

Making the Most of Direct Marketing and Agribusiness Regulation and Food Safety Considerations



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*Thanks to Leanne Dubois, VA Department of Agriculture
Consumer Services and Martha Walker, VA Cooperative
Extension for Content*



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Before You Get Started

- Make a business plan and marketing plan
- Understand your market and food you want to produce for that market
- Understand your liability
- Get familiar with the correct regulations and exemptions
- Get inspected if required



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Check Your Zoning Laws

- May not be able to conduct business as you wish
- Make sure you are zoned for business activities
- Some towns/cities/counties do not allow home-based businesses even if allowed by state regulation



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Who Regulates What?

- U.S. Dept. of Agriculture (USDA) - Production and distribution of meat (2% or greater), poultry (2% or greater) and whole eggs
- U.S. Food and Drug Administration (FDA) - Production and distribution of all other non-meat packaged food
- States/local governments
 - Virginia Department of Agriculture (VDACS)
 - Inspection program considered "at least equal to" USDA (meat) and FDA (non-meat) inspection programs
 - Virginia Department of Health (VDH)
 - Operates under FDA Food Code (Currently 2009 version)
 - Local jurisdictions may have more stringent codes



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Who Regulates What: VA Department of Agriculture and Consumer Services (VDACS)

- Food Manufacturers
- Commercial
- Home
- Food Warehouses
- Supermarkets and Convenience Stores
- Seafood markets
- Bakeries
- Farmer's Markets Vendors (Overseen by local and state government)



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Who Regulates What: VA Department of Health (VDH)

- Restaurants
- Catering Operation
 - Trucks and mobile units
- Carts and mobile units
- Bed and Breakfasts
- Delis (Not attached to Store)
- Convenience Store Delis
 - Greater than 15 seats
 - Associated with a national chain
- Private Farmer's Markets (Usually only inspect mobile units and foods needing temperature control for safety)



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Home-based Kitchens or Separate Commercial Kitchen?

- VDACS
 - Allows home-based businesses
 - **Pets must be excluded by doors on kitchen and storage areas (Keeping pets in closed rooms will not satisfy requirement)**
 - Does not allow home kitchens to be used for dairy product or meat products manufacturing
 - Facility must be separate facility from home kitchen
- VDH
 - Does not allow home-based businesses
 - Must be separate facility from homeowner's kitchen

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VDACS Resources

- Virginia Department of Agriculture and Consumer Services (VDACS)
www.vdacs.virginia.gov
 - Office of Food Safety and Inspection
 - Assists in facility planning and layout
 - Authorizes facility for food processing
 - Enforces food regulations
 - Divisions include:
 - Office of Dairy and Foods (FDA-regulated products)
 - Office of Meat and Poultry (USDA-regulated products)
 - Consumer Affairs
 - Office of Plant Industry Services-Agricultural Commodity Inspection – Animal Feeds and Treats



VDACS Resources



- Office of Marketing Services
 - Virginia's Finest Trademark Program
 - Virginia Grown Program – direct marketing support program for growers
 - Marketing Board News
 - Trade Event Notification
 - Grading Services
 - Connecting with Food Distributors

Office of Dairy and Foods Inspection Exemption

- Exempt from State Inspection
- Private home where resident is processing specific food products (no meat, poultry or dairy)
 - Sold directly to consumers for their own consumption and **not for resale**
 - Sold at the private home or at farmer's markets
 - Labeled "NOT FOR RESALE – PROCESSED AND PREPARED WITHOUT STATE INSPECTION"
 - Cannot be sold to other establishments (wholesale or retail) or on internet

Office of Meat and Poultry Exemptions

- Custom Exemption
 - Owner of the livestock or poultry slaughter for own use or for use by members of his household or nonpaying guests
 - Cannot be sold
 - Must be marked "NOT FOR SALE"
 - Custom Permit – custom slaughtering animals owned by others
 - Cannot cross state lines
- No meat (other than poultry) can be sold without inspection!

