

Oregon's Farm Direct Marketing Law: Producer-processed Value-added Products

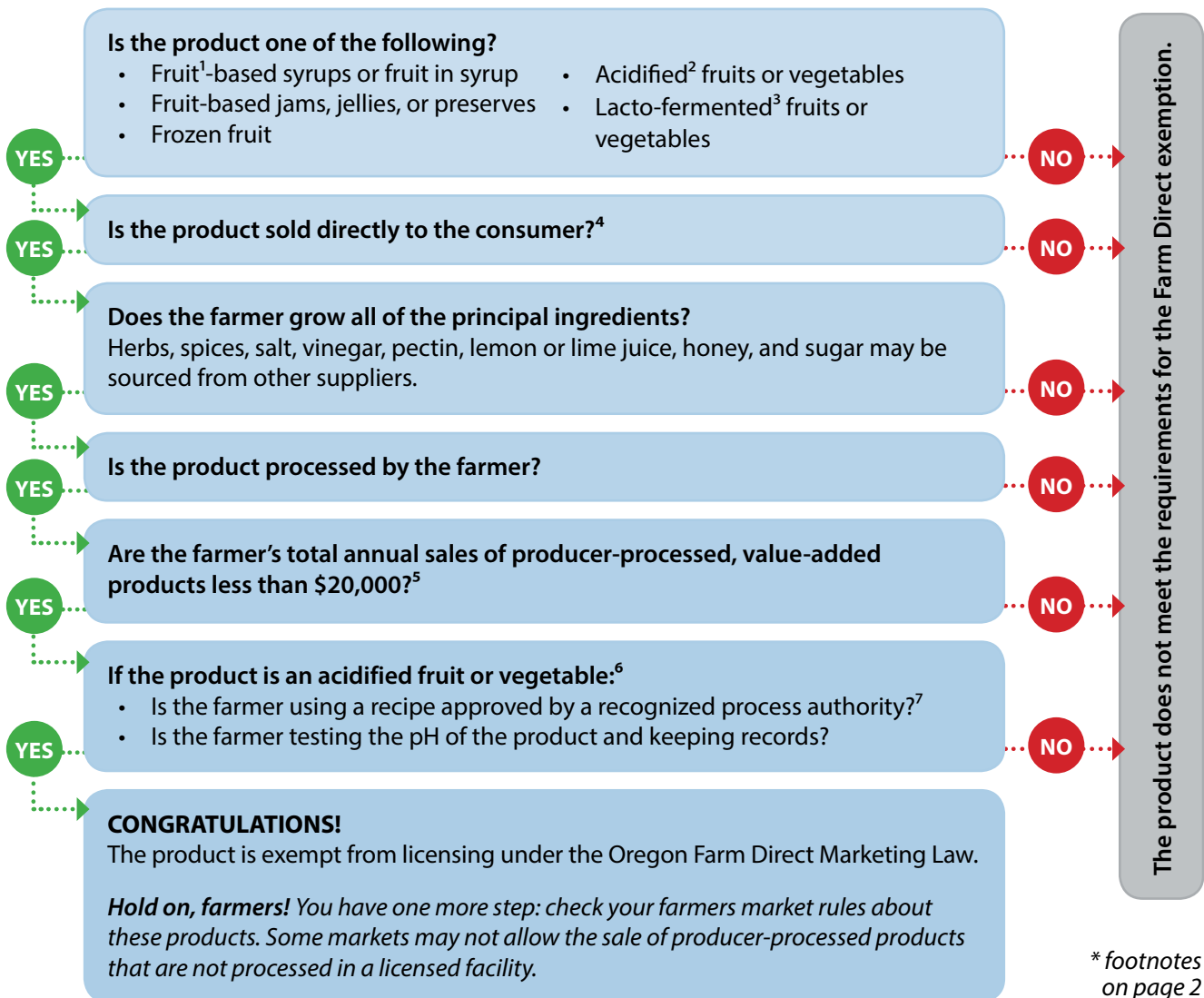
A guide for farmers and market managers

Sara Runkel, Lauren Gwin, and Kelly Streit

Oregon's Farm Direct Marketing Law allows farmers to turn what they grow into low-risk, value-added products like jams and pickles, and to sell them directly to consumers without being licensed food processors. **That sentence—like the law itself—has a lot of detail packed into it.** This short guide unpacks those details

for farmers and farmers market managers. (It's useful for other people, too.)

Use this flow chart to determine whether a product qualifies for Farm Direct sales. Then read on for more information.



