

Oregon's Farm Direct Marketing Law: Producer-Processed Value-Added Products

A guide for farmers and market managers

Oregon's Farm Direct Marketing Law allows farmers to turn what they grow into low-risk, value-added foods like jams and pickles, to sell direct to consumers, without being a licensed food processor. **That sentence – like the law itself – has a lot of detail packed into it.** This short guide unpacks those details for farmers & farmers' market managers. *(It's handy for other people too.)*

Use this flow chart to see if a product qualifies for Farm Direct. Then keep going for even more useful info.

Is the product one of the following:

Fruit based syrups or fruit in syrup



Acidified¹ fruits or vegetables



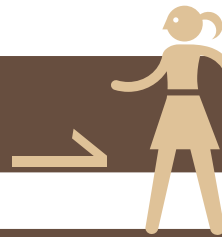
Jams, jellies, or preserves



Lacto-fermented² fruits or vegetables

YES

Is the product sold directly to the consumer?³



NO

NO

*Footnotes on Pg. 2

YES

Does the farmer grow all of the principal ingredients?

(with the exception of herbs, spices, salt, vinegar, pectin, lemon or lime juice, honey, and sugar)

NO

YES

Is the product processed by the farmer?



NO

YES

Does the farmer sell under \$20,000 a year of producer-processed value-added product, total?⁴



NO

YES

If the product is an acidified fruit or vegetable:⁵

Is the farmer using a recipe approved by a recognized process authority?⁶

Is the farmer testing the pH of the product and keeping records?



NO

YES

CONGRATULATIONS!

The product is exempt from licensing under the OR Farm Direct Value Added Law.

The product does not meet the standards for the OR Farm Direct Value Added Exemption. See following resources for more information.

HOLD ON, FARMERS

You have one more step: check your farmers' market rules about these products. Not all markets allow the sale of producer-processed, Farm Direct products, even if they meet all conditions of the law.

Additional Resources

MAKE SURE THE PRODUCT LABEL HAS ALL THE REQUIRED INFO!

- Product identity
- Name of agricultural producer
- Address of agricultural producer
- Net weight
- List of ingredients (including any major allergens)
- “THIS PRODUCT IS HOMEMADE AND IS NOT PREPARED IN AN INSPECTED FOOD ESTABLISHMENT”
- “NOT FOR RESALE”

RECORDKEEPING

Sales records are required for all value-added products sold under the exemption. Must include the product(s) sold, price, quantity sold, and a current rolling total of year-to-date sales.

Records required for each batch of acidified foods: Recipe source, processing times and procedure, date, finished equilibrium pH value. If an electronic pH meter is used, it must be calibrated and pH meter calibration records must be maintained.

Copies of all records must be maintained and available to the ODA for a period of three years.

FLOW CHART FOOTNOTES

- 1 Acidified foods are typically low-acid foods (such as cucumbers, beans, beets, and peppers) that have had an acid(s) added to decrease pH below 4.6. Acidified foods have a water activity (A_w) greater than 0.85 and a finished equilibrium pH of 4.6 or lower (such as vinegar pickles, salsas, relishes, hot sauce, and chutneys). Under the farm direct exemption only fruits and vegetables can be acidified.
- 2 Lacto-fermented foods are fruit or vegetables that have been naturally fermented by lactic acid, lowering the pH to 4.6 or below, with no additional acids added (such as sauerkraut and kimchi).
- 3 Resale or consignment sales of producer-processed products are not allowed.
- 4 The \$20,000 limit only applies to producer-processed value-added products. See above for recordkeeping requirements.
- 5 Naturally acidic foods (jams, jellies, preserves, fruit based syrups, fruit in syrup, and lacto-fermented vegetables) must be produced in a clean, healthful, and sanitary manner. Refer to OSU Extension's critical canning steps (SP 50-748, 50-749, 50-750, & 50-751) for more information about best practices.
- 6 The following publications contain approved processes: USDA Complete Guide to Home Canning, Pacific Northwest Extension Publications, and So Easy to Preserve by the University of Georgia Cooperative Extension. A unique or new process not found in one of the above may only be used if a recognized process authority (such as the OSU Department of Food Science and Technology) first approves the process.

