

## Farm Direct FAQ



### When is the Farm Direct law effective?

January 1, 2012.

The Oregon Department of Agriculture rules implementing the law will be adopted as the Farm Direct Marketing Rules and will be found at OAR 603-025-0221 through 0271.

### What kinds of businesses are covered?

The new law and rules implementing it cover agricultural producers (farmers) selling crops, eggs and honey that they produced directly to retail customers. Farm direct products cannot be commingled with those of other agricultural producers.

Farm direct venues include farmers' markets, roadside stands, community supported agriculture (CSA) drop sites, buying clubs, church bazaars and other venues, provided the sales are direct from farm to retail customer.

Farm Direct rules do not change licensing requirements for selling through stores, restaurants and institutions.

Farm direct marketers may consign a limited number of farm products to another direct farm seller under certain conditions assuring their traceability.

### What farm products can an agricultural producer sell directly?

Fresh and dried fruits and vegetables, grains, legumes and seeds.

Eggs and unadulterated honey.

Pickles, sauerkraut, preserves, jams, jellies and syrups under certain conditions.

A detailed list of those products that can be sold without licensure and inspection and the conditions on their sale can be found in Attachments A and B accompanying this document.

### Can I sell my own meat, poultry, or fish without a license?

No. Farm Direct Marketing Rules contain no exemption from licensure for the sale of meat, poultry, fish or dairy in any form.

Under separate rules there is an [exemption](#) from licensing for a person who slaughters not more than 1,000 poultry per year and meets other requisites outlined in the [law](#).

### Can I make preserves in jars and sell them without a license?

Yes. Farm Direct Marketing Rules cover a number of value-added, shelf-stable products that are bottled, canned or packaged. These items include: syrups, jams, preserves, jellies and canned fruit.

Other products that may be produced and sold under the exemption include: pickles, chutneys, relishes, sauerkraut, and some salsas.

The foods above must be producer-processed; acidic; labeled with the statements, "This product is homemade and is not prepared in an inspected food establishment," and "Not For Resale."

There is a gross annual sales limitation of \$20,000 for these foods.

### **What do the Farm Direct Rules mean by "acidic food?"**

An "acidic food" is a bottled, packaged, or canned food with a pH at or below 4.6. There are three categories of acidic foods: naturally acidic (berries and plums, for example), acidified (dill pickles, for example) and lacto-fermented fruits and vegetables (sauerkraut, for example).

### **Do agricultural producers need to grow the principal ingredients?**

Yes, agricultural producers must grow all the principal ingredients, such as strawberries for strawberry jam, in order to be eligible for the exemption. No commingling of principal ingredients is allowed. They are not required to produce the sugar, pectin and lemon juice for the jam.

Farm Direct Marketing rules limit the additional, non-principal ingredients that may be added to foods processed under these rules to herbs, spices, salt, vinegar, pectin, lemon or lime juice, honey, and sugar.

Processed products must be producer-processed-meaning that the agricultural producers making the products also grew the principal ingredients. Agricultural producers who have another licensed processor manufacture their product for them are not eligible for the Farm Direct Marketing exemption.

### **What is the gross annual sales limitation?**

Once an agricultural producer's gross sales of jams, jellies, pickles and other acidic foods reach \$20,000, the producer must either obtain a license for his or her own facility or transfer production to a licensed co-processor.

The \$20,000 cap is calculated by adding together the gross sales of all acidic products produced under the farm direct exemption during a calendar year. The exemption does not apply individually to each separate product.

### **Can I sell canned foods other than acidic foods?**

No. Canned goods must have a pH at or below 4.6. Non-acidic or low-acid canned foods with a pH higher than 4.6, such as peppers, green beans or sweet corn, pose a

substantial risk of botulism and other food safety concerns, and must be processed by a licensed and inspected processor.

### **How will I know if my canned product meets acidic standards?**

Agricultural producers must monitor and record the pH (acid level) of each batch of acidified foods, as will be required by administrative rule, to ensure the safe production of canned products.

Monitoring of pH levels in tomato-based foods is especially important since certain varieties of tomatoes may not be sufficiently acidic to produce a safe product without the addition of an acid, such as vinegar.

### **Are there labeling requirements?**

Yes. All state and federal labeling requirements still apply, even to foods produced under the farm direct exemption.

