bare hand contact with ready to eat food is allowed.
• Food handlers must wash their hands with soap and water before using deli tissue or gloves to touch the food
• All utensils used must be cleaned and sanitized before use and as often as necessary throughout the day.
Sampling at a Farmers Market

01
Hot foods shall be maintained at 135°F

02
Cold foods shall be at or below 41°F
- No rule on what type of cooling is permitted- ambient temp must be 41°F and maintained- change cool packs

03
A properly calibrated food thermometer must be provided to check food temperatures.
13.2.d. Appropriate tools for dispensing samples are used;

Samples must be served individually on plates, in cups, toothpicks or similar items.

Vendors must maintain control access to samples so that customers cannot touch any sample that is not theirs.
13.2.e. Adequate trash receptacles are available...

Trash Cans with Lids

Enough to be spread around for all sampling

Disposed of as necessary
13.2.f. Samples are not exposed to environmental contaminants or pests.

• Samples may not be exposed to insects or other environmental contaminants.
  • A fan or fly screen may be necessary.
• Animals shall not be allowed in any food preparation or sampling display area.
Where can a Sample be given to the public?

• Sampling must occur under a roof. A tent or large umbrella may provide adequate cover if the vendor is not under a structure.

• 11.1. Kitchen inspections farm and food products that farmers market vendor permit shall be conducted by a Department representative upon the initial application and upon the renewal of the annual application. Non-compliance violations will result in additional inspections.
11.3. During a kitchen inspection, the WVDA will minimally inspect to ensure the following:

• 11.3.a. That only the specific foods identified on the farmers market vendor permit are being produced in the kitchen during the time of production of those foods;

• 11.3.b. That the permitted cottage food operation understands that no person other than the permittee, or a person under the direct supervision of the permittee, may be engaged in the processing, preparing, packaging, or handling of any cottage food products or be in the home kitchen during the preparation, packaging, or handling of any cottage food products;
That only normal, non-commercial kitchen equipment and utensils are being used to produce cottage food products.
11.3.f. That all food contact surfaces, equipment, and utensils used for the preparation, packaging, or handling of any cottage food products are washed, rinsed, and sanitized before each use;
11.3. During a kitchen inspection, the WVDA will minimally inspect to ensure the following, con’t:

• 11.3.c. That no preparation, packaging, or handling of cottage food products is occurring in the home kitchen concurrent with any other domestic activities, such as home meal preparation, dishwashing, clothes washing or ironing, kitchen cleaning, or guest entertainment. Preparation activities and routine home activities must be clearly separated by time;

• 11.3.d. That no infants, small children, or pets are in the home kitchen during the preparation, packaging, or handling of any cottage food products;
11.3. During a kitchen inspection, the WVDA will minimally inspect to ensure the following:

11.3.g. That all food, food preparation, equipment, and storage areas are free of rodents and insects;
11.3.h. That no persons involved in the preparation and packaging of cottage food products:

- 11.3.h.1. Are working with exposed food, cleaning equipment, utensils, and linens; or working with unwrapped single-service or single-use articles while experiencing the following symptoms:
  - 11.3.h.1.1. Vomiting;
  - 11.3.h.1.2. Diarrhea;
  - 11.3.h.1.3. Jaundice; or
  - 11.3.h.1.4. Sore throat with fever;
More yucks that we will look for:

• 11.3.h.2. Has a lesion containing pus, such as a boil or infected wound, that is open or draining and is:

  • 11.3.h.2.1. On the hands or wrists, unless an impermeable cover such as single-use gloves protect the lesion;
  • 11.3.h.2.2. On exposed portions of the arms, unless the lesion is protected by an impermeable cover; or
  • 11.3.h.2.3. On other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage; or
11.3.h.3. Has symptoms of any of the following illnesses as diagnosed by a health practitioner:

11.3.h.3.1. Norovirus;
11.3.h.3.2. Hepatitis A;
11.3.h.3.3. Shigella spp;
11.3.h.3.4. Shiga toxin producing E. coli; or
11.3.h.3.5. Salmonella spp.
Enforcement Policy