PH TESTING

pH meter calibration records and equilibrium pH measurement records are required for each batch of acidified food.

If the pH of the product is 4.0 or lower, colorimetric methods (e.g. litmus paper) may be used. However, pH litmus paper may not work well with some colored products.

If the pH of the product is more than 4.0, a pH meter must be used.

Naturally acidic foods (like fruit jams and jellies) are not required to be pH tested but they must have a pH below 4.6. When in doubt farmers can take pH measurements to verify that the product is acidic.

Certain fruits and vegetables are borderline acidic and should be pH tested to ensure safety (e.g., figs, Asian pears, and tomatoes).

Detailed instructions for pH testing can be found in *Purchasing and Using a pH Meter* from University of Wisconsin Extension: http://foodsafety.wisc.edu/assets/pdf_files/what_is_ph.pdf.

OTHER PRODUCTS ALLOWED UNDER THE FARM DIRECT MARKETING LAW

**All products must be grown and processed by the farmer.*

- fruits, vegetables, herbs (fresh and dried)
- legumes and seeds (fresh and dried)
- grains, whole or cracked
- parched and roasted grains
- nuts (shelled and unshelled)
- flour
- eggs, in shell
- natural honey, no additives
- The following products as long as they are prepared on site, not intended for immediate consumption and are packaged to take home: popped popcorn, roasted nuts, roasted peppers, and roasted corn-on-the-cob

OREGON DEPARTMENT OF AGRICULTURE FAQs ABOUT FARM DIRECT

Producer processed value-added products:

<http://www.oregon.gov/ODA/shared/Documents/Publications/FoodSafety/FarmDirectMarketingProcessedProducers.pdf>

Other farm products covered by the law:

<http://www.oregon.gov/ODA/shared/Documents/Publications/FoodSafety/FarmDirectMarketingAgProducts.pdf>

WHERE TO FIND APPROVED RECIPES AND CHECK YOURS

ODA recognizes the following references as providing approved processes and formulations (recipes) for acidified products sold under the Farm Direct exemption:

- USDA Complete Guide to Home Canning: http://nchfp.uga.edu/publications/publications_usda.html
- So Easy to Preserve, from the National Center for Home Food Preservation: <http://nchfp.uga.edu/>
- Pacific Northwest Extension Food Preservation publications: more than 60 short (2-3pp), downloadable guides offering a wide range of home food preservation instructions and information <http://extension.oregonstate.edu/fch/food-preservation>

Farmers may also submit samples and processes to a recognized process authority.

NEXT STEPS IF PRODUCTS DON'T QUALIFY FOR FARM DIRECT

Value added products not covered under the Farm Direct exemption – including products made from recipes not listed by an approved source or with ingredients not grown by the farmer – must be made in a licensed facility. There are four options for processing in a licensed facility.

- Obtain a domestic kitchen license.
- Build a commercial food processing facility.
- Rent space in a commercial or commissary kitchen. This is a good alternative to building your own facility. Search online for “commercial kitchens for rent.” Keep in mind that you will still need to obtain your own food processing license. Contact your local ODA food safety specialist for more information.
- Use a local food processor, also known as a co-packer, that will make, package, and label your product for you following an approved recipe in their licensed facility. Contact OSU's Food Innovation Center at 503-872-6680 for a list of co-packers: <http://fic.oregonstate.edu/>.

For more information about licensing requirements for domestic kitchens and commercial facilities visit the ODA Food Safety Program web page <http://egov.oregon.gov/ODA/FSD/>.



Extension Service
Small Farms Program
Oregon State University
smallfarmsprogram@oregonstate.edu