

# VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

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## OFFICE OF HEMP ENFORCEMENT

### COMPLIANCE HANDOUT



## **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](mailto: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](mailto: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](mailto: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](mailto: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](http://www.vdacs.virginia.gov/food-hemp-product-enforcement.shtml)

# Labeling Requirements for products with Hemp

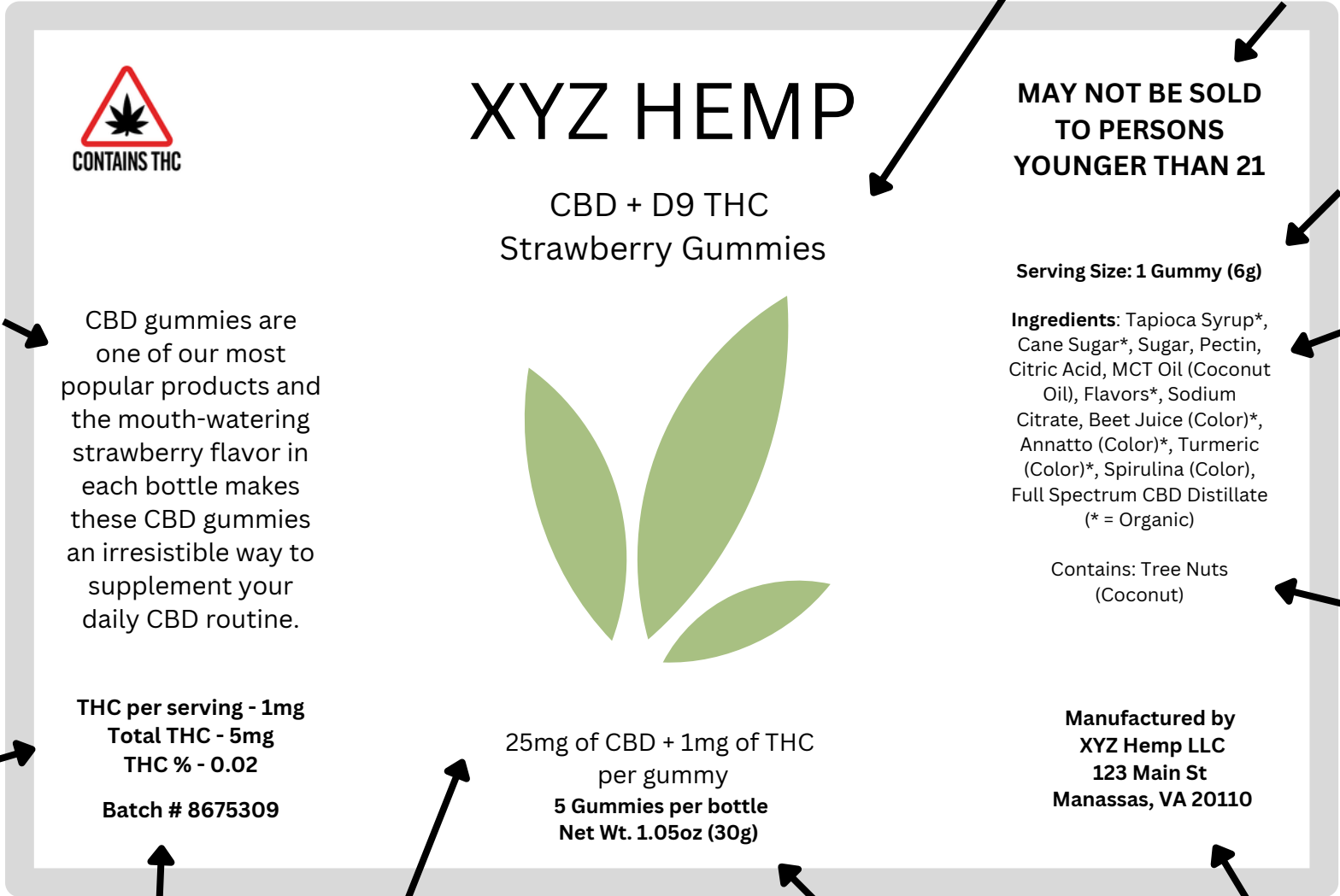
Numbers in **RED** are required for products containing THC

24. The packaging/labeling of a regulated hemp product must not bear any significant likeness to another manufacturer's product.