Office of Meat and Poultry Exemptions

- Poultry Exemption
 - Poultry can be sold
 - **FDA Food Code requires poultry sold at retail stores and prepared in restaurants to come from an approved source**
 - Basic sanitary requirements must be met
 - Selling direct to consumer:
 - 1,000 birds up to 20,000 birds/year must apply for Poultry Permit of Exemption
 - Less than 1,000 birds permit may not be needed
 - Must maintain records
 - Selling to restaurants, hotels, or boarding houses
 - Must apply for Poultry Permit of Exemption
 - No more than 20,000 birds/year
 - Must maintain records
 - Cannot cross state lines

Virginia Department of Agriculture and Consumer Services

REGULATORY SERVICES

The Department provides the following services on behalf of the Commonwealth:

- Administers assigned consumer protection laws and regulations to maintain integrity between buyers and sellers;
- Administers regulatory programs to ensure that safe, wholesome, unadulterated and truthfully labeled food and agricultural products are offered for sale to consumers;
- Administers assigned environmental protection laws and regulations to protect the environment from pesticide misuses, plant insects and plant diseases, and to protect endangered plant and insect species;
- Protects consumers against fraudulent, deceptive and illegal practices in order to reduce the incidence of economic crime while improving the ability of the consuming public to make informed decisions;
- Assists in the resolution of product and service disputes; and
- Provides unfair competition between regulated industries.

Food Safety and Inspection

Meat and Poultry
State Milk Commission
Consumer Protection
Charitable and Regulatory Programs
Plant Industry Services
(Insects and Diseases)
Environmental Protection
Pesticides
Endangered Species
Aquaculture Programs
Animal Health, Welfare & Laboratory Services

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REGULATORY SERVICES

Dairy and Poultry

Submit a Consumer Complaint

Start a New Food Business

- Dairy Farms and Milk Handlers
- Charitable Operations
- Home and Commercial Kitchen-based Businesses and Food Service Vendors
- Food and Beverage Manufacturer Facilities and Distributors
- Retail Food Stores and Food Service Shops
- For universities, colleges, hospitals, and others

Information for Existing Businesses

- Conflict of Interest
- Virginia Food Laws
- Dairy Regulations
- Food Safety Program Annual Fees - FPGS
- Food and Beverage Manufacturer Inspections
- Retail Food Store Inspections

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Meat and Poultry

The goal of the Office of Meat and Poultry Services (OMPS) is to ensure the production of safe, wholesome, and truthfully labeled meat and poultry products as well as humane treatment of the livestock that are processed. OMPS provides inspection services to individuals or companies that slaughter and/or process meat and poultry products.

Publications

- A Guide to Virginia's Meat and Poultry Inspection Program
- Directory of Laboratories
- How to Obtain State Meat and Poultry Inspection (Licensing) Design and Construction Requirements for a Custom Permit
- Guidance for Determining Whether a Poultry Slaughter or Processing Operation is Exempt from Inspection Requirements for a Custom Permit
- Virginia Meat and Poultry Inspection Act
- Virginia Meat and Poultry Inspection Regulations
- USDA FSIS

For more information, please contact:

Barry Jones, Acting Program Manager
VMPS-Office of Meat and Poultry Inspection
P.O. Box 1163, Richmond, VA 23218
804.776.4500
Email: barry.jones@doacs.virginia.gov

Current Good Manufacturing Practices (cGMP's)

- Code of Federal Regulations (CFR - Title 21; Part 110)
- Fundamental to food safety
- Topics
 - Personnel
 - Plant and Grounds
 - Sanitary operations
 - Equipment and Utensils
 - Processes and Controls
 - Warehousing and Distribution



Regulations for Retail Food Products

- Low Acid Canned Foods
 - 21 CFR Part 113
- Acidified Canned Foods
 - 21 CFR Part 114
 - Emergency Permit Control (21 CFR 108.25)
- Meat and Poultry
 - 9 CFR Parts 300-592



Produce Safety Course for Direct Marketers

Offered by Extension Agents Across the Commonwealth



Considerations for Marketing Food

- Low-risk foods
 - Baked goods without fillings, custards, creams, etc.
 - Candies
 - Jams and jellies made without low-acid ingredients
 - Dry mixes
 - Naturally acidic foods



Understanding Your Food



Water Activity (Aw)

The amount of water available to microorganisms to use for growth and survival.

- Food
- Acidity
- Time
- Temperature
- Oxygen

If water activity is used to control microbial growth, the value should be 0.85 or lower.

Common ways to lower water activity:

- ❖ **Moisture**
 - Salt
 - Sugar
 - Dehydration
 - Boiling off water



Considerations for Food Product and Regulation Implication

• Canned foods

– Acid foods

- Ingredients are high-acid foods with pH less than 4.6
- Not as many regulations as acidified foods
- Considered low risk foods
- If not processed correctly, product will spoil but will not be a safety issue



Considerations for Food Product and Regulation Implication

• Acidified foods

- Low acid foods + acid foods = $\text{pH} \leq 4.6$
- pH is decreased to ≤ 4.6 through the addition of acidity



Considerations for Food Product and Regulation Implication

• I want to sell low-acid foods!

