

2024 Virginia Farmers Market Food Safety Summit  
Questions and Answers

**VDACS:** [Farmers' Market Vendors](#)

**VDH:** [Food Safety in Virginia - Environmental Health](#)

**Virginia Cooperative Extension:** [Going To Market: A Guide to Selling Raw, Processed, and Prepared Food Products from Your Home, at Farmers' Markets, Stores, and Roadside Stands](#); [Food Storage Guidelines for Consumers](#)

Additional links to resources are included in responses to questions. Questions asked by attendees have been categorized as follows:

<b>CBD/Hemp</b> ( <i>VDACS Food Safety</i> )	Page 2
<b>Commercial Kitchen &amp; Home Food Processing Operations</b> ( <i>VDACS Food Safety</i> )	Page 5
<b>Cottage Food Law</b> (Exemptions to VDACS regulations commonly referred to as Cottage Food Law) ( <i>VDACS Food Safety</i> )	Page 8
◇ Baked Goods	
◇ Beverages	
◇ Extracts/Tinctures	
◇ Jams/Jellies/Syrups	
◇ Pickled/Acidified Foods	
◇ Other Foods	
<b>Farmers Market General Questions</b> ( <i>VAFMA</i> )	Page 17
Questions about Specific <b>Foods/Types of Foods</b> ( <i>VDACS, VDH, VT Food</i> ) Producer Technical Services ( <i>FPTS</i> ), VT Cooperative Extension Service ( <i>CES</i> ), Virginia Alcoholic Beverage Control Board ( <i>ABC</i> ), VDACS Office of Meat and Poultry ( <i>OMPS</i> )	Page 18
◇ Beverages	
◇ Dairy	
◇ Eggs	
◇ Foods Made with Alcohol or that Produce Alcohol	
◇ Freeze Dried	
◇ Honey	
◇ Meat and Poultry	
◇ Mushrooms	
◇ Produce	
◇ Other Foods	
<b>Labeling</b> ( <i>VDACS and VDH</i> )	Page 36
<b>Pet Food</b> ( <i>VDACS Office of Agricultural Commodities</i> )	Page 37
<b>Vendor Operations</b> at the Market	Page 39
<b>Weights and Measures</b> ( <i>VDACS Office of Weights and Measures (OWM)</i> )	Page 43
<b>VDH and VDACS</b> Regulation Questions	Page 45

## CBD/Hemp

- CBD/Hemp What is the procedure for monitoring CBD as an additive in Food and Beverages?
  - VDACS: Foods that contain hemp extract, including CBD, may only be sold to consumers in packaged form, and the packaged products must be from approved sources and in compliance with the Virginia Food and Drink Law.
- Do CBD/hemp products require 3rd party testing in order to be sold in VA, or is it treated as a non-FDA regulated supplement?
  - VDACS: All CBD/hemp food products sold in Virginia, including dietary supplements, must come from approved sources (under food safety inspection) and when offered for retail sale, they must be accompanied by a Certificate of Analysis (COA) from a third-party testing laboratory.
- What products can be bought with SNAP?
  - VDACS: The USDA says: Hemp food products: Generally recognized as safe (GRAS) by the Food and Drug Administration, food products that contain hulled hemp seed, hemp seed protein powder, and hemp seed oil may be purchased with SNAP benefits. However, hemp plants, leaves, and shoots are not eligible to be purchased with SNAP benefits. Food containing cannabis-derived products, such as CBD..., are not eligible to be purchased with SNAP benefits.”
- Interested in labeling requirements.
  - VDACS: Labeling and other requirements for edible hemp products include:
    1. The product must be from an Approved Source (meaning that the product manufacturer is inspected by the regulatory agency responsible for food safety inspections in the state where the product is made, and the product containing CBD/hemp extract is compliant with the state’s requirements for food products containing hemp extract; if the state does not recognize CBD/hemp extract as a lawful food ingredient then the product cannot be compliant with that state’s law; a third party GMP audit is not a substitute for state regulatory inspection).
    2. The product must be accompanied by a Certificate of Analysis (COA) from an ISO 17025 accredited lab (a working QR code is acceptable); documentation of ISO 17025 accreditation must be available for review at the point of sale.
    3. The product must not contain a total THC concentration greater than 0.3% (total THC includes all THC isomers added together).
    4. The product must not contain synthetic cannabinoids (HHC, THCP, THCO, THCH, CBDP, THCJD and others).

5. The product must contain no more than 2 mg THC per package OR if more than 2 mg, a CBD to THC ratio of 25:1. (Note that CBG may not substitute for CBD in this ratio because the law specifies CBD).
  6. If the product contains THC, the packaging must be child resistant and resealable if more than one serving.
  7. No person shall offer for sale or sell a regulated hemp product that depicts or is in the shape of a human, animal, vehicle, or fruit.
  8. Hemp derived ingredients must meet the definition of "Extract" given in 2VAC5-595-10 (the definition excludes THCs other than Delta 9 THC; however, CBN and THCV are allowed).
  9. Statement of identity must be on the Principal Display Panel (PDP) and adequately describe the product.
  10. Statement of Net Quantity of Contents (US Customary and Metric measures) must be present and on the PDP.
  11. The label must state the amount of food in a single serving (amount must be in weight or volume; a number count without a measure is not sufficient).
  12. Statement of Ingredients – all ingredients, including the sub-ingredients of any ingredient made of two or more substances, must be listed on the label.
  13. If the product contains Allergens, they must be declared on the label.
  14. Name and Address of the Manufacturer or Distributor must be on the label (a website is not sufficient).
  15. If the product is labeled as containing specific cannabinoids, the number of milligrams of each cannabinoid must be declared.
  16. A legible Batch Code must be on the product label/package.
  17. The label must not contain a claim indicating the product is intended for diagnosis, cure, mitigation, treatment, or prevention of disease.
  18. The packaging/labeling of a regulated hemp product must not bear any significant likeness to another manufacturer's product.
  19. If the product contains THC, there must be an age restriction statement (May not be sold to persons younger than 21).
  20. If the product contains THC, the label must state the number of milligrams of THC in each serving.
  21. If the product contains THC, the label must state the total milligrams of THC included in the package.
  22. If the product contains THC, the label must state the total percentage of THC in the product (" $<0.3\%$  THC" does not meet this requirement).
- Where can potential manufacturers of hemp products go for product testing so they can get a certificate of analysis?

- o VDACS: There are a lot of labs that are ISO 17025 accredited. (Set of standards laboratories can meet that shows they have a robust quality management system.) VDACS has a list of some labs that hemp growers are listed. Recommend googling ISO 17025 labs that test hemp products.
- Can vendors sell hemp seeds, hemp flowers, and hemp plants at farmers markets?
  - o VAFMA: Hemp seeds for planting, hemp plants, hemp flowers are not allowed to be sold at VA Farmers Markets.
  - o VDACS: Hemp seeds intended for food, hemp oil, hemp hearts, and hemp protein powders made from hemp seeds are FDA approved ingredients. They have to be processed in a manner to prevent contamination with THC in the plant material. Can only sell viable hemp seeds or hemp plant to an entity registered with Virginia Hemp Program to grow or handle hemp plant material. VDACS and USDA keep a database of entities registered with VDACS Hemp Program.
- Hemp Seed Granola?
  - o VDACS: This type of product [may qualify](#) for an exemption from routine inspection if it is made in a home kitchen. If you will not be operating under the exemption, you can submit a [permit application](#) for an inspection.
- What can be sold at farmers markets regarding the edible type of CBD or hemp products?
  - o VDACS: Every retailer (sells products to end consumer) is subject to the Hemp Program laws and regulations. This includes farmers markets. Every retail operation that is selling hemp products must submit an edible hemp price disclosure form and must certify, either that they are under food safety inspection or that they are exempt from routine food safety inspection for every location where they sell these products. Once VDACS has the registration system in place the \$1000 annual registration fee will be required for every location where the sales occur.
  - o VDACS: CBD/Hemp products can only be sold packaged and labeled with the amount of CBD in that product.
- Is there a requirement for producers to get some sort of retail permit for each location, costing something like 1,000 per year? Is that in effect?...and is the market responsible for that? Or the producer?
  - o VDACS: Once the VDACS Hemp Product Registration system is active, the **vendor** who sells a hemp product intended for smoking or an edible hemp product must have a Regulated Hemp Product Retail Facility Registration. The annual registration fee is \$1,000. Registration is required for each location that offers for retail sale a hemp product intended for smoking or an edible hemp product. The registration system is not active yet – expected to be operational Summer of 2024.
- When can a retailer be exempt from inspection? The product doesn't contain cannabinoids. Is there a threshold of product sold?

- o VDACS: Exemption is specific to the food safety inspection. If the products contain hemp extract, they are not exempt from inspection by the Office of Hemp Enforcement. If the retailer is only selling prepackaged foods (that don't require temperature control) they may be exempt from regulation by the Food Safety program.
- What about bath and beauty products?
  - o VDACS: These topical hemp/CBD products are not exempt from the law. They are held to the same requirements as edibles regarding THC and CBD limits in the products.
- Is it legal for vendors to sell pet food with CBD/hemp in it?
  - o VDACS Ag Commodities program: No. You are not allowed to have CBD, THC, or hemp in any pet food that has a guaranteed analysis.

### Commercial Kitchens and Home Food Processing Operations

(These are VDACS permitted establishments. A Commercial Kitchen is a manufacturing location that is not in a private home.)

- If I want to sell my products at retail shops as well as farmers markets, what is the best way to do that (commercial kitchens, permits, etc..) it's confusing. Is there a step-by-step guide for that?
  - o VDACS: If you would like to wholesale your products (selling to another entity, such as a retail shop, for resale), you will need to obtain an inspection and permit from the VDACS Food Safety. You can find the permit applications and additional guidance information [here](#).
  - o Note: A VDACS permit to operate a [Commercial Kitchen](#) or [Start a Home Food Processing Operation](#) allows you to manufacture or sell only the product(s) VDACS has evaluated and approved. You may not add new products or change products that have been approved (including flavors or other variations) that you sell without submitting another application and getting approval for that/those products.
- What permits would you need to render lard?
  - o VDACS: The making of rendered lard can be made under inspection by VDACS Food Safety if it is strictly offered for sale retail only (directly to the end consumer). If you are operating in a home kitchen, the structure or space must be completely separate from the home or living space and have a completely separate entrance. You can find home and commercial kitchen permit applications here: <https://www.vdacs.virginia.gov/dairy-kitchen-food-services-businesses.shtml>

If you would like to wholesale rendered lard (sales to another entity for resale), you will need to obtain an inspection from VDACS Office of Meat and Poultry.

- If I want to start using a commercial kitchen, would that take the place of an inspection? Would I still need a permit from VDACS?
  - VDACS: If you are operating in a commercial kitchen, you will need an inspection and permit from either VDH or VDACS depending on your business.
- What are the guidelines if you are using 2 different commercial kitchens? Same company, different products.
  - VDACS: Each location is inspected separately. If you operate at two different commercial kitchens, you will need to obtain an inspection and permit for each location.
- Can I sell baked goods out of a display case and bag them on site as customers order?
  - VDACS: Loose baked good products can be offered for sale if they are inspected (prepared in a permitted facility). They should be stored in a clean, dry location where they are not exposed to splash, dust, or other contamination. They should be covered or protected with sneeze guards, dome covers, etc. You should use barriers such as tongs, deli tissue, or napkins to prevent barehand contact with foods.  
If your baked goods are made under the cottage law, they must be fully packaged and labeled for the market, because there are specific labeling requirements for these products under the [exemption](#).
- Is there a commercial kitchen offered to cottage law vendors that would like to prepare their foods in a state inspected kitchen? A kitchen sponsored/offered by VAFMA perhaps?
  - VDACS: The “cottage law” [exemption](#) only applies for those making the allowed foods in their own private home kitchen. If you make the foods in a commercial kitchen, you need to be permitted.
- If I want a permit and want to prepare my items in a state inspected kitchen- but not my home kitchen- how could I go about finding a state inspected kitchen?
  - VDACS: An [inventory of businesses](#) we have under VDACS food safety inspection are available on our website. You may also want to reach out to your local VDH health district about commercial kitchens in your area.
- What are the requirements for a commercial kitchen at home?
  - VDACS: If you are making packaged, manufactured food products at home for sale at the market you may require an [inspection and permit](#) from VDACS For a home kitchen. There are also some [exemptions](#) from inspection, which will be covered later today.
  - VDH: If you (are) a farmer/producer and you are cooking your farm produced product to provide a sample, you are not subject to VDH permit. If you are foodservice vendor cooking meals, you would need to apply for a VDH TFE permit.
- Do I have to submit all my recipes when applying for a commercial kitchen permit?

- o VDACS: Yes. All recipes and labels must be submitted for review and approval as part of your commercial kitchen or home food processing operation kitchen application.  
Note: A VDACS permit to operate a [Commercial Kitchen](#) or [Start a Home Food Processing Operation](#) allows you to manufacture or sell only the product(s) VDACS has evaluated and approved. You may not add new products or change products that have been approved (including flavors or other variations) that you sell without submitting another application and getting approval for that/those products.
- Do you need a kitchen inspection if you are selling small batches of cakes and sweets in a farmers market?
  - o VDACS: Some types of cakes and sweets may be offered for sale at the market under the [exemption](#) without inspection.  
Cakes or sweets that require refrigeration for safety require an inspection before being offered for sale.
- Can you serve Kombucha at the market that was made in a certified kitchen?
  - o VDACS: The manufacture of packaged kombucha requires an inspection and permit by VDACS. If you are preparing kombucha *solely* for foodservice, and are not packaging and labeling it, you should reach out to VDH.
- Interested in licensing requirements.
  - o VDACS: VDACS Home and Commercial Kitchen-Based Business Permit Applications and Additional Information can be found [here](#).
  - o Note: A VDACS permit to operate a [Commercial Kitchen](#) or [Start a Home Food Processing Operation](#) allow you to manufacture or sell only the product(s) VDACS has evaluated and approved. You may not add new products or change products that have been approved (including flavors or other variations) that you sell without submitting another application and getting approval for that/those products.
- What are the requirements to get a home kitchen VDACS inspected and what does that allow home bakers to do beyond cottage law?
  - o VDACS: As a permitted and inspected Home Kitchen Food Processing Operations, all recipes and labels will be reviewed for approval and can include items not listed on the exemption list. See: 1). [“How To”](#) guide – Home Kitchen, and 2). [Permit Application](#) – Home Kitchen.
- After getting your VDACS inspection approved, is it normal to get a permit with an expiration date within 4 months?
  - o VDACS: Yes. Permits are issued on an annual basis based on the fiscal year. They are issued on July 1 and expire on June 30. Your permit will be automatically renewed and you will receive a new permit in the mail. The renewal of your permit does not coincide with the frequency of your routine inspections from the VDACS Food Safety Program.
- Can a new recipe be approved without a label?

