

Virginia's Home Food Processing Exemptions

Frequently Asked Questions

Manufactured food establishments, including home food processing operations, that manufacture, process, package, label, or store food for introduction into commerce (i.e., sale or distribution) are subject to the Virginia Food and Drink Law and other applicable regulations administered by the Virginia Department of Agriculture and Consumer Services (VDACS) Food Safety Program. These establishments are required to be inspected, have a permit to operate, and pay an annual inspection fee of \$40.

[Section § 3.2-5130](#) of the Virginia Food and Drink Law includes exemptions from inspection, permit, and fee requirements for home food processing operations that process certain low risk foods, acidified vegetables, and/or honey in compliance with the exemption provisions. This guidance document addresses frequently asked questions related to the home food processing exemptions. Questions may be directed to the VDACS Food Safety Program by phone at (804) 786-3520 or by email at foodsafety@vdacs.virginia.gov.

I. Low Risk Foods – § 3.2-5130 (C)(3)

1) Where can exempt low risk food products be processed?

- In the producer's own private home.

2) What types of low risk food products can I process in my home under this exemption?

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| • Baked goods | • Dry herbs | • Popcorn and popcorn balls |
| • Candies | • Dry mixtures | • Roasted coffee beans and grounds |
| • Cereals | • Dry seasonings | • Trail mixes |
| • Coated and uncoated nuts | • Granola | • Vinegars and flavored vinegars |
| • Cotton candy | • Jams and jellies not considered to be low-acid or acidified low-acid food products | |
| • Dried fruits | | |
| • Dried pasta | | |
| • Dried tea | | |
| • Dry baking mixes | | |

NOTE: these food products cannot require time or temperature control for safety after preparation

3) Exempt food products cannot require time or temperature control for safety after preparation. What does that mean?

- A time/temperature control for safety (TCS) food is a food that requires controls like refrigerated or frozen storage to limit the growth of microorganisms or formation of toxins that can cause illness. Foods that may be considered TCS include cut fruits, cut leafy greens, cut vegetables as well as some cheeses, fruit-based fillings or toppings and cream cheese-based frostings.

- Non-TCS foods are safe when held at ambient temperatures after preparation. Producers must carefully review their recipes and ensure all exempt food products meet the requirements.
- In some cases, laboratory testing is needed to determine whether a food is TCS or non-TCS. This testing can be completed by a food processing authority. See **Section IV. Resources** of this document for information on locating a food processing authority.

4) What are some examples of baked goods that are/are not allowed under this exemption?

- While common examples are provided below, the determination of whether a product meets the exemption ultimately depends on the recipe of that specific product. A product being included as an example below does not automatically mean it is/is not allowed under this exemption.
- Examples of baked goods that MAY be allowed under this exemption include, but are not limited to, breads or cakes that *are not* filled or topped with ingredients like fresh fruit, fruit curd, custard, whipped cream, mousse, or cream cheese; cookies; fruit pies; muffins; and sourdough bread.
- Examples of baked goods that MAY NOT be allowed under this exemption include, but are not limited to, breads with fresh toppings/inclusions such as cheese, herbs, or vegetables; breads or cakes that *are* filled or topped with ingredients like fresh fruit, fruit curd, custard, whipped cream, mousse, or cream cheese; cheesecakes; cream pies; custards; and meringues.
- Certain foods, such as buttercream frosting, may be TCS or non-TCS depending on the recipe. See **Section IV. Resources** of this document for information on research conducted for various frostings and fillings and locating a food processing authority.

5) What are some examples of jams and jellies that are/are not allowed under this exemption?

- While common examples are provided below, the determination of whether a product meets the exemption ultimately depends on the recipe of that specific product. A product being included as an example below does not automatically mean it is/is not allowed under this exemption.
- Examples of jams and jellies that MAY be allowed under this exemption include, but are not limited to, blueberry, grape, peach, and strawberry.
- Examples of products that MAY NOT be allowed under this exemption include, but are not limited to, apple butter, banana jam, fig jam, lavender jelly, pepper jelly, and zucchini or carrot cake jam.
- Certain foods, such as low-sugar or no-sugar jams and jellies, may be low-acid or acidified low-acid depending on the recipe and thus not allowed under the exemption. See **Section IV. Resources** of this document for information on locating a food processing authority.

6) What are the labeling requirements for these low risk food products?

- Product packages are required to be labeled with information on the principal display panel (i.e. front of the package) as required by law:
 - A label displaying the name, physical address or post office box number, 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”
- If the product sold is too small to have an easily read label, and/or is sold to be consumed onsite, a physical sign at the area where the product is sold shall be an acceptable alternative to a label provided it has all the required information.

- In addition to the exemption labeling requirements outlined above, product labels must comply with standard labeling requirements (product name, net weight statement, name and address of the manufacturer, list of ingredients and subingredients, and possibly nutritional information). See **Section IV. Resources** of this document for information on food labeling.