- Cannot sell low-acid canned foods.
- Can sell frozen or refrigerated low-acid foods.
- Can sell acidified foods



NO!

Considerations for Food Product and Regulation Implication

• Acidified Foods - Wholesale

- ☐ Food Tested by Process Authority, Obtain Scheduled Process
- ☐ Better Process Control School
- ☐ Register Business with FDA (Form 2541)
- ☐ Register Scheduled Process with FDA (Form 2541a)
- ☐ Must Pass State Inspection Before Selling Product Wholesale
- ☐ Must Keep Written Records

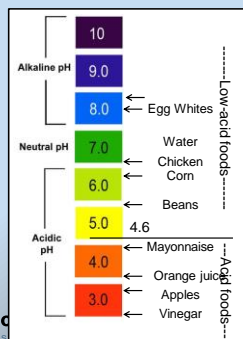
Safety Considerations

• Food

❖ Acidity

pH = amount of acid
Low acid foods = pH > 4.6

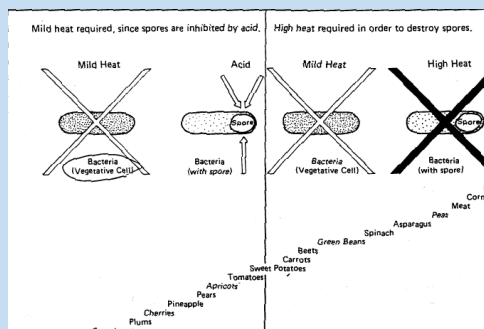
- Time
- Temperature
- Oxygen
- Moisture



Why Acidity is the most important factor when it comes to canning?

• *Clostridium botulinum*

- Spore-former: spores in the environment
 - Can't make you sick
 - Infant botulism
- ONLY under anaerobic conditions (commonly created during preservation), spores germinate (grow) into vegetative cells
- Vegetative cells produce toxin that cause illness
- Spores will not germinate in acid environment with pH below 4.6



Understanding Your Food

• How are you supposed to know? Get your food tested

- pH
- Water activity
- Classification and regulations
- Scheduled process



Virginia Department of Health (VDH) www.vdh.virginia.gov



Who needs to apply for a permit to operate?

- Any person who owns, establishes, conducts, maintains, manages, or operates any food establishment being regulated by VDH in this commonwealth.
- Permits are not transferable from one person or location to another (exception possible for mobile units attached to fixed location)

VDH Responsibilities

- Issue Permit to Operate at State/Local Level
- As condition of holding permit:
 - Must submit to regular evaluations by issuer
 - Must comply with local/state regulations
 - Report to health dept. if suspect outbreak
- Provide education or direct to resources
- Notify if conditions arise that could affect operation
- Initiate enforcement

How to Apply for a Foodservice Permit and Ready for Inspection

- Fill out an application form
- Pay a \$40 permit application
 - \$40 plan review fee
 - \$425 for septic review
 - \$300 for well inspection
- Learn about food safety
- Plan Review : At least 2 weeks prior to construction start up-submit to scale drawings, equipment specification sheets and menu

Food Sources

Food Code States:

- Food shall be obtained from sources that comply with law.
- Food prepared in a private home may not be used or offered for human consumption in a food establishment.
- Packaged food shall be labeled as specified in law.



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- Learn about foodborne illness and how to prevent it through best food safety practices
- Offered throughout commonwealth by Virginia Cooperative Extension Agents
- Offered on-line



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Food Innovations Program

www.fst.vt.edu

www.ext.vt.edu/topics/food-health/food-innovations

- Provide testing of food products for safety and quality
- Act as process authority for acidified foods (accepted by FDA, USDA, VDH and VDACS)
- Conduct Better Process Control School workshops required for acidified food producers
- Provide guidance on reformulation and product design
- Provide technical guidance on safety and regulatory issues governing food products
- Assist with compliance with regulatory agencies
- Nutritional Label Services



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Process Authority

- Based on regulations, a person or institution with expert knowledge and experience to make determinations about the safety of a food process and formulation.
- Required to maintain product confidentiality
- Determines safety of processing parameters based on food product characteristics



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Food Innovations Program Service We Do Not Provide

- Process Authority Evaluation for low-acid foods
- Nutritional Testing
- Allergen Testing (including Gluten)
- Complete Product Development – cannot develop recipes or complete processes
 - Must go through Department of Food Science and Technology as field trial
 - Must have faculty sign-off
 - Must go through university intellectual property agreement



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Questions?

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