- o VDACS: All packaged food products are required to be fully labeled with the mandatory information.
- Could you review the process for kitchen inspections?
  - o VDACS: The “[Home Kitchen How To](#)” guidance document provides guidance on completing the application and guidance on what to expect during an inspection.
- Are there still virtual VDACS inspections for a Home Kitchen Inspection?
  - o VDACS: No
- I am working on the allergen control plan for my VDACS Commercial Kitchen Food Processing application. I am a solo operator and will be producing baked goods such as croissants and macarons. I am hoping that you might have an example of an acceptable plan that you could send to me.
  - o VDACS: This [link](#) on our website provides info on the allergen control plan. The “[How To](#)” documents for home and commercial kitchen operation applications also have some guidance for completing that section.
  - o VDH: Information on “[Food Allergens](#)” is available on the [Food Safety in Virginia](#) webpage.

### **Cottage Law/Home Kitchen Exemption**

**\*NOTE:** There are a few changes from this year’s Legislative session that will become effective on July 1, 2024. The changes include increasing the dollar amount of gross sales for pickles and other acidified vegetables prepared in a private home as well as adding to the locations that may be allowed to sell their products. The document, [Virginia’s Home Kitchen Food Processing Exemptions](#), will be updated to reflect the changes.

- Are there any new changes in the laws that pertain to a Farmers Market? (Cottage Laws) Are there changes for low risk baked goods? Explain new cottage food legislation and what it allows additionally to previous law.
  - o VDACS: See above\* The changes include increasing the dollar amount of gross sales from \$3000 to \$9000 for pickles and other acidified vegetables prepared in a private home and adds temporary events that operate for a period of no more than 14 days to the location where foods prepared under the Cottage Food exemptions may be sold. [Virginia’s Home Kitchen Food Processing Exemptions](#) will be updated to reflect these changes. The VDACS Food Safety presentation (April 4) covers HB 759 that passed the General Assembly with the new changes to the Virginia Food and Drink Law, 3.2-5130 that takes effect July 1.
- Please clarify the Cottage law rules.
  - o VDACS: [Virginia’s Home Kitchen Food Processing Exemptions](#)
- What products are considered cottage law items?
  - o VDACS: [Virginia’s Home Kitchen Food Processing Exemptions](#)



- Cottage Food Law
  - VDACS: [Virginia's Home Kitchen Food Processing Exemptions](#)
- When can a retailer be exempt from inspection? Product does not contain cannabinoids. Is there a threshold of product sold?
  - VDACS Food Safety: Information on exemptions for manufacturers making certain products in their home kitchen is found in [Virginia's Home Kitchen Food Processing Exemptions](#). For brick and mortar retail establishments, you can find information on exemptions linked from this [webpage](#).
- Can a vendor sell in a resale store? Like seasonings and apple butter and such.
  - VDACS: Food prepared under the Cottage Law exemption cannot be sold at retail food establishments. Here is the [regulation](#), see C3.
- Who will I email to ask about resale at a retail store under cottage law?
  - [foodsafety@vdacs.virginia.gov](mailto:foodsafety@vdacs.virginia.gov)

### Baked Goods

- Baked goods at farmers markets - what are the rules?
  - [Virginia's Home Kitchen Food Processing Exemptions](#)
- Can you give samples of baked goods at a farmers market?
  - Please refer to the [Guidelines for Providing Safe Samples](#) at the market.
- What is changing for baked goods?
  - see \* above.
- What is the labeling (requirement) for baked goods at a farmers market?
  - VDACS: [Virginia's Home Kitchen Food Processing Exemptions](#)
- What regulations are in place to sell homemade breads and baked goods? Also, homemade vanilla.
  - VDACS: Follow the [Virginia's Home Kitchen Food Processing Exemptions](#) for homemade breads. If you would like to prepare food in addition to this list, including homemade vanilla extract, apply for a permit as a [Home Food Processing Operation](#) or a [Commercial Kitchen Food Processing Operation](#). Regarding homemade vanilla, also see *Foods Made with Alcohol or that Produce Alcohol* in the Questions about Specific **Foods/Types of Foods** section.
- What's the best way to display ingredient information for non-packaged baked goods? Please describe best practices for (labeling) baked goods that are not pre-wrapped/packaged.
  - VDACS: A placard at the point of display or point of sale that clearly lists the ingredients, sub-ingredients, and allergens.
- Will a sign with ingredients be acceptable for baked goods?
  - VDACS: A placard at the point of display or point of sale that clearly lists the ingredients, sub-ingredients, and allergens is allowable for bulk display products. Packaged products must be fully labeled (name of the product, net weight statement, ingredients list [including sub-ingredients

and allergens], and name and address of manufacturer and/or distributor)

All food must be protected from contamination. Recommend using sneeze guards, covers, cake domes, and barriers from bare hands such as gloves or deli paper.

- Can artisan bread be open to air without any issues at a farmers market?
  - VDACS: All food must be protected from contamination. Recommend using sneeze guards, covers, cake domes, and barriers from bare hands such as gloves or deli paper.
- For weight of product. I'm a baker. For my net weight on the label, should I have it before or after it was baked?
  - VDACS: After
- Can a person sell Blueberry muffins, banana bread or cookies at a farmers market?
  - VDACS: Yes
- Are cottage bakers allowed to sell their exempted baked items out of a bakery case and package the items on site as the customer orders them?
  - VDACS: Exempt baked goods must be fully packaged and labeled, because there are specific labeling requirements for exempt products as explained in [Virginia's Home Kitchen Food Processing Exemptions](#).  
If your baked goods are made under the cottage law, they must be fully packaged and labeled for the market, because there are specific labeling requirements for these products under the [exemption](#).
- Can baked goods under cottage law include fruit? i.e.- blueberry muffins?
  - VDACS: Yes. Baked goods can be made under the cottage law exemption as long as they do not require refrigeration. Examples of baked good that would not fall under the exemption: cheesecakes and pumpkin rolls with cream cheese filling.
- If I sell a bread that I bake cream cheese filling into, should I sell that from a temp controlled cooler at a farmer's market or can I display on a table since it is baked in? It is a small amount spread onto the bread before shaping.
  - VDACS: It depends. Some products that contain cream cheese require refrigeration from safety, while others do not. This determination is based on the pH and water activity of the finished product. However, sometimes the determination can be made by reviewing the recipe rather than having the finished product tested in a laboratory. Please email [foodsafety@vdacs.virginia.gov](mailto:foodsafety@vdacs.virginia.gov) for additional assistance. If you are under inspection with the VDACS Food Safety Program, please include your business name. If you are wanting to determine whether or not you can operate under the home kitchen exemption, please state that in the email.
- Do I need a VDACS permit to bake pretzels at home kitchen for sale at farmers market?

- o VDACS: Yes, pretzels are not an exempt food. Would need a permit from VDACS to make at home.
- Can I sell baked goods out of a display case and bag them on site as customers order?
  - o VDACS: Loose baked good products can be offered for sale if they are inspected. They should be stored in a clean, dry location where they are not exposed to splash, dust, or other contamination. They should be covered or protected with sneeze guards, dome covers, etc. You should use barriers such as tongs, deli tissue, or napkins to prevent barehand contact with foods.  
If your baked goods are made under the cottage law, they must be fully packaged and labeled for the market, because there are specific labeling requirements for these products under the [exemption](#).
- If we sell breads & granola bars, do these items have to be labeled with weights if from a cottage industry kitchen?
  - o VDACS: All packaged food products have labeling requirements. If you are making these products under the exemption, the law specifically says these products shall be affixed with a label: "displaying the name, physical address, and telephone number of the person preparing the food product, the date the food product was processed, and the statement "NOT FOR RESALE — PROCESSED AND PREPARED WITHOUT STATE INSPECTION" shall be placed on the principal display panel."
  - o VDACS: In general, all packaged food products must be labeled with the following: Name of the product, Net content statement, Ingredients list (including sub-ingredients and allergens), and Name and address of manufacturer and/or distributor. In addition, there are some extra labeling requirements for products being made under the cottage law without inspection.
- One of my questions I have falls under cottage law rules and the exemptions we fall under is baked goods. Is it correct we do not need a TFE Permit, do we? Even if we decide to prepare our product at a commissary kitchen?
  - o VDACS: The [exemption](#) is only for specific products that are prepared and packaged in a home kitchen. If you are manufacturing your products in a commissary kitchen, then you would need to submit a [permit application](#).
- Is specific product testing applicable for a cottage exempt baker? For instance, if we get requests for key lime pie, etc. and wish to try to develop a recipe, can we get it tested and potentially offer it as a cottage-exempt baker?
  - o VT FPTN: Often times producers are told by regulatory agencies which products have to be reviewed and/or tested. More often than not, products that are on the [low risk exempted food list](#) do not require testing. Other products not on that list will often require testing to ensure the product will be safe and high quality. We do not help with recipe development, specifically.

## Beverages

- Can you make **coffee** in a certified kitchen and bring it to the market without a permit? What about making hot coffee on site?
  - VDACS: If you are brewing coffee in the kitchen and bringing it to the market, you will need to contact VDH. Brewing hot coffee on-site for sale at the market requires a permit from VDH.
- Can **coffee** vendors operate under cottage law and still use dairy?
  - VDACS: Roasted coffee (meaning roasted whole bean or roasted ground coffee) is allowed under the cottage law. You may offer samples of your product at the market following the safe sampling guidance covered in today's presentation. If you are making a bottled, liquid product, you would need an inspection and permit from VDACS.
- Does hot **coffee** with single-serve shelf stable creamers fall under VDACS or VDH?
  - VDACS: On-site foodservice at the market falls under VDH.
- Do dried products include dried **teas**?
  - VDACS: Yes
- **Tea** ingredient processing, drying, storing, packaging guidelines for farms/markets?
  - VDACS: Make sure ingredients are safe to be used as a food, labeled properly, and made under clean and sanitary conditions. Contact [foodsafety@vdacs.virginia.gov](mailto:foodsafety@vdacs.virginia.gov) with specific questions about ingredients. See <https://www.vdacs.virginia.gov/pdf/kitchenbillfaq.pdf>
- Are shrubs allowed under **Vinegars**?
  - VDACS: No. Shrubs do not fall under the category of "vinegar" or "flavored vinegar" because they are a vinegar-based syrup that contains additional ingredients.
- Are "fire ciders" permitted as a **vinegar** since they are apple cider vinegar with additional whole food ingredients?
  - VDACS: This type of product would require an inspection and permit from VDACS.

**Extracts/Tinctures** (Also see Foods Made with Alcohol below)

- Does **vanilla extract** require an inspected kitchen or can cottage law be ok for farmers market?
  - VDACS Food Safety: This would require an inspection from VDACS Food Safety. You can find the permit applications and additional information [here](#).
- Homemade vanilla flavoring/extract is not allowed, correct?
  - VDACS Food Safety: This would require an inspection from VDACS Food Safety. You can find the permit applications and additional information [here](#).

- o VA ABC: Flavoring extracts and bitters manufactured for culinary purposes only and not sold as a beverage are exempt from the definition of alcoholic beverage under §4.1-200 of the Code of Virginia.
- How should tinctures and “healing” products be handled?
  - o VDACS: Some types of herbal tinctures may be classified as a drug, depending on the ingredients, directions for use, and any health claims made on the product label. Depending on how they are categorized, these products would either be evaluated by VDACS Food Safety or by FDA.
  - o VA ABC: Tinctures manufactured for medicinal purposes only and not sold as a beverage are exempt from the definition of alcoholic beverage under §4.1-200 of the Code of Virginia.

### **Jams, Jellies, and Syrups**

- Please cover jams & jellies
  - o VDACS: Some types of jams and jellies can be made in the home kitchen without inspection. Please see pages 1-2 in [Virginia’s Home Kitchen Food Processing Exemptions](#).  
Jams and jellies considered to be acidified or low acid cannot be made without inspection. Examples: Pepper Jelly, Tomato Jelly, Fig Jam. Apple Butter and Pumpkin Butter are not considered jams and jellies. An inspection is required to manufacture and offer apple butter and pumpkin butter for sale.
- What are the restrictions if any on selling apple butter?
  - o VDACS: Apple butter requires an inspection and permit from VDACS. You can find the permit applications and additional information [here](#).  
Butter and Pumpkin Butter are not considered jams and jellies. An inspection is required to manufacture and offer apple butter and pumpkin butter for sale.  
Although there can be associated food safety concerns, a primary stipulation that applies here is that the foods allowed under cottage exemption are written into the law. The food list in the law has not changed in several years, and apple butter is not currently on it. We need to permit home operators wanting to make foods not already listed or that otherwise are not in compliance with the current law.
- Would herbed tomato jam (made with pectin and sugar same as fruit jam) be approved under the exemption?
  - o VDACS: No. This type of product would require an inspection and permit.
- Is a fruit “syrup” made as a jam/jelly recipe, only in liquid form ok to sell as such.
  - o VDACS: This type of product would require an inspection and permit from VDACS. Syrups are not exempt from inspection. Syrup processors would need to apply for a food safety permit.
- Do jams need inspection?