14.2. If a violation has been committed by either the Farmers Market or the vendor, or an item is found to be adulterated or misbranded, the Commissioner shall send a written “First Notice” to the registrant. This notice shall notify the registrant that a violation of W. Va. Code §19-35-1 et. seq. of this rule and the enforcement policy established by this section of the rule. **A second inspection shall occur after the notification has been sent.**

Telling them that day is a notification of violation but isn’t considered a “1st Notice”. Set a time to do a reinspection... ie- 15 days, 30 days, etc.
14.3. If a violation has been committed during the second inspection, the Commissioner shall send a written “Second Notice” to the registrant. The registrant must develop a written plan to correct the violation(s) and implement it within 7 days after the Second Notice has been sent out.

14.4. A third inspection shall occur after the receipt and acceptance of the written plan of correction.
14.7. A person who performs a recall by voluntarily removing product from sale or distribution in an effective manner, so as to limit the potential harm to the health and well-being of the public, may be eligible for exemptions from the normal enforcement policy. The Commissioner shall consider the facts of each case when making a decision on an exemption.

14.8. The Commissioner may suspend the standard enforcement policy in cases where such action is necessary to protect the public health, safety, and welfare.
Hearings

15.1. If a violator requests an informal hearing or the Commissioner schedules an informal hearing, the compliance officer shall schedule a hearing in accordance with the following procedures:

- 15.1.a. The compliance officer shall notify any authorized representative of the Commissioner who was involved in the inspection which discovered the violation which is the subject of the hearing, and the violator of the time and place of the informal hearing;

- 15.1.b. The compliance officer shall notify the parties at least ten (10) business days prior to the time of the hearing; and

- 15.1.c. The compliance officer may continue the informal hearing only for good cause shown.
Hearings

• 15.2. An informal hearing is intended to be an information discussion of the facts which gave rise to the issuance of a notice of violations. The hearing officers shall conduct the hearing in the following manner:

  • 15.2.a. The hearing officer shall not discuss the case “ex parte” with either the compliance officer or other Department employees involved in the case.

  • 15.2.b. All testimony and evidence at a hearing shall be recorded. The record shall be maintained for ninety (90) days from the date of the hearing, and the Department shall make a transcript of the hearing available to the aggrieved party.

  • 15.2.c. Within thirty (30) days following the informal hearing, the hearing officer shall issue and furnish a written decision affirming or dismissing the initial notice of violation and reason(s) for his or her decision.
Hearing

• 15.3. Any party who feels aggrieved of the suspension, revocation, or denial order of a license may appeal within sixty (60) days to the circuit court of the county in which the violator has located its principal place of business.

• 15.4. At any formal review proceedings which may occur later, any evidence, as to any statement made by one party at the informal hearing, may not be introduced as evidence by another party, nor may any statement be used to impeach a witness, unless the statement was available as competent evidence independent of its introduction during the informal hearing.
Charging Expenses for Vendor Inspections

11.2. Cottage food vendors will be charged $27 per hour for inspections, which will be billed directly to the cottage food vendor.

No Charge for Inspections of Vendor Kitchens- this has been removed from the rule.
Possible Changes Coming for 2020

• Remove Eggs from the Permit list
• Fines for those markets not registered
• Possible charges for kitchen inspections
• Talks with local health and state health about permitting egg vendors
QUESTIONS OR CONCERNS????????
Thanks and we can be contacted for inspection and registration questions at:

• Amie Minor- Director of Regulatory and Environmental Affairs Division (READ)
  • 304-558-227 and aminor@wvda.us
• Chad Linton- Assistant Director of READ
  • 304-558-2227 and clinton@wvda.us
• Stacy Stewart– Farmers Market Program Coordinator
  • 304-558-2227 and shammack@wvda.us
For all Labeling and recipe questions please contact:

• Business Development Division  
  • 304-558-2210

• Cassey Bowden- Director  
  • cbowden@wvda.us

• Beth Southern  
  • productlabeling@wvda.us
Thank you for cooperation and understanding with this transition into the world of Farmers Markets. We appreciate your support and advice.