Flow chart footnotes

1. Fruit must have a natural acidity of pH 4.6 or lower. Some fruits have a pH at or above 4.6, including figs, melons, Asian pears, persimmons, and some tomatoes. An acid, like vinegar or citric acid, must be added to these products to make them an acidified food and ensure their safety.
2. Acidified foods are typically low-acid foods—such as cucumbers, beans, beets, and peppers—that have had acid(s) added to them to lower the pH. Acidified foods have a finished equilibrium pH of 4.6 or lower and a water activity (A_w) greater than 0.85. Some examples are vinegar pickles, salsas, relishes, hot sauces, and chutneys. Note: Under the Farm Direct exemption, only fruits and vegetables can be acidified.
3. Lacto-fermented foods include fruits or vegetables that have been naturally fermented by lactic acid-producing bacteria, lowering the pH to 4.6 or below. No additional acids are added during the fermentation process. Two examples are sauerkraut and kimchi.
4. Resale or consignment sales of producer-processed products are not allowed.
5. The \$20,000 limit only applies to producer-processed, value-added products. See recordkeeping requirements below.
6. Naturally acidic foods—such as fruit-based jams, jellies, preserves, and syrups; fruit in syrup; frozen fruit; and lacto-fermented vegetables—must be produced in a clean, healthful, and sanitary manner. Refer to *USDA Complete Guide to Home Canning* for more information about best practices.
7. The following resources 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 (see page 4). A unique or new process not found in one of these references may be used only if a recognized process authority first approves the process. The OSU Department of Food Science and Technology is a recognized process authority.



Photo: Lynn Ketchum, © Oregon State University

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)
- The following notifications:
 - “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. Sales records must include the product(s) sold, price, quantity sold, and a current rolling total of year-to-date sales.

Additional records are required for each batch of acidified foods. These records must include the recipe source, processing times and procedure, date, and 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 kept available for the Oregon Department of Agriculture (ODA) for a period of three years.



Photo: Alicia / CC BY-NC 2.0

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 such as litmus paper may be used. However, pH litmus paper may not work well with some colored products.

If the pH of the product is between 4.0 and 4.6, a pH meter with a minimum accuracy of ± 0.01 to 0.02 pH must be used.

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

Certain fruits and vegetables such as persimmons, Asian pears, and tomatoes are borderline acidic, and products made from them should be pH tested to ensure safety.

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.

Examples of producer-processed products not allowed under the Farm Direct Marketing Law (This list is not exhaustive.)

- any product with animal protein (e.g., meat, fish, dairy, eggs)
- kombucha
- frozen vegetables
- apple cider vinegar

If you are not certain that your product qualifies, contact the ODA Food Safety Division. Their contact information is found at the end of this publication.

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, cracked, or ground)
- uncooked parched or roasted grains
- nuts (shelled and unshelled)
- flour
- eggs, in shell
- honey, no additives

The following products are also allowed 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
- 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>



Photo: Matt / CC BY-NC 2.0

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 University of Georgia Cooperative Extension: <http://setp.uga.edu/>
- Pacific Northwest Extension Food Preservation publications: more than 60 short (2 to 3 pages), downloadable guides offering a wide range of home food preservation instructions and information <http://extension.oregonstate.edu/fch/food-preservation>

Farmers may also submit a copy of the recipe—including the product ingredients list, directions, formulation, and thermal processes used—to a recognized authority for approval. Contact the OSU Department of Food Science and Technology for more information: <http://foodsci.oregonstate.edu>.

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 must still obtain your own food-processing license. Contact your local ODA food safety specialist for more information.



Photo: Lynn Ketchum, © Oregon State University

- Use a local food processor (also known as a co-packer) who will make, package, and label your product for you in their licensed facility following an approved recipe. Contact OSU's Food Innovation Center (<http://fic.oregonstate.edu/>) at 503-872-6680 for a list of co-packers.

For more information about licensing requirements for domestic kitchens and commercial facilities, and to find your local ODA food safety specialist, visit the ODA Food Safety Program web page: <http://egov.oregon.gov/ODA/FSD/>.

Note

This document should be regarded strictly as a supplement to the Oregon Farm Direct Marketing Rules and should never be considered a substitute to reading and understanding the regulations. For a complete list of requirements, please consult OAR 603-025-0215 thru 603-025-0275 (https://secure.sos.state.or.us/oard/viewSingleRule.action;jsessionid_OARD=bjRQOeOsKR-nNULEPytTlviFNmxLs4ByYoeqCOPI3uWycWGjMSUA!-330355351?ruleVrsnRsn=156534).

Sara Runkel, community horticulturalist and small farms faculty, Josephine County Extension; Lauren Gwin, Extension community food systems specialist, Center for Small Farms & Community Food Systems; Kelly Streit, family and community health instructor, Clackamas County Extension; all of Oregon State University.

© 2018 Oregon State University. Extension work is a cooperative program of Oregon State University, the U.S. Department of Agriculture, and Oregon counties. Oregon State University Extension Service offers educational programs, activities, and materials without discrimination on the basis of race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, familial/parental status, income derived from a public assistance program, political beliefs, genetic information, veteran's status, reprisal or retaliation for prior civil rights activity. (Not all prohibited bases apply to all programs.) Oregon State University Extension Service is an AA/EOE/Veterans/Disabled.

Published June 2018