- o VDACS: Jams and jellies not considered to be low-acid or acidified low-acid food products are on the exempt product list, so you would not need an inspection provided you follow the rest of the requirements of the exemption (sell direct to consumer, labeling, etc.)

### Pickled and Acidified Foods

- Question about **acidified vegetables**.....You said that acidified vegetables wouldn't qualify as exempt if they require refrigeration. The new law does not support that according to the legal opinions I have received. Where does this rule come from?
  - o VDACS: The exemption is specifically for acidified vegetable products that fall under 21 CFR 114. By definition, an acidified food is one that is offered for sale shelf stable. Products that are kept under refrigeration do not fall under 21 CFR 114, and therefore do not fall under the additional exemption under the Virginia Food and Drink Law.  
 Acidified vegetable products is a specific subcategory within the acidified foods. By definition, acidified foods means low-acid foods to which acid(s) or acid food(s) are added; these foods include, but are not limited to, beans, cucumbers, cabbage, artichokes, cauliflower, puddings, peppers, tropical fruits, and fish, singly or in any combination. They have a water activity (aw) greater than 0.85 and have a finished equilibrium pH of 4.6 or below.  
 Within the exemption, acidified vegetable products have specifically been allowed to be made without exemption. When we speak to refrigerated pickles, the thinking is that these products are using refrigeration as an additional barrier or hurdle for food safety. The refrigerated products mentioned would require refrigeration for safety, whereas the products specifically listed in the exemption do not require refrigeration for safety, because they have an equilibrium pH of 4.6 or below. With that being said, if your pickled product specifically meets the other requirements under the exemption (see pages 3-5) in [Virginia's Home Kitchen Food Processing Exemptions](#), then it would not matter if you are choosing to refrigerate for quality purposes. You would still be able to make this product under the exemption.
- Can we get a complete list of allowed **canned goods** (allowed under the Cottage Law Exemption)?
  - o VDACS:
    1. Pickles that have an equilibrium pH of 4.6 or lower.
    2. Acidified vegetables that have an equilibrium pH of 4.6 or lower.
    3. Acidified vegetable products include pickled products, salsa, chow-chow, relishes and similar vegetables. see [Virginia's Home Kitchen Food Processing Exemptions](#) . If you would like to prepare food in addition to

this list, apply for a permit as a [Home Food Processing Operation](#) or a [Commercial Kitchen Food Processing Operation](#).

- Will there be additional pressure canning classes for home kitchens who can sell under cottage law at farmer's market (under the allowances that go into effect on July 1)?
  - VT CES: We will continue to evaluate processes and give our best advice to make a safe product.  
Typically, a hot-fill-hold process is recommended for evaluation. Low acid food is harder to evaluate.  
For acidified foods, Better Process Control school is required. This class is offered live. VT CES may be able to offer it online in the future.
- What are some examples of exemption-allowed **relishes**?
  - VDACS: Relishes that are traditional vegetable-based acidified products are allowed.
- What are the rules for **hot sauce**?
  - VDACS: Hot sauce requires an inspection and permit from VDACS.
- Can you use your own farm grown tomatoes and produce to prepare a **sauce or salsa** that accompanies a "non-farm-grown" food product?
  - VDACS: If this is in reference to on-site preparation at the market, you should follow up with VDH.  
If this is for a product that is manufactured and packaged, you may fall under the exemption:  
<https://www.vdacs.virginia.gov/pdf/kitchenbillfaq.pdf>. Otherwise, you would need to obtain an [inspection and permit](#).
- Can pickled eggs be sold under cottage law?
  - VDACS: An inspection and permit are required from VDACS to manufacture and offer pickled eggs for sale. Permit applications and additional information can be found [here](#).
- Are shrubs allowed under **Vinegars**?
  - VDACS: No. Shrubs do not fall under the category of "vinegar" or "flavored vinegar" because they are a vinegar-based syrup that contains additional ingredients.
- Are "fire ciders" permitted as a **vinegar** since they are apple cider vinegar with additional whole food ingredients?
  - VDACS: This type of product would require an inspection and permit from VDACS.

### Other Cottage Law Exemption Questions

- Can **Dairy** be sold under cottage law?
  - VDACS: No. More information about selling Dairy products can be found in the Questions about Specific **Foods/Types of Foods** section.
- Under cottage law can I sell **frosting containing cream cheese** if I refrigerate?

- o VDACS: Products that require refrigeration for safety may not be sold without an inspection. These types of products require a permit and inspection from VDACS.
- Question on food allowed to be prepared in the home - pickles, baked goods and is not prepared on site - what type of **inspections**, etc. are required for serving this food at a farmers market?
  - o VDACS: You can find information on inspections and exemptions [here](#).
- Do **dried mushrooms** qualify as a low-risk food? They are considered "fruiting bodies"?
  - o VDACS: Dried mushrooms are not included under the low-risk foods exemption. This type of product would require an inspection and permit.
- Is it the kitchen that dehydrates the mushrooms that requires the inspection and permit, or is it the commissary kitchen AND the farm?
  - o VDACS: The kitchen. Any coverage of the farm, if necessary, would be covered by VDACS Produce Safety.
- Are infused **olive oils** acceptable at markets?
  - o VDACS: Infused olive oil products would require an inspection and permit from VDACS.
- What restrictions are there on **sweetened condensed milk**?
  - o VDACS: Contact VDACS at [foodsafety@vdacs.virginia.gov](mailto:foodsafety@vdacs.virginia.gov) with specific questions.
- Why are some items not permitted at a farmers market but allowed in a store front? both fall under VDACS?
  - o VDACS: This has to do with how (cottage law) exemptions are written in the law. In general, the only products that can be offered for sale both retail and wholesale without a permit are honey and raw shell eggs.
- For our cottage laws pickles we make, do I need to put our phone number on the label? We sell at farmers markets.
  - o VDACS: Yes! You need to include the following on your label: the name, physical address, and telephone number, the date the food product was processed, and the statement "NOT FOR RESALE — PROCESSED AND PREPARED WITHOUT STATE INSPECTION"
- For **labeling** requirements, if one item sells over 10,000 units does only that product require full labeling, or would all products then be subject to requirements?
  - o VDACS: Only the items that sell over 10,000 units. This exemption is for nutritional labeling only. There is no exemption from the other mandatory labeling requirements (name, ingredients, allergens, etc.).



## Farmers Markets

- What is the legal responsibility of a market manager in determining someone is eligible to sell at a farmers market?
  - VAFMA: Per your liability insurance - A market manager is responsible for making sure that all laws are being followed or the market is considered in violation of the market's liability policy and the market becomes negligent and thus the liability insurance coverage is voided. This info on our website under a [Farmers Market Liability](#) webinar we did with Farmers Insurance and a [Risk and Liability](#) webinar we did with New Oak Insurance.
- What is the market manager's responsibility concerning produce vendors and Coverage or Exemption status?
  - VAFMA: For liability purposes-a market manager is expected to make sure that all vendors are meeting the state regulatory agencies' rules, regulations, and laws.
- Who can participate in a farmer's market?
  - VAFMA recommends taking the Market Manager class on [Farmers Market University](#).
- What oversight of Farmers Markets occurs?
  - Cooperative oversight between multiple agencies such as VDH, VDACS, VA ABC, etc.
- Are there any changes for the 2024 year?
  - VDACS: \* There are a few changes from this year's Legislative session that will become effective on July 1, 2024. The changes include increasing the dollar amount of gross sales for pickles and other acidified vegetables prepared in a private home as well as adding to the locations that may be allowed to sell their products. The current FAQ will be updated to reflect these changes [Virginia's Home Kitchen Food Processing Exemptions](#).
- CSA (community supported agriculture): any insight in trying to start up this service with various vendors?
  - VAFMA: We would love to hear your thoughts on this. Please [contact us](#).
- How does one go about starting a local farmers market? What is the process of starting a local farmers market and are there fees?
  - VAFMA: Please visit the [VAFMA Website](#) for information on all aspects of starting a farmers market.  
The [Market Start-Up and Development](#) resource page will also be helpful.
- It is my understanding Virginia Farmers markets are an extension of the farm, and not a physical retail location.
  - VAMFA: Any consumer sales are considered retail sales regardless of location of the sale.
- I think the question about the "market" being an extension of the "farm" has to do with whether or not the market itself could get in trouble for something a producer is doing wrong. Maybe it depends on the market's vendor agreement?

- o VAMFA: It is the market managers responsibility to make sure vendors are compliant with the law. The [Risk and Liability at the Farmers Market](#) presentation on the VAFMA website provides more detail.

## Questions about Specific Foods/Types of Foods

(Also refer to Commercial Kitchen and Cottage Food sections)

### **Beverages** (also see *Foods Made with or that Produce Alcohol* below)

- Can you make **coffee** in a certified kitchen and bring it to the market without a permit? What about making hot coffee on site?
  - o VDACS: If you are brewing coffee in a certified kitchen and bringing it to the market, you will need to contact VDH. Brewing hot coffee on-site for sale at the market requires a permit from VDH.
- Can **coffee** vendors operate under cottage law and still use dairy?
  - o VDACS: Roasted coffee (meaning roasted whole bean or roasted ground coffee) is allowed under the cottage law. You may offer samples of your product at the market following the safe sampling guidance covered in today's presentation. If you are making a bottled, liquid product, you would need an inspection and permit from VDACS.
- Does hot **coffee** with single-serve shelf stable creamers fall under VDACS or VDH?
  - o VDACS: On-site foodservice at the market falls under VDH.
- What are the rules around making cold brew coffee? I would like to sell nitro cold brew coffee, but it requires 12-24 hours to make cold brew coffee. I do not have a home manufacturer permit; however, I only intend to sell the nitro cold brew at the farmers market. Am I permitted to sell nitro cold brew coffee under these circumstances?
  - o VDACS: If you are selling your product in packaged form, you will need to obtain an [inspection and permit](#) from VDACS Food Safety. If you are intending to prepare the coffee product solely to serve on-site at the market for consumption (not in a packaged form with a label), then you should reach out to your [local VDH district](#).
- Can you serve Kombucha at the market that was made in a certified kitchen?
  - o VDACS: The manufacture of packaged kombucha requires an inspection and permit by VDACS. If you are preparing kombucha *solely* for foodservice, and are not packaging and labeling it, you should reach out to VDH.

### **Dairy** (presented by VDACS Division of Dairy Services on 04-09-2024)

- How do I know if a vendor is permitted to sell dairy products?
  - o VDACS: Email us at [dairyservices@vdacs.virginia.gov](mailto:dairyservices@vdacs.virginia.gov). We can answer questions about dairy vendors, manufacturers, and producers from outside of Virginia, too.

- What are the regulations around homemade ice cream at markets, if made at home, commissary kitchen, or restaurant facility?
  - VDACS: For a VDACS Food Safety inspection and permit, you will need to submit a [permit application](#).  
Wholesale production of ice cream is regulated by Dairy Services.
- What are the requirements for freeze-drying ice cream made by a permitted producer?
  - VDACS: For retail sale, you will need to you will need to submit a [permit application](#) and obtain an inspection from VDACS Food Safety.
- What about honey butter with store bought butter at the market?
  - VDACS: You will need to obtain an [inspection and permit](#) from VDACS Food Safety .
- If a vendor is selling goat cheese out of a cooler, is the vendor required to have the cheese on ice or use freeze packs.
  - VDACS: Cheese product must be kept at 41°F or cooler.
- How does non-dairy items work regarding dairy? such as vegan butter, cream cheese, etc.?
  - VDACS: You will need to obtain an [inspection and permit](#) from VDACS Food Safety.
- Raw milk with inspection is legal to sell at market?
  - VAFMA: Raw milk cannot be sold for human consumption at a Virginia farmers market.
  - VDACS: Anyone that is aware of the sale of raw milk with no attempt to operate through a herd share program should contact the [Division of Dairy Services](#). Grade A raw milk for pasteurization is just that. Cannot be sold as raw milk for human consumption.
- If you have someone wanting to buy raw goat milk for soap making only, is there an exception for that.
  - VAFMA: Using raw goat milk for making soap does not fall under (VDACS) Dairy Services. The product must comply with VDACS labeling and packaging requirements. Email us at [dairyservices@vdacs.virginia.gov](mailto:dairyservices@vdacs.virginia.gov) for more information.
- What are the regulations on a vendor selling prepackaged cheese that they do not make?
  - VAFMA: Would fall under VDH and/or VDACS sampling requirements if being cut up and given out as samples at market.
  - VDACS: If no manipulation of the product and still in original packaging then does not fall under Dairy Services. If smoking or repackaging, then it falls under VDACS Dairy Services.
  - VDH: If you are going to sample commercially prepared and packaged cheese, you will need a VDH temporary food permit since it is not your own farm produced item. Email: [foodsafety@vdh.virginia.gov](mailto:foodsafety@vdh.virginia.gov) or contact your [local health district](#) (LHD).
- Who from dairy inspects farmers markets?