7) Where and how can I sell these products?

- Exempt food products can only be sold and delivered within the Commonwealth to individuals for their own consumption.
- A producer can sell their exempt food products directly to an individual for his own consumption by phone, through the internet, or at any location (with some exceptions; see Question #8 of this section).
- A producer can deliver their exempt food products directly to an individual for his own consumption in person, by mail, or by delivery service.

8) Where can I NOT sell these products?

- Exempt food products cannot be sold for resale, for consignment, for use or consumption in retail food establishments, to other businesses, or across state lines.

9) Am I required to pay the \$40 annual inspection fee to VDACS?

- No. Although you are still required to comply with all applicable laws and regulations, exempt home food processing operations are exempt from the Food Safety Program's inspection, permit, and annual inspection fee requirements.

10) What if I want to sell products not listed in the exemption, or sell/deliver my products beyond what is allowed by the exemption?

- You need to apply for a permit from the Food Safety Program. Permit applications are available on the Program's website (<https://www.vdacs.virginia.gov/food-dairy-and-foods.shtml>) or can be sent via email upon request.

II. Acidified Vegetables – § 3.2-5130 (C)(4)

1) Where can exempt acidified vegetable products be processed?

- In the producer's own private home.

2) What types of acidified vegetable products can I process in my home under this exemption?

- Pickles with a finished equilibrium pH of 4.6 or below.
- Acidified vegetables that have a finished equilibrium pH of 4.6 or below.

NOTE: these food products cannot require time or temperature control for safety after preparation

3) What is an acidified vegetable product?

- An acidified vegetable product is a low-acid food that has acidic ingredients, such as vinegar or citric acid, added to create a food product with a final equilibrium pH of 4.6 or below. This product is non-TCS and safe when held at ambient temperatures after preparation. These products may sometimes be referred to as “canned” or “pickled”. Producers must carefully review their recipes and ensure all exempt products meet the requirements.
- In some cases, laboratory testing is needed to determine whether a food meets the definition of a non-TCS acidified vegetable product. This testing can be completed by a food processing authority. See **Section IV. Resources** of this document for information on locating a food processing authority.

4) What are some examples of products that are/are not allowed under this exemption?

- While common examples are provided below, the determination of whether a product meets the exemption ultimately depends on the recipe of that specific product. A product being included as an example below does not automatically mean it is/is not allowed under this exemption.
- Examples of acidified vegetable products that MAY be allowed under this exemption include, but are not limited to, pickled vegetables, relishes, chow-chow, and acidified salsa.
- Examples of acidified vegetable products that MAY NOT be allowed under this exemption include, but are not limited to, barbecue sauces, canned acid foods, canned fermented foods, canned foods that require refrigeration for safety, canned fruits, fresh salsa, hot sauces, low-acid canned vegetables, pepper jelly, and salad dressings.

5) Is there a sales limit for exempt acidified vegetable products?

- Yes. Exempt producers must not exceed \$9,000 in total annual gross sales for all acidified vegetable products produced.
- Producers should carefully document the amount of product sales incurred on an ongoing basis so that the information will be available for review by VDACS.

6) What are the labeling requirements for these acidified vegetable products?

- Product packages are required to be labeled with information on the principal display panel (i.e. front of the package) as required by law:
 - A label displaying the name, physical address or post office box number, 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”

- If the product sold is too small to have an easily read label, and/or is sold to be consumed onsite, a physical sign at the area where the product is sold shall be an acceptable alternative to a label provided it has all the required information.
- In addition to the exemption labeling requirements outlined above, product labels must comply with standard labeling requirements (product name, net weight statement, name and address of the manufacturer, list of ingredients and subingredients, and possibly nutritional information). See **Section IV. Resources** of this document for information on food labeling.

7) Where and how can I sell these products?

- Exempt food products can only be sold and delivered within the Commonwealth to individuals for their own consumption.
- A producer can sell their exempt food products directly to an individual for his own consumption by phone, through the internet, or at any location (with some exceptions; see Question #8 of this section).
- A producer can deliver their exempt food products directly to an individual for his own consumption in person, by mail, or by delivery service.

8) Where can I NOT sell these products?

- Exempt food products cannot be sold for resale, for consignment, for use or consumption in retail food establishments, to other businesses, or across state lines.

9) Am I required to pay the \$40 annual inspection fee to VDACS?

- No. Although you are still required to comply with all applicable laws and regulations, exempt home food processing operations are exempt from the Food Safety Program's inspection, permit, and annual inspection fee requirements.

10) What if I want to sell products not listed in the exemption, or sell/deliver my products beyond what is allowed by the exemption?

