

VDACS Office of Hemp Enforcement

Edible Hemp Products Inspection – Frequently Asked Questions (FAQ)

What is the purpose of this visit by a VDACS Inspector?

The role of the VDACS inspector is to assess whether your business is holding, offering for sale, or selling Edible Hemp Products (EHPs) and to gather information on these products to ensure they comply with the requirements in the Code of Virginia, Chapter 51 (§ 3.2-5100 et seq.). Note: All food items held or stored within a food establishment are subject to Virginia law; saying products are not for sale does not exempt them from inspection.

What is an Edible Hemp Product?

An Edible Hemp Product (EHP) is a food for humans that contains ingredients from the hemp plant (hemp extract), such as THC, CBD, and many other compounds from hemp. It is a packaged food that contains a Total THC concentration of no greater than 0.3% and contains either no more than 2 mg of Total THC per package or an amount of CBD that is no less than 25 times greater than the amount of Total THC. EHPs include products that are consumed by mouth, such as gummies, other candies, tinctures, beverages, and baked goods.

What is “Total THC”?

Total THC in a hemp product is the percentage by weight of Delta 9 THC plus the weights of all isomers of Delta 9 THC plus the adjusted weight of THCA. The weight of THCA is multiplied by 0.877 before adding to the weights of THC.

What parts of the Code of Virginia give VDACS the authority to enter and inspect this place of business?

§ 3.2-5102. “The Commissioner shall have free access at all reasonable hours to any factory, warehouse, or establishment in which foods are manufactured, processed, packed, or held for introduction into commerce, or to enter any vehicle being used to transport or hold such foods in commerce, or any store, restaurant, or other place in which food is being offered for sale for the purpose of: 1. Inspecting such factory, warehouse, establishment, or vehicle to determine if any of the provisions of this chapter are being violated...”

§ 3.2-5126. Prohibited acts...A. The following acts and causing the following acts within the Commonwealth are unlawful: “1. The manufacture, sale, or delivery, holding or offering for sale of any food that is adulterated or misbranded....5. The refusal to permit entry or inspection, or to permit the taking of a sample...; B. Any person who violates any of the provisions of subsection A is guilty of a Class 1 misdemeanor.”

§ 3.2-5145.2. “An industrial hemp extract is a food and is subject to the requirements of this chapter and regulations adopted pursuant to this chapter.”

Does the inspector have authority to look in all areas of the facility without a warrant?

Yes. The Code of Virginia gives VDACS a very broad authority, without a warrant, to look in any place where foods in commerce may be held, for the purpose of conducting a food inspection. This includes product display areas, behind counters, in storage areas, as well as any other rooms in the building that are part of the business being inspected.

What happens if the inspector is not allowed to conduct the inspection?

A refusal to allow the inspection to be done is a violation of the Code of Virginia § 3.2-5126. Such a refusal may result in a civil penalty and/or a Class 1 misdemeanor criminal charge.

Do I have to allow entry if I do not have any Edible Hemp Products in my facility?

If your facility does not have any EHPs, it is best to allow the inspector to verify this by letting them inspect the premises. Refusing entry and later being found to have EHPs would violate the Code of Virginia § 3.2-5126, potentially resulting in a civil penalty and/or a Class 1 misdemeanor criminal charge.

Why is it important to provide correct business information to the inspector, such as the legal business name, owner name, email, and phone number?

VDACS requires accurate contact information for the person most responsible for the business. This ensures that inspection results are communicated to someone who is legally accountable for the business, has the authority to address violations, and can pay any resulting civil penalties.

Will the inspector be able to determine if Edible Hemp Products are ok during the inspection?

No. A complete review of the product labeling and the Certificate of Analysis is necessary to determine if the EHP is compliant with the law or if there are any violations. This review will not be conducted during the inspection. Since EHP label reviews are time-consuming, they are done offsite using the information collected during the inspection.

What is the inspection process?

Once the VDACS inspector enters the building, they will look for the Person In Charge (PIC), introduce themselves, and show their VDACS-issued Office of Hemp Enforcement badge. They will briefly explain the purpose of their visit and provide information handouts. The inspector will ask for any documentation related to EHPs in the facility. If provided, the inspector will review this documentation to help determine compliance with the law.

The inspector will take photos of each EHP in the facility for a detailed compliance review, which is conducted offsite due to the time-consuming nature of EHP label reviews. They will request to see all areas of the establishment to locate any EHPs. All EHPs found during the inspection will be evaluated for legal compliance.

Throughout the inspection, the inspector will be respectful of you and your business operations, aiming to minimize any disruption and not interfere with your ability to serve customers.

What happens after the inspection?

The inspector will organize the information collected on EHPs found in the facility to prepare it for a thorough compliance review. After conducting some initial portions of the product review, the inspector will transfer the information to the Office of Hemp Enforcement's Compliance team, which will complete the review and determine if there are any legal violations. If violations are found, a Notice of Alleged Violations and Penalty Assessment letter will be issued. This letter will inform the business owner of any civil penalties resulting from the violations and include an invoice for these penalties, if applicable. Additionally, the letter will provide information on how to resolve the inspection case.

Will the inspector be able to provide information related to potential civil penalties to the PIC or business owner during the inspection?

No. The VDACS Office of Hemp Enforcement Compliance team will make the final determination regarding any violations of the law and civil penalties.

How will the results of the inspection be shared with the business that was inspected?

The primary method of distributing the results of the inspection is by email from the VDACS Office of Hemp Enforcement's general email address, HempEnforcement@vdacs.virginia.gov, to the owner or the owner's representative. This is why it is very important to provide the inspector with a valid email address for the owner or for a person who is authorized by the owner to act on their behalf.

When will the inspection results be available?

It may take a few weeks to fully complete the work related to the inspection. Once the work is completed, the results will be sent to the owner or owner's authorized representative by email from the Office of Hemp Enforcement's email address, HempEnforcement@vdacs.virginia.gov.

What should the business owner or their representative do when the inspection results are received?

Acknowledge the receipt of the email from HempEnforcement@vdacs.virginia.gov. The results of the inspection should be reviewed thoroughly and plans to correct any violations of the law should be made immediately. Contact the Office of Hemp Enforcement with any questions about the inspection results.

What is an Informal Fact-Finding Conference (IFFC)?

An IFFC can be requested to challenge the factual basis of any alleged violation and/or to inform VDACS of the corrective actions the business has taken regarding the violations noted in the Notice of Alleged Violations letter and inspection report. This virtual meeting, held via Microsoft Teams for convenience, can be requested by responding to the email from Hemp Enforcement and asking to schedule an IFFC. A business that details all corrective actions taken and commits to future compliance by only selling lawful products may receive a further reduction in civil penalties. The primary goal of the VDACS Office of Hemp Enforcement is to ensure compliance with the law.

Contact Information for Additional Questions:

VDACS Office of Hemp Enforcement Phone: (804) 786-1382

Email: HempEnforcement@vdacs.virginia.gov



Visit our VDACS website for more resources and to complete your Edible Hemp Disclosure and Exemption forms.

www.vdacs.virginia.gov/food-hemp-product-enforcement.shtml