- o VDACS: Hunter Moyer is the Program Supervisor for VDACS Dairy Services [dairyservices@vdacs.virginia.gov](mailto:dairyservices@vdacs.virginia.gov) .
- I will be emailing about this because we have an application from a raw milk vendor.
  - o VDACS Ag Commodities: The Dairy Program Supervisor will answer about human food, but if they wish to sell it as raw milk as a pet food, they are required to license and register the product with the Agricultural Commodities Program. A label is required to be provided to the consumer at the time of purchase and must contain a product name, ingredient statement, guaranteed analysis, feeding directions, quantity statement, and guarantor (company) information. It must also be explicitly labeled for animal feed and not human consumption and include this statement: "Warning: Not for human Consumption - This Product has not been pasteurized and may contain harmful bacteria."
  - o VDACS Dairy Services: There is a raw goat milk exemption if sold on farm only. Please contact the Agricultural Commodities Program if you have additional questions.
- If I am inspected at the farm for cheese production, do I come under the health dept inspection at the mkt?
  - o VDH: If the cheese was produced by the farmer/producer at their farm and they want to sample the cheese at the farmers market, they do not need a VDH permit to do so; however, if they want to add the cheese to a sandwich, then they would need to apply for a VDH Temporary Food Permit.
- What are temperature regulations for **cheesecake/pies that include dairy**?
  - o VDACS: 41°F or below. Products requiring refrigeration for safety should be stored in a cooler with ice packs. The cooler should also be equipped with an ambient air-type thermometer to monitor the temperature.
- What are the requirements for freeze drying ice cream made by a permitted producer?
  - o VDACS: Dairy Services doesn't have any permitted producers doing that currently. Check with VDACS Food Safety.

## Eggs

- Can a vendor sell eggs out of a cooler that does not have ice or freezer pack.
  - o VDACS: Eggs being offered for sale are required to be held at 45°F or below. This would mean that they must be under refrigeration or in a cooler with ice or freezer packs.
- Clarify cleaned eggs please - washed or just free of dirt and feces?
  - o VDACS: Free of dirt and feces.
- Eggs normally don't need to be refrigerated until they are washed. And I've seen them for sale un-washed and not refrigerated. I often sell eggs for another local

farm. Do I definitely have to wash them and add the "keep refrigerated" label on them?

- o VDACS: Eggs must be clean. They only need to be washed if they are visibly dirty. However, all eggs being offered for sale are required to be properly refrigerated at 45°F or below.
- The labels on egg cartons related to cooking...can those be on the inside?
  - o VDACS: No, Safe Handling instructions are to be labeled prominently and conspicuously.

### **Foods/Beverages Made with Alcohol or that Produce Alcohol**

- My business specializes in wellness latte mixes (powdered superfoods, herbs and spices), and I make my own spirit-based vanilla extracts. I've had a hard time finding any information regarding permits or requirements to make and sell spirit-based extracts. I only make grade A Madagascar vanilla bean extracts with alcohol purchased directly through the ABC, aged one-year and nothing else.
  - o VAFMA: VA ABC will be addressing the alcohol component requirements of vanilla extract and tinctures Thursday. In addition, these products also fall under VDACS food safety.
- Are vineyards able to provide samples of wines at farmers market, what docs do they need to have on site at market if allowable. What is liability of market manager if proper docs not obtained or on site?
  - o ABC: The farm winery needs a remote license (from ABC). Customer must be charged for samples or tastings.
  - o VAFMA: Market doesn't have to be listed on license.
  - o ABC: Consumption is allowed only in the space designated for that winery at the market. Customers may not take the open container of wine out of the wineries' space. ABC may contact market manager to make sure applicant is a vendor at the market. This is different from a wine festival which has a banquet license.
- How much do you need for a sample (for testing alcohol content)?
  - o ABC response: How much product is needed for testing to determine alcohol %? When VA ABC investigates in response to a complaint, ABC obtains sample and tests. Producer needs to reach out to testing lab(s) regarding test requirements for their own records.
- Do I need permit for boozy jams? It is heated during canning process. What device would I need to test product to make sure it's not boozy.
  - o ABC response: ABC doesn't regulate how to test. If alcohol is cooked off, producer needs to be able to prove it. If product is > 0.5% ABC doesn't offer a license that would allow sale of that product. Product would have to be sold by entity that has a license. ABC doesn't have a way to license food with > 0.5%.
- How does one verify that the alcohol content is less than .05% in a baked good or jam, do they need formal testing/documentation of analysis? If so where

- obtained? How do we verify that the alcohol content is less than .05% in a baked good. Where can it be tested?
- VT Food Producer Technical Network (FPTN): The limit is 0.5% and we will talk about our testing capabilities and other testing labs in the next section.
  - Does vanilla extract require an inspected kitchen or can cottage law be ok for farmers market?
    - VDACS: This would require an [inspection and permit](#) from VDACS Food Safety.
  - How do you get “authorizations” to manufacture and sell medicinal tinctures and extracts that are exempt from licensure?
    - ABC response: If the tinctures/extracts don’t fall under one of the exemptions in Code of Virginia, may not be able to sell in farmers market. Vendor needs to provide documentation that product is exempt from ABC licensure. The exemptions to ABC licensure can be found in [COV 4.1-200](#).
  - VAFMA: Is market manager liable if product doesn’t meet the ABC exemption?
    - ABC: Depends - err on side of caution - call ABC. If market manager doesn’t think the vendor provided adequate documentation, we recommend denying participation until documentation is sufficient.
  - Tinctures are exempt? But you need to have to be permit for the alcohol?
    - ABC: If product meets exemptions from code discussed in presentation, then you don’t need license from ABC. May still need VDACS or VDH permit. If they don’t fall under the ABC exemption, there may not be a path forward to sell product. Need to contact ABC if any questions about product or business model.
  - How should tinctures and “healing” products be handled?
    - VDACS: Some types of herbal tinctures may be classified as a drug, depending on the ingredients, directions for use, and any health claims made on the product label. Depending on how they are categorized, these products would either be evaluated by VDACS Food Safety or by FDA.
  - I would only need a permit and not a full alcohol license to make use of the ABC order site for bulk pick up? (Vanilla extract maker here)
    - ABC: Need a permit from ABC.
  - Is the culinary permit through ABC in addition to any permit required by VDACS to manufacture a food product?
    - VDACS: Yes!
  - If I wanted to make cocktails on site at the farmers markets. Is that possible? Are you able to also bottle it Togo? What licensing and insurance is needed?
    - ABC: Only distilleries can make cocktails if they have remote privilege. The event has to be licensed by the ABC Board for the purpose of featuring or educating about alcohol. Only samples would be allowed and only in their defined remote space. Only brick and mortar ABC licensed retailers can sell to-go.

- If a market would like to allow vendors to sell alcoholic beverages on-site, how could we accomplish that. Our market has a banquet license but are there additional licenses we need?
  - ABC: If the market has an ABC license, manufacturers cannot receive a remote privilege license.  
If there is a charge to attend market, manufacturers may not be able to obtain remote privilege license.
- What constitutes a "designate area?" Can the market establish a "designated area" that includes multiple vendors and seating area?
  - ABC: The designated area is the specific vendor booth. No, each vendor has a separate designated area that constitutes his "10x10" booth space.
- There are events in my locality that utilize a non-profit to sell and distribute alcohol for on-site consumption. What special privileges do non-profits have to sell alcoholic beverages? Can markets utilize the non-profit to sell beverages at market?
  - ABC: No. Only the nonprofit can host the event.
- If baked goods are less than 0.5% alcohol, do we need to age restrict or confirm buyers are 21+?
  - ABC: If the alcohol content in baked goods is < 0.5% they baked goods are not regulated as alcoholic beverage. Therefore, this is not an age restricted item. If the baked good contains over 0.5% alcohol there isn't an ABC license that they can market the product under. These products cannot be sold at the market.
- Does a farm winery with remote privilege need to keep any docs at market?
  - ABC: Need approval for remote with them at location. ABC may come by and check.  
If the market has an ABC license, manufacturers cannot receive a remote license.  
If there is a charge to attend market, manufacturers may not be able to obtain remote privilege.
- Is it ok to have baked goods or cake pops at the market with have alcohol?  
If baked goods or cake pops have alcohol, do we need to have them tested?
  - ABC: Food with >0.5% can't be sold unless made by licensed manufacturer such as brewery, winery, distillery. Manufacturer's license may have onsite consumption provisions. Unless the operator has obtained a remote privilege license they can't offer alcohol off site.
- I have a banquet license as a municipality. Does this require that our own staff has to purchase the alcoholic beverage and serve it or can the manufacturer come to serve the beverages?
  - ABC: Depends - need to contact an ABC agent.
- Does kombucha need to be tested?
  - ABC: It is the food manufacturer's responsibility to show that product is below alcoholic beverage threshold of 0.5% alcohol.

- Regarding kombucha, if the alcohol content is less than 0.5%, what documentation should be requested by the market?
  - ABC: The Market Manager should request a copy of the test results from a laboratory authorized to perform that type of analysis.
- How do you test the percent of alcohol in a baked good?
  - VT FPTN: The baked good is extracted to remove the alcohol and that extract is then measured using an instrument called a gas chromatograph. We are one of the few locations that are using this method, which is recommended by the TTB.
- How much does it cost to get baked goods tested for confirming less than 0.5% alcohol?
  - VT FPTN: The cost is \$350 per product. We are hoping that the volume will increase and decrease the overall cost.
- So, it is feasible that through calculating our recipe, testing may be an unnecessary extra expense?
  - VT FPTN: The FPTN may be able to help you calculate the expected percent of alcohol in your product. You can email [foodbiz@vt.edu](mailto:foodbiz@vt.edu). Regulatory agency may require testing.
- Will VDACS require testing for tinctures after the permit is obtained and kitchen is inspected?
  - If VDACS requires testing of the product, they will make this known prior to inspection and issuing any permit.
- We are experimenting with a Bourbon Barrel Honey where the honey sat in an empty barrel for 6 months. Does this require contact with VA ABC?
  - ABC: Yes, we'd recommend reaching out to ABC for their guidance on what may be needed to use bourbon in the product.  
[www.abc.virginia.gov/enforcement/bureau-of-law-enforcement/compliance-unit](http://www.abc.virginia.gov/enforcement/bureau-of-law-enforcement/compliance-unit)  
 804-213-4632  
[Marc Haalman](mailto:Marc.Haalman@abc.virginia.gov)  
 Regional offices:  
<https://www.abc.virginia.gov/enforcement/bureau-of-law-enforcement/regional-offices>

### **Freeze-Dried Products**

- What are the latest rules and requirements for dried/freeze-dried products? (VDACS Prepared foods)
  - VDACS: Some dried/freeze-dried products may be made under the exemption in a home kitchen without routine inspection. However, other types of freeze-dried products will require an inspection. Please contact the VDACS Food Safety Program by phone at 804-786-3520 or via email at [foodsafety@vdacs.virginia.gov](mailto:foodsafety@vdacs.virginia.gov) for further information. Examples of freeze-dried products that CAN be made under the exemption: freeze-dried candies; freeze-dried cakes, cupcakes, or other



baked goods that do not require refrigeration; freeze-dried herbs and spices.

Examples of freeze-dried products that CANNOT be made under the exemption: freeze-dried cheesecake, freeze-dried cantaloupe/diced melons, freeze-dried ice cream/ice cream sandwiches, cooked vegetables.

An inspection is required for these types of products.

- What are the rules and regs for freeze dried items being sold at markets? Are there any restrictions on selling freeze dried veggies?
  - VDACS: [Virginia's Home Kitchen Food Processing Exemptions](#) lists low risk foods that are allowed under exemption, including freeze-dried foods. A Home Kitchen Food Processing Operation may apply for a permit to include other freeze-dried foods.
- Are dehydrated or freeze-dried chicken feet allowed without a commercial kitchen?
  - VDACS: If for human food – Contact [VDACS Meat and Poultry Services](#)  
If for animal food – Contact [VDACS Agricultural Commodities Program](#)
- Can I sell freeze dried candy at farmers markets?
  - VDACS: Some dried/freeze-dried products may be made under the exemption in a home kitchen without routine inspection. However, other types of freeze-dried products will require an inspection. Please contact the VDACS Food Safety Program by phone at 804-786-3520 or via email at [foodsafety@vdacs.virginia.gov](mailto:foodsafety@vdacs.virginia.gov) for further information.  
Examples of freeze-dried products that CAN be made under the exemption: freeze-dried candies; freeze-dried cakes, cupcakes, or other baked goods that do not require refrigeration; freeze-dried herbs and spices.  
Examples of freeze-dried products that CANNOT be made under the exemption: freeze-dried cheesecake, freeze-dried cantaloupe/diced melons, freeze-dried ice cream/ice cream sandwiches, cooked vegetables.  
An inspection is required for these types of products.
- Can VDACS speak directly to freeze dried foods, specifically candy? Is it allowed under cottage law?
  - VDACS: Some dried/freeze-dried products may be made under the exemption in a home kitchen without routine inspection. However, other types of freeze-dried products will require an inspection. Please contact the VDACS Food Safety Program by phone at 804-786-3520 or via email at [foodsafety@vdacs.virginia.gov](mailto:foodsafety@vdacs.virginia.gov) for further information.  
Examples of freeze-dried products that CAN be made under the exemption: freeze-dried candies; freeze-dried cakes, cupcakes, or other baked goods that do not require refrigeration; freeze-dried herbs and spices.  
Examples of freeze-dried products that CANNOT be made under the exemption: freeze-dried cheesecake, freeze-dried cantaloupe/diced

melons, freeze-dried ice cream/ice cream sandwiches, cooked vegetables. An inspection is required for these types of products.

## Honey

- What are the safety guidelines for honey?
  - VDACS: Producers may process and sell up to 250 gallons of honey per year without inspection. There are specific labeling requirements. Please see page 6 of the [Home Kitchen Food Processing Exemptions document](#) for additional information.
- What are the regulations for selling raw honey?
  - VDACS: Please see page 6 of the [Home Kitchen Food Processing Exemptions document](#).
- Does Hot Honey need to be inspected?
  - VDACS: Please see page 6 of the [Home Kitchen Food Processing Exemptions document](#). Infused honey does not fall under the exemption. This type of product would require a [permit and an inspection](#).
- I sell raw honey at a market, recently someone with a retail store approached me about placing items in his store. Is this allowed without an inspection/ permit?
  - VDACS: Yes, this is allowed. Please see page 6 of the [Home Kitchen Food Processing Exemptions document](#).
- Can you purchase raw honey and resell under our label?
  - VDACS: You can, but you would need to be permitted to do so. The exemption for making honey only applies to the operator making honey from their own hives.
- As a Commercial Bee Operation, we are inspected by VDACS and issued certificates of health, etc. Do we need any other certificates to operate?
  - VDACS: Regarding the selling your honey, all you need from VDACS Food Safety is your food manufacturer permit if you are selling more than the exemption allows. For beekeeping and apiary inspection, you may want to refer to the [VDACS Office of Plant Industry Services](#) to see if there is anything else needed.
- What about honey butter with store bought butter at the market?
  - VDACS Food Safety: This type of product would require a [permit and an inspection](#) from VDACS Food Safety.