- You need to apply for a permit from the VDACS Food Safety Program. Permit applications are available on the Program's website (<https://www.vdacs.virginia.gov/food-dairy-and-foods.shtml>) or can be sent via email upon request.

Additional Information Regarding pH

1) What is pH?

- pH is a measurement of acidity or alkalinity using a numerical scale between 1 and 14. A pH value of 1 is most acidic, a pH value of 7 is neutral and values above 7 are referred to as basic or alkaline.

2) How is pH measured?

- Electronic pH meters are very accurate, and pocket-sized units are available for around \$100.
- Paper strips are NOT accurate enough to measure acidity of home-canned and home-processed foods.

3) What is finished equilibrium pH?

- The pH of a food product after the acid (i.e., vinegar) is distributed equally throughout the product.

- For example, the initial pH of the pickled cucumber that has been recently canned will not be the same hours or days later. It takes time for the vinegar to penetrate and distribute into the cucumbers. Therefore, testing the pH of only the brine (liquid) portion of a recently canned and processed product is not accurate.

4) How do you determine a product's equilibrium pH?

- For foods canned and processed in less than 2 months: food sample needs to be finely ground in a blender prior to pH testing.
- For foods with a process date greater than 2 months: pH may be taken of the brine only since all contents of the canned product should be in equilibrium.

5) Who can test for pH?

- The person that processed the food as long as they are capable of performing an accurate pH test.
- When testing, follow the same recipe and procedures for each batch of food to be tested.
- A separate pH test is required for each different product offered for sale under this exemption
- Private laboratories
- Universities

6) Examples of pH for different foods:

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| • Distilled water (pH 7) | • Garlic (pH 5.3 – 6.3) |
| • Dill pickles (pH 2.6 – 3.8) | • Tomatoes (pH 3.7 – 4.9) |

III. Honey – § 3.2-5130 (C)(5)

1) Where can exempt honey be processed?

- In the producer's own private home.

2) What types of honey can I process in my home under this exemption?

- Pure honey produced by the producer's own hives.

3) What are some examples of products that are NOT allowed under this exemption?

- Any honey products that are not pure honey, including value-added honey food products such as infused honey, hot honey, honey ice cream, and mead.
- Any other food products in addition to the honey, except as allowed by the home food processing exemptions (i.e., low risk foods and acidified vegetables).

4) Is there a sales limit for exempt honey products?

- Yes. Exempt honey producers must not exceed 250 gallons in total annual honey sales.
- Producers should carefully document the amount of product sales incurred on an ongoing basis so that the information will be available for review by VDACS.

5) What are the labeling requirements for these honey products?

- Product packages are required to be labeled with the statement: "PROCESSED AND PREPARED WITHOUT STATE INSPECTION. WARNING: Do Not Feed Honey to Infants Under One Year Old."
- In addition to the exemption labeling requirements outlined above, product labels must comply with standard labeling requirements (product name, net weight statement, name and address of the manufacturer, list of ingredients and subingredients, and possibly nutritional information). See **Section IV. Resources** of this document for information on food labeling.

6) Where and how can I sell these products?

- Currently, there are no restrictions regarding where or how exempt honey products can be sold.

7) What if I want to sell products not listed in the exemption, or sell beyond what is allowed by the exemption?

- You need to apply for a permit from the VDACS Food Safety Program. Permit applications are available on the Program's website (<https://www.vdacs.virginia.gov/food-dairy-and-foods.shtml>) or can be sent via email upon request.

IV. Resources

1) VDACS Food Safety Program Website

- <https://www.vdacs.virginia.gov/food-dairy-and-foods.shtml>

2) Virginia Food and Drink Law

- <https://law.lis.virginia.gov/vacodefull/title3.2/chapter51/>

3) Better Process Control School Information

- Consumer Brands Association: <https://consumerbrandsassociation.org/about-us/programs-initiatives/%20better-process-control-school/>
- University of Tennessee: <https://foodscience.tennessee.edu/better-process-control-school-course/>

4) Food Labeling Guide

- Food and Drug Administration (FDA): <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-industry-food-labeling-guide>

5) Frostings and Fillings Research

- A Review of Recipes for Kansas Fairs and Exhibitions, Kansas State University: <https://www.rrc.k-state.edu/doc/judging/FrostingsFillingsData.pdf>
- Food Safety of Frostings and Fillings, Kansas State University: https://bookstore.ksre.ksu.edu/download/food-safety-of-frostings-and-fillings_MF3544

6) Home Canning Information

- United States Department of Agriculture (USDA) Complete Guide to Home Canning: <https://nchfp.uga.edu/resources/category/usda-guide>

7) Locating a Food Processing Authority

- Food Processing Authorities Directory: <https://www.afdo.org/directories/fpa/>
- Food Producer Technical Assistance Network: <https://www.fst.vt.edu/extension/foodbiz.html>