19. This is how to describe the product WITHOUT making health claims

25. Product does not depict and is not in the shape of human, animal, vehicle, or fruit

20-22. THC per serving, total THC, and THC % must be label



11. Statement of identity is on the Principal Display Panel (PDP) and adequately describes the product.

23. If the product contains THC, there is an age restriction statement (May not be sold to persons younger than 21).

13. The label states the amount of food in a single serving.

14. Statement of Ingredients – all ingredients, including the sub-ingredients of any ingredient made of two or more substances, are listed on the label.

15. If the product contains Allergens, they are declared on the label.

26. All of these ingredients are considered GRAS in this use case.

18. Batch Code is on the product label and match the COA

17. Product is labeled as containing specific cannabinoids and the number of milligrams of each cannabinoid is declared

12. Statement of Net Quantity of Contents (US Customary and Metric measures) is present

16. Name and Address of the Manufacturer or Distributor is on the label. This must include City, State, and Zip Code

## Requirements for Selling Edible Hemp Products

Checklist	#	Requirements
	1	The firm has a food establishment permit issued by the VDACS Food Safety Program (or by the Virginia Department of Health). § 3.2-5145.2:1(B)(i), § 3.2-5100, § 3.2-5130
	2	The firm is exempt from a food establishment permit by meeting certain criteria and certifying to the Department that they qualify for the exemption. § 3.2-5145.2:1(B)(i), § 3.2-5100, § 3.2-5130
	3	An Edible Hemp Products Disclosure Form has been submitted to VDACS. § 3.2-5145.2:1(B)(iii)
	4	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).
	5	The product must be accompanied by a Certificate of Analysis (COA) from an ISO 17025 accredited lab (a working QR code is acceptable); the COA needs to have a matching identifier that also appears on the product, such as a batch or lot number, to give assurance that the COA is representative of the product offered for sale; documentation of ISO 17025 accreditation must be available for review at the point of sale.
	6	The product must not contain a total THC concentration greater than 0.3% (total THC includes all THC isomers added together).
	7	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).
	8	The product does not contain synthetic cannabinoids (HHC, THCP, THCO, THCH, CBDP, THCJD, and others)
	9	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).
	10	If the product contains THC, the packaging must be child-resistant and resealable if more than one serving.
	11	Statement of identity is on the Principal Display Panel (PDP) and adequately describes the product.
	12	Statement of Net Quantity of Contents (US Customary and Metric measures) is present and on the PDP
	13	The label must state the amount of food in a single serving (the amount must be in weight or volume; a number count without a measure is not sufficient).
	14	Statement of Ingredients - all ingredients, including the sub-ingredients of any ingredient made of two or more substances, are listed on the label.
	15	If the product contains Allergens, they are declared on the label.
	16	The name and Address of the Manufacturer or Distributor must be on the label (a website is not sufficient).
	17	When the product is labeled as containing specific cannabinoids, the number of milligrams of each cannabinoid is declared.
	18	A legible Batch Code must be on the product label/package.
	19	The label does not contain a claim indicating the product is intended for diagnosis, cure, mitigation, treatment, or prevention of disease.
	20	If the product contains THC, the label states the number of milligrams of THC in each serving.
	21	If the product contains THC, the label states the total milligrams of THC included in the package.
	22	If the product contains THC, the label states the total percentage of THC in the package ("0.3% THC does not meet this requirement).
	23	If the product contains THC, there is an age restriction statement (May not be sold to persons younger than 21).
	24	If the product contains THC, the packaging/labeling does NOT bear any significant likeness to another manufacturer's product.
	25	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 (no pictures of these items on the label, and no gummies shaped like these items).
	26	Additional Requirements are applicable, such as only selling food products that contain ingredients that are Generally Recognized As Safe (GRAS) in food. Food may not contain drugs or ingredients that may be hazardous to consumers.