## Meat & Poultry

(Responses to these questions were provided by VDACS Office of Meat and Poultry after the Food Safety Summit.)

- What permits are required for tallow-based products? (meat)
  - VDACS OMPS: *This question is too general to answer.*
- What permits would you need to render lard?
  - VDACS Food Safety: The making of rendered lard can be made under inspection by VDACS Food Safety if it is strictly offered for sale retail only (directly to the end consumer). If you are operating in a home kitchen,

the structure or space must be completely separate from the home or living space and have a completely separate entrance. You will need to apply for a [Commercial Kitchen Permit](#) .

If you would like to wholesale rendered lard (sales to another entity for resale), you will need to obtain an inspection from VDACS Office of Meat and Poultry.

- Meat requirements used in Farmer's Market food preparations.
  - Contact VDH at: [foodsafety@vdh.virginia.gov](mailto:foodsafety@vdh.virginia.gov) or the [Local Health District](#).
- Which agencies inspect meat vendors?
  - USDA and [VDACS Meat and Poultry Services](#)
- What type of permit or license does a market manager need to ask its produce vendor and meat vendor?
  - OMPS: It is up to the discretion of the market manager
  - VDACS Produce Program: If under Produce Program rules, there is not a permit or license. If you are a “covered” produce farm, meaning you don’t fall under the exemption, you will have copy of inspection or copy of registration.
  - VDACS Food Safety: Further processing meat products would fall under food safety inspection.
- Do meats being sampled by a farmer need to be USDA inspected processor?
  - OMPS: Unless the product was being sold wholesale, OMPS would not provide inspection services. Livestock slaughtered where carcasses and/or parts are offered for sale must be inspection by USDA or OMPS.
- If a meat producer is USDA inspected and is giving samples that he is cooking at the market wouldn't that need to be permitted?
  - VDH: If a meat producer wants to cook their farm-produced meat to sample at a farmers market, a VDH permit is not required. If the meat producer wants to sell their farm produced meat added to a sandwich, stir-fry, etc. then a VDH permit would be required. Please contact [foodsafety@vdh.virginia.gov](mailto:foodsafety@vdh.virginia.gov) for any specific questions.
- Are vendors allowed to put raw packaged chicken in the same cooler as fresh eggs at a farmers market?
  - They should take care to put the chicken underneath the eggs or have some kind of separation if storing side by side, but yes, they can be stored in the same location. [See this guidance document on proper storage order](#).
- Can I get a link for meat and poultry information?
  - VAFMA: On the VAFMA YouTube Channel: <https://youtu.be/WSlQh6JC2mk?feature=shared>
  - OMPS: [VDACS Meat and Poultry Services](#)
  - OMPS: “[A Guide to Selling Meat & Poultry in Virginia](#)”.

## Mushrooms

- I grow mushrooms. Do I need a permit to dehydrate them and package them for sale? If not, do I need a permit to blend the dehydrated mushrooms with tea and coffee? The tea and coffee would be dried, packaged for people to make at home.
  - VDACS: Dehydrated mushrooms and the related products would require an inspection and permit from VDACS.
- Do smoked mushrooms have to inspected by VDH?
  - VDH: Can you clarify this question? Are you smoking mushrooms? Where are you smoking them? Please contact VDH at [Foodsafety@vdh.virginia.gov](mailto:Foodsafety@vdh.virginia.gov) .
- Do dried mushrooms qualify as a low-risk food? They are considered "fruiting bodies"?
  - VDACS: Dried mushrooms are not included under the low-risk foods exemption. This type of product would require an inspection and permit.
- Is it the kitchen that dehydrates the mushrooms that requires the inspection and permit, or is it the commissary kitchen AND the farm?
  - VDACS: The kitchen. Any coverage of the farm, if necessary, would be covered by VDACS Produce Safety.
- Do I need an inspection to sell dried mushrooms?
  - VDACS: Yes.
- Wild Mushrooms are legal to sale at a market? Was thinking they were not.
  - VDACS: There are separate VDACS permits for [harvesting](#) and for [selling](#) wild (foraged) mushrooms.
- When a vendor sells cultivated and also wild mushrooms at farmers market, does each box of mushrooms needs to be labeled and if so, what are the label requirements?
  - VDACS: Yes. Wild foraged requirements are under the Food Safety Program. There are separate VDACS permits for [harvesting](#) and for [selling](#) wild (foraged) mushrooms. Cultivated mushrooms are under the Produce Safety Program. Label will need to state type of mushroom, name of farm or business with address, and net weight of contents. If direct (sale to consumer) at a farmers market, not packaged, will need a placard or sign with species/type of mushroom - same as with all loose produce. To avoid regulatory confusion, make sure to indicate cultivated. Email me directly for additional info [erik.bungo@vdacs.virginia.gov](mailto:erik.bungo@vdacs.virginia.gov).
- Why do cultivated mushrooms need a label but other fresh produce does not? If they are in an open cardboard berry box, just like blueberries or strawberries, why are mushrooms different?
  - VDACS: If in an open container, a placard or sign with the type of produce commodity is needed. It is advisable to also indicate somehow these are farm raised/cultivated species.

- Can dehydrated mushrooms move through the market as long as they are dehydrated in an inspected kitchen?
  - VDACS Food Safety: Yes. Dehydrated/dried mushrooms do not require an inspection to be offered for sale. Drying is allowed under the Produce Safety Rule and is not considered processing. A food safety inspection for that process is not needed: 1. Unless sulfites are added or the item is sliced, etc. 2. Unless drying/dehydrating raw agricultural commodities to create a distinct commodity (such as drying/dehydrating grapes to produce raisins)

**Produce and Produce Safety** (Presented by VDACS Produce Program on 04-04-2024)

- What action do I as a farmer need to take in order to maintain produce safety?
  - VDACS: This is a very broad question and the best answer would be to learn more by visiting the [Produce Program](#) website. You will also need to register your farm with the new [online portal](#).
- Do whole vegetables need to be under refrigeration or on ice during transportation to market?
  - VDACS: Whole vegetables are not required to be refrigerated or kept on ice for safety. However, it may be beneficial for quality purposes.
- What is the best way to keep greens fresh at the farmer's market?
  - VDACS: Refrigeration will help extend the shelf life just like you see in a major grocery chain.
- What is the best way to package fresh greens like lettuce and kale?
  - VDACS: We cannot advise on this as produce can either be sold loosely as a bunch or in any package form desired by the seller. Please contact Virginia Cooperative Extension Service (CES) for further assistance.
- What specifically is required for harvesting produce from field to market?
  - VDACS: Your farm may or may not be subject to the Produce Safety Rule. Under this rule, we allow for the first harvesting cut. Workers must ensure proper hygiene and there are strict harvest and post-harvest ag water requirements. Any processing or cutting of produce after the first harvesting cut would deem the product a "processed food" and then under the jurisdiction of the Food Safety Program or VDH depending on the final product.
- Fresh Produce. Especially interested in washing and packing procedures.
  - VDACS: Please reach out to [Dr. Laura Strawn](#) at Virginia Tech for guidance.
- Are there particular procedures to be able to sell fresh vegetables in Virginia?
  - VDACS: The Produce Safety Program within the Office of Dairy and Foods works to address the growing, packing, holding and dissemination of produce grown on farms and will encourage the safe production of fruits and vegetables and promote understanding and compliance with the FDA Produce Safety Rule and state legislation. To learn more please visit our [webpage](#).

- Can cut to harvest unwashed produce be sold at markets. i.e.- root veg, head of lettuce, green beans.
  - VDACS: Your farm may or may not be subject to the Produce Safety Rule. Under this rule, we allow for the first harvesting cut. In short, the answer is yes, but your farm may also need an inspection.
- Produce Safety: Is there a specific guide for produce safety?
  - VDACS: Guidance is on The Produce Safety Program [webpage](#).
- Will Leafy Greens be covered?
  - VDACS: Leafy greens are a covered commodity under the Produce Safety Rule and your farm may need an inspection.
- Are there any specific rules/regulations for plant-based products sold at farmers markets?
  - VDACS: The Produce Safety Program within the Office of Dairy and Foods works to address the growing, packing, holding and dissemination of produce grown on farms and will encourage the safe production of fruits and vegetables and promote understanding and compliance with the FDA Produce Safety Rule and state legislation. To learn more please visit The Produce Safety Program [webpage](#).
- Are there any updates in regard to pre-harvest ag water?
  - VDACS: The only update is that it has left FDA and is now under review with OMB. We are anticipating a release near the end of 2024 and education/outreach activities will focus on the pre-harvest ag water aspect this coming winter so stay tuned!
- What exactly needs to be monitored for fresh fruits and vegetables?
  - VDACS: The Produce Safety Program within the Office of Dairy and Foods works to address the growing, packing, holding and dissemination of produce grown on farms and will encourage the safe production of fruits and vegetables and promote understanding and compliance with the FDA Produce Safety Rule and state legislation. To learn more please visit The Produce Safety Program [webpage](#).
- What is needed in regard to an established produce farm for food safety regulation?
  - VDACS: The Produce Safety Program within the Office of Dairy and Foods works to address the growing, packing, holding and dissemination of produce grown on farms and will encourage the safe production of fruits and vegetables and promote understanding and compliance with the FDA Produce Safety Rule and state legislation. To learn more please visit The Produce Safety Program [webpage](#). Your farm may or may not be subject to the Produce Safety Rule. You will also need to register your farm with the new online portal.
- Can you discuss the difference between completely exempt and "qualified exempt"?

- o VDACS: There are several exemptions within the PSR for produce farms. Micro exempt is <\$25,000k produce sales. The QE exemption is more complicated.
- So, if I'm only selling a low dollar amount of tomatoes or cucumbers at a farmer's market, I don't need to keep records or get inspected?
  - o VDACS: You are technically exempt from the PSR and inspection if less than \$25k. You will need to apply for the micro exemption in the portal.
- Do you need a certificate of exemption if you plan to have a farm stand at your home residence? Clarified: Suburban backyard garden vegetables, eggs from own chickens, and low risk foods.
  - o VDACS: Yes, you will need to apply. Your home garden/farm will likely be considered a micro exempt farm - still need to apply/register in the portal.
- What is the best way to enforce produce safety?
  - o VDACS: What do you mean exactly - on the farm or at the market? The Produce Safety Program within the Office of Dairy and Foods works to address the growing, packing, holding and dissemination of produce grown on farms and will encourage the safe production of fruits and vegetables and promote understanding and compliance with the FDA Produce Safety Rule and state legislation. To learn more please visit The Produce Safety Program [webpage](#). Your farm may or may not be subject to the Produce Safety Rule. You will also need to register your farm with the new online portal.
- What safety requirements are required for a small produce farm?
  - o VDACS: Farm must be in compliance with 21 CFR112, the Produce Safety Rule. The Produce Safety Program within the Office of Dairy and Foods works to address the growing, packing, holding and dissemination of produce grown on farms and will encourage the safe production of fruits and vegetables and promote understanding and compliance with the FDA Produce Safety Rule and state legislation. To learn more please visit The Produce Safety Program [webpage](#). Your farm may or may not be subject to the Produce Safety Rule. You will also need to register your farm with the new online portal.
- What are the rules around micro-greens?
  - o VDACS: Your farm may or may not be subject to the Produce Safety Rule. You will need to register your farm with the new online portal which can be found at [vaproducesafety.com](http://vaproducesafety.com).
- Also, regarding the FSMA slide, does this only apply to food sold, or total farm operations?
  - o VDACS: The \$25k threshold applies to produce sold. The \$500k threshold encompasses total food sales.
- We are a small farm that sold about 1500 in produce last year. Are we exempt for the farm inspection?

- o VDACS: Your farm may or may not be subject to the Produce Safety Rule. Please use the coverage and exemption flowchart to determine your farm's coverage. You will need to register your farm with the new online portal which can be found at [vaproducesafety.com](http://vaproducesafety.com).
- If we are considering a small garden to sell fresh produce, where do we get the rules that we need to follow?
  - o VDACS: [www.vaproducesafety.com](http://www.vaproducesafety.com)
- Are there any specific rules/regulations for plant-based products sold at farmers markets? Are there any updates in regard to pre-harvest ag water?
  - o VDH and/or VDACS (Food Safety, Hemp, Produce, etc.) regulations apply to all foods, including plant-based products sold at farmers markets. Please visit The Produce Safety Program [webpage](#). Your farm may or may not be subject to the Produce Safety Rule. You will need to register your farm with the new online portal which can be found at [vaproducesafety.com](http://vaproducesafety.com).
- Do microgreens or sprouts need a special permit to sell at a farmers market?
  - o VDACS: Microgreens fall under the Produce Safety Program. Allow that first cut. Recommend not to wash the microgreens before you put them in a bag or clamshell (package). Will need to be labeled. Sprouts have their own section under the Produce Safety Rule. Please email [Erik Bungo](#).
- How to register for the (Produce Safety?) Class? There is no link to the current class.
  - o VDACS: You will need to email [Dr. Laura Strawn](#) if interested in attending the PSA class.
- Where can produce farmers find more information about produce safety and the FDA produce safety rule/inspection process?
  - o [www.vaproducesafety.com](http://www.vaproducesafety.com)
- If you grow and sell produce in VA (retail, wholesale, at farmers markets, etc.), will you need to register with VDACS? Even if I have a small backyard garden or hobby farm?
  - o VDACS: Yes - since the produce is in commerce and being sold. <https://producesafety.vdacs.virginia.gov/Registration/>
- I spoke with a VDACS inspector over the phone, and he told me mushroom farms do not require VDACS inspection. I think they are saying my mushroom farm does need an inspection. Could you clarify? And if I do need inspection, could you help me set that up?
  - o VDACS: Farms growing fresh fruits and vegetables (and microgreens or mushrooms) may be covered and may need an inspection from VDACS in the future. The FSMA Produce Safety Rule is being phased in over time and we started conducting inspections of large covered farms (> \$500,000 annual sales) on May 1, 2019. Inspections for small farms (\$250,000 to \$500,000 annual sales) began May 1, 2020 and inspections for very small farms (\$25,000 to \$250,000) began on May 1, 2021. Farms below



\$25,000 in annual produce sales are exempt and there are also some qualified exemptions for other farms. No permits or licenses will be issued to the farms. Since you are growing fresh produce and only making that first harvesting cut, we would consider your business as a farm here at VDACS and subject to the Produce Safety Rule.

To learn more please visit: [www.vaproducesafety.com](http://www.vaproducesafety.com)

We have also launched a new [online farm registration portal](#) where you can print out a registration certificate and/or exemption certificate. This can help to determine if your farm will need an inspection or not.

If you want to package or bag the produce (closed container), a label will be necessary that states the type of produce commodity, name and address of the business and a net weight.

For point of sale in an open container, a placard or sign with the type of commodity or species of mushroom, along with name of farm or business.

- Would 6 oz/half pint raspberry units, 1 pint blackberry/blueberry clamshells, and 1 lb. strawberry clamshells meet the exemption definition of 'small packages' or would fruit sold at a farmer's market be a reasonable variation that could be exempted?
  - VDACS: No, an exemption would not apply. If in package form, it would need a label according to the VA Food Laws (including clamshells). We see many small packages at retail including those very size units below, and all are labeled properly. Farmer's markets would not receive an exemption to my knowledge.
- Is there a distinction or specific verbiage a produce farmer makes on his label if he's growing it himself vs. being a packer/distributor of the product for the labels.
  - VDACS: The label can either be the grower or packer or distributor. Each one of these places should keep adequate records for traceback and traceability may be required in the future. In some instances, the farm grows and packs, so the label can be the farm name. In other instances, the farm sells in bulk to a broker which sells to other packers, and the label can be either the packer or distributor.
- Can you sell frozen vegetables & fruit from your farm?
  - VDACS: These types of processed, packaged products would require an [inspection and permit](#) from VDACS.

#### **Other Foods**

- Can I sell **baked goods** out of a display case and bag them on site as customers order?
  - VDACS: Loose baked good products can be offered for sale if they are inspected (prepared in a permitted facility). They should be stored in a

clean, dry location where they are not exposed to splash, dust, or other contamination. They should be covered or protected with sneeze guards, dome covers, etc. You should use barriers such as tongs, deli tissue, or napkins to prevent barehand contact with foods.

If your baked goods are made under the cottage law, they must be fully packaged and labeled for the market, because there are specific labeling requirements for these products under the [exemption](#).

- If I have a refrigerator at my booth, can I sell items containing **pudding**?
  - VDACS: If you are permitted to sell those items and the refrigerator can keep them at 41°F or below, then yes, you can sell them.
- What is the best packaging for retail **seafood** at markets?
  - VDACS: Food grade packaging shall be in good condition and protect the integrity of the contents, so the food is not exposed to adulteration or potential contaminants. Packaging should not impart colors, odors or tastes or present contamination concerns.  
For questions about Seafood HACCP contact [Dr. Katheryn Parraga](#).
- Do watermen need to have a permit to shuck and sell oysters at a farmers market?
  - See [Going To Market: A Guide to Selling Raw, Processed, and Prepared Food Products from Your Home, at Farmers' Markets, Stores, and Roadside Stands | VCE Publications | Virginia Tech \(vt.edu\)](#). All molluscan shellfish products to be sold must be obtained from a certified dealer listed on the Interstate Certified Shellfish Shippers List (ICSSL). For molluscan shellfish harvested in Virginia, a Certificate of Inspection (COI) is required from the Virginia Department of Health Division of Shellfish Safety (VDH DSS), and it has to be renewed yearly. If the waterman is **not sampling** their product, then they will need to also apply for a VDH Temporary Food Permit. VDH encourages farmers market vendors to contact their local health department since there may be local code requirements in addition to the state food code.

Shellstock oysters, clams, and mussels should be identified with a dealer tag at all times.

A COI from the VDH DSS will be required if:

- Cooking and picking crab meat intended for sale to other businesses (wholesale).
- If selling shellfish right after harvesting.
- If processing shellfish products (such as shucking, repacking, retagging, or labeling, etc.).
- If receiving adductor muscle of scallops and processing.
- If purchasing whole blue crabs and processing by picking and packing the crab meat.

Certificates of inspection for molluscan shellfish, whelk, and scallops are issued from October 1 to September 30, while for crab meat processing are issued from April 1 to March 31. Contact the VDH DSS for more information.

- I have a follow up question for VDH representatives after inspections in our marketplace this past week. Is **Sea Moss** not recognized as a food? I have a vendor who makes sea moss smoothies and was told that is not an approved food item for sale and they cannot obtain a TFE for this item. Also, I have a vendor with a restaurant permit in good standing that was told that will not transfer to the marketplace because she is cooking fresh foods at the market, that they will also be required to obtain a TFE to remain cooking on site. Can you please help me reference the area of the code that documents these rules? I'm trying to show the vendor why they are being told this "new" information. Both of these vendors have been with me for several seasons and had no issues obtaining a TFE for sea moss smoothies and cooking on site with their restaurant credentials.
  - VDH is awaiting guidance from FDA on this issue. We will update this response when we get more information.
  - [Note: The following information was found on the Conference for Food Protection (CFP) website in a letter to CFP from the FDA Center for Food Safety and Applied Nutrition:

“...industry has the burden of ensuring that any substance, including sea moss and sea moss gel, that is used or intended for use in food is safe and lawful for those uses before going to market. Food manufacturers should not use or market a food ingredient unless they have a basis to conclude their intended use would be safe. The common names “sea moss” and “sea moss gel” do not refer to single ingredients but to broad classes of substances derived from multiple algal species processed using a variety of techniques. The determination of safety is made on a case-by-case basis for each specific sea moss ingredient and takes into account multiple variables such as the genus and species of the algae, items specific to its sourcing such as growing location and water quality at the harvest location, and how the ingredient is used or intended for use in food. It is not practicable to issue a single broad interpretation to address all intended uses or multiple forms of the product.

If an industry member or regulator has a general question about the regulation of substances used in conventional food, they may reach out to FDA’s Office of Food Additive Safety at [Premarkt@fda.hhs.gov](mailto:Premarkt@fda.hhs.gov) (no second “e”). If an industry member needs assistance determining whether their specific uses of a substance in food are safe, we suggest they work with a regulatory consultant or faculty at a local university who has experience evaluating the safety of substances used in food.”]

## Labeling

(also see Weights and Measures below)

- Is there any requirement on the size of the font on the label?
  - VDACS Food Safety: Yes. Ingredients must be in a text size that is greater than or equal to 1/16th of an inch. The name of the product must be bold and prominent on the front of the label. The net quantity of contents varies based on the size of the package. Please see [21 CFR 101.7](#) for details.
- Bagged lettuce, does this need a label?
  - VDACS Food Safety: Since it is in a package, yes.
- I often band a handful of turnips or radishes together, then sell as a bunch and a given price, or I sell blackberries in a bowl or small basket. Are these considered "packaged" at this point?
  - VDACS OWM: No. If banded together for direct sale to consumer, then not considered packaged.
- If selling by dry measure, does it still require a label?
  - VDACS OWM: Prepackaged or direct sale? Prepackaged products must be labeled.
- Can packaged dry herbs be sold by measure instead of weight example half cup 1 etc. Instead of actual oz. Weight?
  - VDACS: No, the label requires the net quantity be in both standard and metric units; not by measure.
- For the label... is the phone number required?
  - VDACS Food Safety: A phone number is required for products made under the cottage law without inspection.
- Is there an exemption for nutritional labeling?
  - VDACS: Packaged foods and dietary supplements must bear nutrition labeling, unless they qualify for an exemption. One of two exemptions may apply to your business: If you have less than 10 employees and less than 10,000 units sold (per item) – no need to file for an exemption. If you have less than 100 employees and less than 100,000 units sold (per item) – must file an annual exemption notice with the FDA. If any nutrient content or health claims are made (ex. fat free, low fat, sugar free, etc.), the nutritional labeling small business exemption is not applicable.
- Is Coconut Milk considered an allergen?
  - VDACS: Yes. Coconut is considered a tree nut allergen by FDA.
- Is Cultured Buttermilk Powder an allergen?
  - VDACS: Yes.
- Would 6 oz/half pint raspberry units, 1 pint blackberry/blueberry clamshells, and 1 lb. strawberry clamshells meet the exemption definition of 'small packages' or would fruit sold at a farmer's market be a reasonable variation that could be exempted?

- o VDACS: NO, an exemption would not apply. If in package form, it would need a label according to the VA Food Laws (including clamshells). We see many small packages at retail including those very size units below, and all are labeled properly. Farmer's markets would not receive an exemption to my knowledge.
- Is there a distinction or specific verbiage a produce farmer makes on his label if he's growing it himself vs. being a packer/distributor of the product for the labels.
  - o VDACS: The label can either be the grower or packer or distributor. Each one of these places should keep adequate records for traceback and traceability may be required in the future. In some instances, the farm grows and packs, so the label can be the farm name. In other instances, the farm sells in bulk to a broker which sells to other packers, and the label can be either the packer or distributor.

### **Pet Food**

- My question is for pet treats; if a vendor submits for certification a recipe, do they have to pay for each size treats of the same recipe?
  - o VDACS Ag Commodities: For pet treats, if your products are different in brand name, ingredients or in guaranteed analysis, you must register each product. Additional package sizes for the same brand name do not require registration.
- What are the regulations on selling raw milk " for pet consumption"?
  - o VDACS: You are required to license and register the product with the Agricultural Commodities Program. A label is required to be provided to the consumer at the time of purchase and must contain a product name, ingredient statement, guaranteed analysis, feeding directions, quantity statement, and guarantor (company) information. It must also be explicitly labeled for animal feed and not human consumption and include this statement: "Warning: Not for human Consumption - This Product has not been pasteurized and may contain harmful bacteria."
  - o There is a raw goat milk exemption if sold on farm only. Please contact the Agricultural Commodities Program if you have additional questions.
- I assume if a vendor wants to sell bone broth specifically for dogs, that package needs the guaranteed analysis, right?
  - o VDACS Ag Commodities: If they are selling this as a supplemental pet food product, then they are required to license and register the product, and the label would need to include a guaranteed analysis.

- Is it possible to cook on site at a farmers market for both people and pets? What permits, insurance and licensing is needed? Do they need to be separate businesses or am I able to do everything under one business?
  - VDACS Ag Commodities: Pet food and human food are licensed by different programs. Please contact the Agricultural Commodities Program with questions about cooking pet food on site. Cooking human food on site would be covered by either VDH or VDACS.
  - VDH: If you are cooking your farm-produced item to sample, you do not need a VDH Temporary Food permit. If you are cooking onsite for food service, you will need to apply for a temporary food permit from VDH. [foodsafety@vdh.virginia.gov](mailto:foodsafety@vdh.virginia.gov)
- I had asked about something labeled as a pet supplement vs. treats for dogs.
  - VDACS Ag Commodities: If this is being fed as a supplemental food i.e. treat, snack, then it would fall under commercial animal feed. If this is a drug, then it would fall under the animal remedy law. Please contact [caroline.wilkinson@vdacs.virginia.gov](mailto:caroline.wilkinson@vdacs.virginia.gov) or [jennifer.clifford@vdacs.virginia.gov](mailto:jennifer.clifford@vdacs.virginia.gov) if you need more clarification.
- No treats for pets can have hemp or CBD?
  - VDACS Ag Commodities: CBD, Hemp, and THC are not allowed in pet food products with a guaranteed analysis.
- Is there a specific POC to talk to someone about cooking pet food onsite?
  - Caroline Wilkinson: [caroline.wilkinson@vdacs.virginia.gov](mailto:caroline.wilkinson@vdacs.virginia.gov) or Jennifer Clifford: [jennifer.clifford@vdacs.virginia.gov](mailto:jennifer.clifford@vdacs.virginia.gov)
- What are the labeling requirements for a vendor who sells pet treats only, baked with fresh ingredients, and not prepackaged? The treats are sold by the ounce and patrons select flavors.
  - VDACS Ag Commodities: You would be considered wholesale. Selling wholesale requires a license and you would be responsible for tonnage. You would need to provide a label to ensure customer knows what they are getting.
- What are the requirements to sell farm produced dehydrated chicken liver, hearts, and chicken feet at the market? Do we need to send off the items for testing?
  - VDACS Ag Commodities: Caroline Wilkinson: [caroline.wilkinson@vdacs.virginia.gov](mailto:caroline.wilkinson@vdacs.virginia.gov) or Jennifer Clifford: [jennifer.clifford@vdacs.virginia.gov](mailto:jennifer.clifford@vdacs.virginia.gov)
- Do I need a permit/license for each flavor (or formulation) or does one cover all products that I produce?
  - VDACS Ag Commodities: You would need one license, but if there are different flavors, then each flavor would need to be registered. A resource document will be placed on the VAFMA website.
- I've seen GA labels with City, state and zip code only for the manufacturer and other labels with full address. I think I was told I could only use the city, state if