## ISO/IEC-17025 Accreditation & COAs

When Hemp products are offered for sale, they must be accompanied by a certificate of analysis that:

- Is produced by an independent laboratory that is ISO/IEC 17025 accredited.
- States the total THC concentration of the substance or the total THC concentration of the batch from which the substance originates.
- **The Lot/Batch number on the item itself must match the Lot/Batch number on the COA.**

The certificate of accreditation to standard ISO/IEC 17025 issued by the third-party accrediting body to the independent laboratory shall be available for review at the location at which the industrial hemp extract or food containing an industrial hemp extract is offered for sale or sold.

A Certificate of Analysis (COA) is a document provided by a testing laboratory that outlines the composition of a product. In the context of industrial hemp, it typically includes information on THC levels, CBD content, and other relevant compounds/cannabinoids. To check THC levels, look for the percentage of THC specified in the COA, ensure compliance with legal limits, and help consumers make informed decisions about the product.

Analyte	LOD (ppm)	LOQ (ppm)	Result %	Result (mg/g)	mg/pack
Cannabidivarinic acid (CBDVa)	0.030	0.080	ND	ND	ND
Cannabidivarin (CBDV)	0.050	0.150	0.0157	0.157	5.181
Cannabidiolic acid (CBDa)	0.040	0.110	ND	ND	ND
Cannabigerolic acid (CBGa)	0.040	0.120	ND	ND	ND
Cannabigerol (CBG)	0.080	0.230	0.299	2.99	98.67
Cannabidiol (CBD)	0.060	0.190	1.5139	15.139	499.587
Tetrahydrocannabivarin (THCV)	0.080	0.240	ND	ND	ND
Tetrahydrocannabivarinic acid (THCVa)	0.050	0.160	ND	ND	ND
Cannabinol (CBN)	0.040	0.120	0.0105	0.105	3.465
Cannabinolic acid (CBNa)	0.080	0.250	ND	ND	ND
D9-Tetrahydrocannabinol (D9-THC)	0.120	0.360	0.0358	0.358	11.814
D8-Tetrahydrocannabinol (D8-THC)	0.140	0.430	ND	ND	ND
Cannabicyclol (CBL)	0.210	0.640	ND	ND	ND
D9-Tetrahydrocannabinolic acid (THCa)	0.130	0.400	ND	ND	ND
Cannabichromene (CBC)	0.090	0.280	0.0655	0.655	21.615
Cannabichromenic acid (CBCa)	0.350	1.060	ND	ND	ND
Total THC (THCa * 0.877 + THC)			0.036	0.036	
Total CBD (CBDa * 0.877 + CBD)			1.514	15.139	
Total CBG (CBGa * 0.877 + CBG)			0.299	2.99	
Total Cannabinoids			1.94	19.404	640.332

Total weight: 33.0000 g, Unit weight: 3.3000 g

**How to Determine if the CBD to THC ratio of 25:1 is met.**

Example.

CBD mg/package =  
499.587mg

D9 and D8 THC added  
together: 11.814 + none =  
11.814 mg THC

Mg of Total THC x 25 =  
295.35 – this is the minimum  
amount of CBD that must be  
in the product to make the  
required 25 CBD to 1 THC.

The product contains  
499.587 mg of CBD which is  
more than the minimum  
required amount of 295.35,  
so the required ratio of CBD  
to THC is met in this product.

## Extracts

Full-spectrum	A full-spectrum product will contain all the natural compounds in the cannabis plant, including THC. However, THC levels must be no more than 0.3% to comply with State laws.
Broad-spectrum	Broad-spectrum products contain natural compounds of the cannabis plant. However, while manufacturers remove all or most of the THC in broad-spectrum CBD, it may still be present in trace amounts.
Isolate	This pure form of a singular Cannabinoid contains no other cannabis plant compounds. Ex. CBD Isolate, CBG Isolate, CBN Isolate
Whole/Crude	Whole-plant CBD products contain a more full or broad spectrum of cannabinoids, including CBG, THC, CBC, CBDV, THC, etc., as well as other phytonutrients, flavonoids, terpenes, and plant pigments than CBD isolate or CBD distillate products.
Distillate	Distillate is a cannabis extract in which the final product has been systematically stripped of all materials and compounds except for one specific cannabinoid. The most common forms of distillate are tetrahydrocannabinol (THC) oil and cannabidiol (CBD) oil, with their percentages ranging between 90 - 100% pure cannabinoid, making them extremely potent.

## Notes