- my address was public. Can you re-confirm/clarify? Do I need to put my full address?
- o VDACS Ag Commodities: No, city, state and zip are fine!
  - A farmer told me that if something is labeled as “training treats” that the product (let’s say beef jerky) that it does not require registering the product - even if it’s packaged. Is this true?
    - o VDACS Ag Commodities: I am not aware of any exemption for a training treat. Please contact Caroline Wilkinson: [caroline.wilkinson@vdacs.virginia.gov](mailto:caroline.wilkinson@vdacs.virginia.gov) or Jennifer Clifford: [jennifer.clifford@vdacs.virginia.gov](mailto:jennifer.clifford@vdacs.virginia.gov).
  - How can we verify a vendor?
    - o VDACS Ag Commodities: You may contact Caroline Wilkinson: [caroline.wilkinson@vdacs.virginia.gov](mailto:caroline.wilkinson@vdacs.virginia.gov) or Jennifer Clifford: [jennifer.clifford@vdacs.virginia.gov](mailto:jennifer.clifford@vdacs.virginia.gov).
  - If a product doesn’t change ingredients when produced but a different food coloring is used does that change the analysis?
    - o VDACS Ag Commodities: Determine if the food coloring is an allowed ingredient. Please contact Caroline Wilkinson: [caroline.wilkinson@vdacs.virginia.gov](mailto:caroline.wilkinson@vdacs.virginia.gov) or Jennifer Clifford: [jennifer.clifford@vdacs.virginia.gov](mailto:jennifer.clifford@vdacs.virginia.gov).
  - How do you go about starting an onsite dog food company?
    - o VDACS Ag Commodities: Contact us and we will provide information and documents needed to become licensed and registered.
  - Does pet food have to be at a certain temperature, what are the guidelines?
    - o VDACS Ag Commodities: It depends on the product. If it’s a temperature-controlled product, such as a frozen pup-cup, it must be kept at a temperature to prevent adulteration.
  - Can you sell pet food/snacks at more than farmers markets and wholesale without a commercial kitchen?
    - o VDACS Ag Commodities: Yes, you can sell animal food without a commercial kitchen but are still required to license and, if applicable, register products.
  - Can I sell ground poultry as pet food? Beef, Pork, Chicken, Turkey?
    - o VDACS Ag Commodities: Yes, you can sell ground meat as a supplemental pet food, but it must be kept under conditions to prevent adulteration i.e. spoilage, contamination.

## Vendor Operations at the Market

- Does each vendor have to have a handwashing station in their booth if there are restrooms nearby?

- o Yes. Because handwashing is such an important intervention in the control of foodborne illness, sufficient handwashing sinks must be available at your booth to make handwashing not only possible, but likely to occur at all appropriate times and places.
- Can I get funding for a cooler to put vegetables in prior to taking to market?
  - o Recommend contacting Virginia Cooperative Extension Service.
- Have a new vendor this year who sells wool, pelts, etc. Do these items need to be a certain number of feet/yards from food?
  - o VDH and VDACS: There is no current regulation specifying a distance. Be sure all food is protected from contamination.
- I have another potential vendor that sells aloe, inch plants, and a few other varieties of house plants. What certifications if any should I require from them?
  - o VDACS: House plants are not regulated food safety. They may want to reach out to the VDACS Office of Plant Industry Services to see if there is anything needed: 804.786.3515.
- Be careful of the different **bleach** companies not all are the same concentration. Clorox is 6%, store bought could be less than 3%.
  - o VDACS: Yes, the concentration is very important to note when you buy a sanitizer! And then the test strips will help you verify whether you're using enough or not.
  - o Note: Bleach used as a sanitizer (i.e., a pesticide that kills microorganisms) falls under EPA labeling requirements. Therefore, the product must be registered with EPA and labeled with directions for use. If there are no directions for use or the directions for use do not include using the product as a sanitizer do not use it. You will find bleach on the market that is not labeled for use as a food contact surface sanitizer. That product cannot be used even if the chlorine test strip indicates an acceptable chlorine level. The product may contain other ingredients that have not been evaluated or are not safe for that use. Pesticides offered for sale in Virginia must also be registered with VDACS Pesticide Program.

### Preparing Food Onsite

- What if a local restaurant is coming to cook on site? Do they still need a permit?
  - o VDH: They may, the restaurant should check with the local health department that issued their permit.
- What if it's a licensed kitchen in DC or MD
  - o VDH: If operating in Virginia they would need a Virginia Permit.
- What do drink vendors need to operate..... coffee, kombucha, etc.?
  - o VDH: Drink Vendors will need to obtain a VDH permit.
- To clarify, lemonade, or other foods, prepared in a VDACS home kitchen is not permissible, correct?
  - o VDACS inspections are specifically for manufactured (packaged) food products. Samples of these products can be offered at the market. If you



would like to prepare products specifically for foodservice, you will need to do so in a permitted VDH establishment.

- So for clarity coffee tea and drinks must be made on site?
  - VDACS: It depends. VDH does not allow these products to be prepared in a home kitchen for sale at the market. If you are preparing these products for foodservice, they would need to be made in a commercial kitchen facility or on-site at the market. Both options would require a permit from VDH.
- Just to be clear, if I am a mobile VDH permitted vendor, I can cook food and cut into samples and serve from my concession window as long as they are not sold for money?
  - VDH: If you have a VDH Mobile Food Permit you are permitted to serve the approved food authorized by your permit regardless if it is (free) samples or for sale.
- Can I bake a loaf of bread at the market in a bread machine w Ingredients prepared at home. bake cookies in oven at Market w previously prepared frozen cookie dough?
  - VDACS: The operation you describe would be classified as on-site foodservice, which would require a permit from VDH. Under a VDH permit, ingredients cannot be prepared in a home kitchen.
- What are temperature regulations for **cheesecake/pies that include dairy**?
  - VDACS: 41°F or below. Products requiring refrigeration for safety should be stored in a cooler with ice packs. The cooler should also be equipped with an ambient air-type thermometer to monitor the temperature.
- Tent guidelines regarding food items on the ground. What are the food safety guidelines regarding storing extra unpackaged food items /fruits/vegetables, etc. on the ground under your display table?
  - VDH: Food and equipment is to be stored protected from contamination, including 6" off the ground. A tent will satisfy the need for overhead protection.

### Sampling

- Please specify the rules with providing samples at a farmers market booth. What are the guidelines for providing samples at markets? (smoked meats, salsa, and pimento cheese)
  - VDACS: Refer to [VDACS Safe Sampling Guidelines](#).
  - VDH:

Permitted foodservice establishments may provide samples but samples must be protected and dispensed properly, Farmers, producers, growers that want to serve or vend more than a sample offering of their farm-produced product would require a TFE permit.

VDH recommends you contact your [local health department](#) for sampling guidance.

- What type of requirements are needed to offer fresh vegetable sampling (cut-up carrots, radishes, salad) at a farmers market?
  - [VDACS Safe Sampling Guidelines](#)
- Can we give samples, and the rules to do it?
  - VDH: Food vendors that are not farmers, producers, growers must obtain a VDH temporary permit or hold a VDH food establishment permit. Samples must be prepared in the permitted food establishment (e.g., brick and mortar kitchen or mobile unit) or onsite at the event with a VDH temporary food permit. Samples must be protected from environmental contamination and from people. VDH recommends you contact your [local health department](#) for sampling guidance.
  - VDACS: Refer to [VDACS Safe Sampling Guidelines](#).
- A vendor offers dip mixes, can they provide samples of the completed mix with the sour cream added?
  - [VDACS Safe Sampling Guidelines](#)
- From a food safety standpoint what issues are to be considered when handing out food samples to customers?
  - [VDACS Safe Sampling Guidelines](#)
- Can livestock producers such as beef or pork farmers offer samples that they prepare at markets without a VDH permit?
  - VDH: Farmers, producers, growers may offer samples without a VDH permit provided they are sampling their own farm-produced products.
- We sell gourmet mushrooms. We would like to do a cooking demonstration as people normally have no idea how to cook our mushrooms. We are looking at very basic cooking (salt, pepper, butter) or bite sized crab cakes. No crab meat just a "crab cake" made with lions mane mushroom. Will we need a permit and an inspection of our farm?
  - VDH: Bite sized crab cakes served with your farm produced product would require VDH permit.
- To clarify, lemonade, or other foods, prepared in a VDACS home kitchen is not permissible, correct?
  - VDACS: VDACS inspections are specifically for manufactured (packaged) food products. Samples of these products can be offered at the market. If you would like to prepare products specifically for foodservice, you will need to do so in a permitted VDH establishment.
- Can a dry herbal tea vendor provide tea samples prepared at home under cottage law?
  - VDACS: [Virginia's Home Kitchen Food Processing Exemptions](#)
- Can I sell dried bean soup mix at the fm? Can I provide samples of that soup under cottage food law? I'm not currently permitted.
  - VDACS: Yes. Information on the kitchen exemptions can be found in [Virginia's Home Kitchen Food Processing Exemptions](#) and [VDACS Safe Sampling Guidelines](#)

- If you sell roasted whole bean coffee, can you give a free sample of it brewed so they know what it tastes like?
  - VDACS: Yes.
- I'm a cottage food vendor and would like to give away coffee at my booth. Can I do that?
  - VDACS: Yes. Please see the [VDACS Safe Sampling Guidelines](#)
- If I am inspected at the farm for cheese production, do I come under the health dept inspection at the mkt?
  - VDH: If the cheese was produced by the farmer/producer at their farm and they want to sample the cheese at the farmers market, they do not need a VDH permit to do so; however, if they want to add the cheese to a sandwich, then they would need to apply for a VDH Temporary Food Permit.

## **Weights and Measures**

- What are the best scales for a small producer?
  - VDACS OWM: Scales in commercial use must meet the requirements in the National Institute of Standards and Technology (NIST) Handbook 44 (be "Legal for Trade"). To be sure the scale is Legal for Trade, it should be National Type Evaluation Program (NTEP) approved and have a Certificate of Conformance (C of C) number. They may be purchased from the internet. Please see the attached guide. May want to check with the Office of Weights and Measures (OWM) prior to purchase with the make and model to determine if "Legal for Trade".
- Interested in labeling requirements.
  - VDACS OWM: A declaration of Identity (What is the product), a declaration of Quantity (How much product - weigh/volume/count) and a declaration of Responsibility (Who made/produced/responsible for the product).
- For weight of product. I'm a baker. For my net weight on the label, should I have it before or after it was baked?
  - VDACS: Net weight -The weight of the packaged product remaining after the deduction for tare weight which is the weight of the container, box, wrapper or other packaging material. It is always excluded from gross weight when determining the actual net weight.
- How, and how frequently, do we have to have our scales certified?
  - VDACS OWM: The Code of Virginia does not specify a frequency. Depending on the use, at least annually would be a good rule of thumb.
- How can I get a copy of the Handbook mentioned by Gary Milton?
  - VDACS OWM: May have to be a member of NCWM to access it. Please reach out to [OWM@vdacs.virginia.gov](mailto:OWM@vdacs.virginia.gov).

- Where can I get my scales certified in Albemarle County? If the scale is labeled as Class III do we need additional inspection/certification? Does the weight and measures inspector come to each farmers market to certify the scales?
  - VDACS OWM: Inspectors are glad to check at market. Market Manager can request this.
- Do scales need to be inspected before farmers market?
  - VDACS OWM: No frequency requirement. Do not need yearly inspection. Suggest having them inspected as often as you can when they are moved around frequently.
- Can you share a link to where to purchase these inspected scales please?
  - VDACS OWM: Contact W & M before purchasing new scale to verify they are acceptable.
- Do you include the wording Net Wt.?
  - VDACS: If it is a solid product, the net content statement should be preceded by Net Weight or Net Wt. If it is a liquid product, it should be preceded by Net or can be listed standalone ("Net 1 fl oz (30mL)" OR "1 fl oz (30mL)").
  - OWM: Yes.
- If we sell breads & granola bars, do these items have to be labeled with weights if from a cottage industry kitchen?
  - VDACS: All packaged food products have labeling requirements. If you are making these products under the exemption, the law specifically says these products shall be affixed with a label: "displaying the name, physical address, and telephone number of the person preparing the food product, the date the food product was processed, and the statement "NOT FOR RESALE — PROCESSED AND PREPARED WITHOUT STATE INSPECTION" shall be placed on the principal display panel."
- If displayed in that manor, yes. Example: If microgreens are cut to consumers order, sold by weight then no, don't need a weight on the package. A bin of loose cut spinach for example
  - VDACS OWM: Handbook 130 states that leafy vegetables may be sold by weight, bunch, dry measure, or by head.
- So it's the market manager responsibility to get scales inspected?
  - OWM: No. It's the vendor's responsibility.
- What exactly is a 'Net content statement'
  - VDACS OWM: Net content statement means the declaration of weight or volume of the packaged product. How much the product weighs minus the packaging.
- So, if the lettuce package is open and has a placard for description and weight per pound does that need to be labeled? If cut greens are being weighed and bagged at the farmers market, are labels required?
  - VAFMA: If a direct sale and consumer is picking it up, don't need a label. If prepackaged and displayed for sale will need a label.
- Can dried herbs that are jarred be sold by volume instead of weight?

- o VDACS OWM/ VAFMA: Volume is dry measure so yes. Dry herbs may be sold by volume or by weight.
- Which handbook is used for the methods of sale?
  - o VDACS OWM: Handbook 130. Contact OWM. Methods of sale will be shared with VAFMA and will be added to resource documents on the VAFMA website.
    - o [Method of Sales for Fruits and Vegetables](#)
    - o [Labeling](#)
    - o [Code of Virginia Office Weights and Measures Labeling](#)

## VDH and VDACS Regulations

- How does the regulation break down on markets between VDH and VDACS?
  - o Where regulatory oversight in food safety overlaps between VDH and VDACS the agencies operate under a [Memorandum of Understanding](#).
  - o Specific to Farmers Markets: VDH is responsible for permitting and inspecting VDH TFE food vendors.
  - o VDACS has jurisdiction for Home Kitchen Food Processing Operations. This includes those who become permitted manufacturers and those that fall into the exemptions.
- How to ensure proper permitting
  - o VDH: VDH recommends you contact your [local health district](#). Additional information on food permits and temporary food permits may be found on our [Food Safety in Virginia - Environmental Health](#) website. There are links for “Operate a Food Establishment” and “Temporary Food Establishments.
  - o VDACS: 1). Follow the [Virginia’s Home Kitchen Food Processing Exemptions](#). 2). If you would like to prepare food in addition to this list, apply for a permit as a [Home Food Processing Operation](#). or a [Commercial Kitchen Food Processing Operation](#).
- Is it possible to cook on site at a farmers market for both people and pets? What permits, insurance and licensing is needed? Do they need to be separate businesses or am I able to do everything under one business?
  - o VDACS (Ag Commodities): Pet food and human food are licensed by different programs. Please contact the Agricultural Commodities Program with questions about cooking pet food on site. Cooking human food on site would be covered by either VDH or VDACS.
  - o VDH: If you are cooking your farm-produced item to sample, you do not need a VDH Temporary Food permit. If you are cooking onsite for food service, you will need to apply for a temporary food permit from your [local health district](#).
- Why not centralize the process, put everything under one roof?

- o VDH: Thank you for your question. We would like to hear your thoughts on any improvements you believe would make permitting process easier. Please contact us at [FoodSafety@vdh.virginia.gov](mailto:FoodSafety@vdh.virginia.gov).
- For the CFPM does the person have to take Servsafe or is the Food Handler 3 hours course sufficient? We have many non-native English speaking vendors.
  - o VDH: This [webpage](#) provides a list of approved CFPM courses.
  - o NOTE: There are 11 [ANAB-CFP Accredited Programs](#) for CFPM credentials. Many providers offer online or in person class options as well as classes (and exams) in languages other than English. This list is updated as new programs are accredited. To meet the requirements for a CFPM you need a “Food Protection Manager” certificate. The “Food Handlers” course is for employees who are not designated as the CFPM. You can find more information regarding the CFPM requirement on the [VDACS website](#) and the [VDH website](#).
- Please explain Risk Category?
  - o VDH: [VDH Risk Categorization of Food Establishments](#)
  - o NOTE: Food establishments are assigned to a risk category based on their food preparation processes. Establishments conducting complex or “higher risk” food preparation processes are inspected more frequently than those conducting lower risk processes.
- Do different states have varied regulations?
  - o VDACS & VDH: Yes, each state has their own regulations and each locality in the state may have their own regulations via local ordinances.
- Does serving ice cream with baked goods fall under VDACS or VDH?
  - o VDH: Serving hand scooped ice cream requires a VDH TFE permit. VDH recommends you contact your [local health department](#).
- Farmers Market Enforcing Agency (VDACS or County/Cities) -- Food Safety
  - o This [Memorandum of Understanding](#) between VDH and VDACS clarifies the food safety regulatory responsibilities.
  - o Cooperative oversight between multiple agencies such as VDH, VDACS, VA ABC, and the locality, etc.
- Rules for food safety transporting from one facility to another?
  - o VDACS and VDH: Food needs to be stored protected from environmental hazards and potential contaminants. Food must also be stored under proper temperature control as needed.
- What are the requirements for outdoor food sales?
  - o VDH: if you are not a farmer, producer, grower, and you want to sell food at the farmers market, you will you need to have VDH food establishment permit (brick and mortar, mobile unit) or a VDH temporary food establishment (TFE) permit. You can find information by visiting [Temporary Food Establishments - Environmental Health](#). VDH recommends you contact your [local health district](#) for additional guidance.

- o VDACS: Follow the [Virginia's Home Kitchen Food Processing Exemptions](#) for Home Operations making food under the exemptions. If you would like to prepare food in addition to this list, apply for a permit as a [Home Food Processing Operation](#) or a [Commercial Kitchen Food Processing Operation](#).
- What are the rules regarding using dry ice at a farmers market to keep items cold?
  - o Essentially the same as traditional ice, but with added caution needed for handling the dry ice to avoid things like burns. Do not keep dry ice in air-tight containers, it needs some ventilation.
  - o Also need to make sure the food being cooled by it cannot be contaminated by the dry ice through packaging, wrapping, etc. [Here is a handout with more information](#).
- As a EHS what are we looking for in a farmer's market?
  - o VDH: EHS should discuss farmers market inspection expectations with their Environmental Health Supervisor and/or District Standardization Officer.
- Please post the exemptions for VDH requirements for a farmer selling our own fruit.
  - o VDH: If you are going to sell or sample your farm-produced fruit, you do not need a VDH permit (unless you are doing something else with the fruit like making a fruit tart, cobbler, salad etc.) (Reference [Code of Virginia 35.1-14](#) (c))
- If you host an event on your farm does the farmer need to register as a PIC?
  - o VDH: We suggest contacting the [FoodSafety@vdh.virginia.gov](mailto:FoodSafety@vdh.virginia.gov) inbox with more details on your question and we can review your situation and follow up.
  - o NOTE: PIC means "person in charge". Requirements for a PIC are found in [2VAC5-585-50](#) (VDACS Retail Food Regulations) and [12VAC5-421-50](#) (VDH Food Regulations). Information about [operating a food establishment](#) can be found on the [Food Safety in Virginia](#) webpage.
- Can you address a homestead versus a farm?
  - o VDACS: A homestead is primarily viewed as someone who is striving for self-sufficiency and not necessarily raising produce, meat, etc. for profit. Not sure if there is a definition for farmstead or homestead. If growing produce for sale you need to register with Produce Program regardless of how you identify your property.
- Why do some VDACS inspected businesses still have the older inspection certificates (with no dates) instead of the new Food Manufacturers Permits? Do they not get notified to update to the Food Manufacturers Permits?
  - o VDACS: The permits are updated when they are reissued.
- In VA, is an event planner certification required in order to have cooking on premises? VDH and VDACS onsite documentation requirements?

- o VDH: Food service vendors operating at a farmers market will need to have a current food establishment permit or temporary food establishment and the permit is required to be posted. Additionally, depending on the menu, the person-in-charge of a food establishment is required to be a CFPM and the certificate should be onsite at the market. Additional information on food permits and temporary food permits may be found on our website: [Food Safety in Virginia - Environmental Health](#) . There are links for “Operate a Food Establishment” and “Temporary Food Establishments.
- o VDACS: Home Food Processing Operations (not operating under the exemptions), will need to have a copy of their current permit.
- o Defer to VFMA for other requirements they may have
- VDACS Kitchen Bill - How do we treat **school groups** like 4H/Boy Scouts who want to sell popcorn AND lemonade at the Market?
  - o VDACS: All operators, including non-profit organizations, are required to follow safe food handling procedures. Nonprofit organizations holding one-day food sales are not required to obtain a permit or inspection by VDACS.
- What is the most common food handling mistake you see with small businesses?
  - o VDH: We conduct risk-based inspections that focus on the five risk factors food foodborne illness: (1) purchasing or using food from unapproved sources (2) improper employee health and hygiene (includes improper handwashing) (3) Improper cold holding, hot holding, and/or cooling temperatures (4) improper cooking temperatures and (5) Contaminated and/or dirty equipment and utensils
  - o VDACS: In addition to the five risk factors listed above, Mandatory Labeling requirements must be met:
    1. Statement of identity (common name of product)
    2. Ingredients list, including sub-ingredients and allergens, listed in order from most heavy to least heavy
    3. Net quantity statement in standard and metric units.
    4. Name and address of manufacturer, packer or distributor
- When do vendors need a temporary food establishment permit?
  - o VDH: If you are not a farmer, producer, grower, and you want to sell food at the farmers market, you will you need to have VDH food establishment permit (brick and mortar, mobile unit) or a VDH temporary food establishment (TFE) permit. You can find information by visiting [Temporary Food Establishments - Environmental Health](#). VDH recommends you contact your [local health district](#) for additional guidance.  
You also need a permit if you are a farmer, producer, grower, and you want to prepare and serve/sample food not produced from your farm such as assembling a pizza, stir-fry, casserole, or salad e.g., Adding a piece of commercially prepared hot dog to your baked good.



- Where are the most common rule breaks at farmers markets?
  - VDH: The five risk factors for food foodborne illness: (1) purchasing or using food from unapproved sources (2) improper employee health and hygiene (includes improper handwashing) (3) Improper cold holding, hot holding, and/or cooling temperatures (4) improper cooking temperatures and (5) Contaminated and/or dirty equipment and utensils.
  - VDACS: Manufactured food products that are not included in the [exemption](#) being offered for sale without inspection (examples: cheesecakes, apple butter, pickled eggs, etc.). Someone making these types of products and offering them for sale must be under inspection and must obtain a permit from VDACS Food Safety. In addition to the five risk factors listed above, Mandatory Labeling requirements must be met:
    1. Statement of identity (common name of product)
    2. Ingredients list, including sub-ingredients and allergens, listed in order from most heavy to least heavy
    3. Net quantity statement in standard and metric units.
    4. Name and address of manufacturer, packer or distributor
- Can food prepared in a non-commercial kitchen be sold through consignment at a retail space?
  - VDH: No, food being prepared, served, and/or sold direct to consumers from a retail space must come from an approved source. Food must be prepared in a permitted food establishment.
  - VDACS: A Home operation, permitted and inspected may be able to sell their product by other retail establishments, first apply for a permit as a [Home Food Processing Operation](#). Once approved, the retail establishment may resale this product (if/as allowed by their jurisdiction). A Home operation, not permitted and inspected, and operating under the [Virginia's Home Kitchen Food Processing Exemptions](#), may only sell from the Farmer's Market or their home directly to the customer.
- How do I recognize improper food storage?
  - VDH/VDACS: Food needs to be stored protected from environmental hazards and potential contaminants. Food must also be stored under proper temperature control as needed.
- Market Manager onsite certification requirements
  - VDH: Food service vendors operating at a farmers market will need to have a current food establishment permit or temporary food establishment and the permit is required to be posted. Additionally, depending on the menu, the person-in-charge of a food establishment is required to be a CFPM and the certificate should be onsite at the market. Additional information on food permits and temporary food permits may be found on our website: [Food Safety in Virginia - Environmental Health](#) . There are links for "Operate a Food Establishment" and "Temporary Food Establishments."

- o VDACS: Home Food Processing Operations (not operating under the exemptions), will need to have a copy of their current permit. Defer to VAFMA for other requirements they may have.
- If your farm owns a building in a city established to sell products from your farm and this building has a commercial kitchen that also operates to sell takeout food like chicken salad, is this defined as a restaurant?
  - o VDH: We suggest contacting the [FoodSafety@vdh.virginia.gov](mailto:FoodSafety@vdh.virginia.gov) inbox with more details on your question and we can review your situation and follow up.
- I am a mobile permitted vendor and thinking about bottling one of my products to try to sell from my unit and retail. Would I need to make some application through VDACS as opposed to VDH?
  - o VDACS: If you are only selling the bottled product retail, this would not require an inspection from VDACS since you are already permitted by VDH. You would need to obtain an inspection and permit from VDACS if you intend to wholesale the product.
- What if the coffee vendor has a brick and mortar, do they still need a permit to sell hot and cold coffee at the market?
  - o VDACS: If your coffee establishment is permitted by VDH at the brick and mortar facility, you should refer this question to your VDH inspector for selling hot and cold coffee at the market.  
If the brick and mortar is permitted by VDACS, then you should still check with VDH for on-site sale of hot and cold coffee at the market.
- Estimated cost for the process?
  - o VDH and VDACS: Permit fees are \$40/year.
- Is there an automated way to know the status of a VDACS application?
  - o VDACS: You will receive an application identification number when you submit your application. You can reach out to [foodsafety@vdacs.virginia.gov](mailto:foodsafety@vdacs.virginia.gov) and reference your business name and application identification number to obtain the status of your application.
- Is there anything we as small businesses can do to expedite the approval process with new products? Some of them can take over 2-3 months
  - o VDACS: On your part, it is beneficial to ensure that you do your best to submit complete, error-free recipes and labels for review and approval of new products. We do our best to review and approve these on a first come, first serve basis. This time of year, the demand is unusually high due to the approaching farmer's market season.
- Can a business buy your roasted whole bean coffee at the market and sell it only as brewed coffee in their shop?
  - o VDACS: If you are permitted to sell the coffee to other businesses, yes, they can use it in their shop. The business making the roasted whole bean coffee would need to be under VDACS inspection. Purchasing the beans to brew coffee is considered wholesaling, and wholesaling is only allowed

by an inspected and permitted establishment (except for honey and eggs).

- Is there a list of approved or inspected food vendors?
  - VDACS: VDACS maintains a public firm inventory [here](#).
  - VDH inspections can be found [here](#).
- Do you need a special permit to sell seedlings in the spring? We start all of our veggie plants from seeds. Can we sell what we started but didn't plant at the farmers market?
  - VDACS: Contact [VDACS Plant Industry Services](#).
- Do residential zone homes who would like to offer a farm stand at the end of their drive offering backyard suburban grown vegetables, eggs from their own hens and low risk foods need any type of permit, inspection, certificate, etc.>?
  - VDACS: VDACS isn't routinely going out and permitting every farm stand that's out there. If they are making value added product, they've to be inspected unless the product is exempt. Exempt products may only be sold at the farmers market or at their home.  
Start by checking with your local zoning office to make sure you are zoned appropriately.
  - VDACS Produce Program: Even if at your home, you are considered a "farm" under Produce Program rules. If the produce is under the \$25000 limit, the farm is "micro exempt". You would need to register in the portal.
  - VAFMA: Eggs, etc. would also fall under VDACS rules regarding temperature control, cleanliness, so you still need to check with your local agencies regarding permitting as well as VDACS.