Additionally, the principal display panel for certain products must bear the following two statements: "This product is homemade and is not prepared in an inspected food establishment," and "Not For Resale." Please see Attachment A.

Dried fruits, vegetables and herbs, including those dried as part of normal post-harvest handling do not require the "homemade" disclaimer on the label. State and federal labeling laws require that the information on the label includes: a list of ingredients, net weight, and the name and address of the agricultural producer.

### **Can I dry what I grow if I want to sell it without a license?**

Yes. Farm Direct Marketing Rules allow agricultural producers to sell fruits, vegetables and herbs they have grown, harvested and dried without a license. No commingling is allowed.

A license is not required to sell nuts grown, harvested, cured or dried, and cracked by agricultural producers.

Drying farm produce such as garlic and potatoes as a part of post-harvest handling does not require a license.

### **Can I direct-market grains and legumes that I have grown?**

Agricultural producers can grow and process for farm direct sale a variety of products: whole, hulled, crushed or ground grains, legumes and seeds, plus parched or roasted grains-if of a type customarily cooked before consumption. No commingling is allowed. These products must bear a label stating: "This product is homemade and is not prepared in an inspected food establishment," and "Not For Resale."

### **How do the rules affect the sale of honey and eggs?**

Farm Direct Marketing Rules allow the sale of farm-produced honey and eggs. Eggs and honey must bear a label that states: "This product is homemade and is not prepared in an inspected food establishment," and "Not For Resale."

Only farm direct eggs (those sold by the egg producer to the end user) are free from licensing requirements. Eggs sold under consignment and those sold at retail stores require licensing.

Honey producers still need an apiary registration with the Commodity Inspection Division of ODA if they own five or more hives.

Producers selling only to retail customers (end users) do not need a Food Safety Division license, regardless of the number of hives owned. Producers who have more than 20 hives and are wholesaling honey still need a Food Safety Division license.

### **What types of food products can be processed at the market?**

Farm Direct Marketing Rules allow an agricultural producer to roast the producer's own peppers, nuts and corn-on-the-cob and to pop the producer's own popcorn at farmers' markets, if the foods mentioned above are processed after purchase and are not sold for immediate consumption.

If an agricultural producer wishes to pop or roast his/her own commodities for immediate consumption, he/she should contact the [County Health Department](#) to discuss the requirements for a temporary restaurant license.

### **Can agricultural producers sell items under consignment?**

Under Farm Direct Marketing Rules, consignment means selling products for another agricultural producer who is from either the same or an adjoining county as where the seller is located.

The agricultural producer doing the selling must represent the consigned goods as property of the agricultural producer who produced them, and must ensure that the products are clearly labeled with the name, business address, and county of the agricultural producer who produced the products.

Consignment is limited to farm direct sales of: fresh fruits, vegetables and herbs, unshelled nuts, honey, plus items like garlic and potatoes that are cured or dried by the agricultural producer as part of routine post-harvest handling.

Eggs also can be sold under consignment if the egg producer has an egg handler's license.

### **Do the rules affect the organizations that run farmers' markets?**

Although the bill primarily addresses activities of agricultural producers (farmers), one section of the bill does address the characterization of farmers' markets and other organizations (such as church bazaars or CSA drop sites) where farm direct marketing takes place.

Organizations that manage a group of farm direct marketers and the spaces upon which their stands are set up are not required to be licensed as food establishments when the organizations' activities are limited to hosting farm direct marketers.

If an organization that manages a site where farm direct marketing takes place were to operate in the same manner as a grocery store - buying and selling food - it would need to be licensed as a food establishment.

Organizers and/or managers of sites where farm direct marketing takes place should make sure that the products offered for sale meet one of the following three requirements:

The food is in the category of fresh fruits and vegetables grown by the agricultural producer.

The food is otherwise exempted under the Farm Direct law or rules; or

The food is produced and/or sold by a licensed establishment.

## Attachments A and B

### Attachment A: Foods Included in the Farm Direct Bill

Food Item	No Sales Limit	\$20,000 Sales Limit	"Not Inspected" Labeling Requirement	Allowed For Consignment*
fresh fruits, vegetables, herbs	X			
dried fruits, vegetables, herbs	X			
grains, whole or cracked	X		X	
parched or roasted grains	X		X	
fresh legumes and seeds	X			
dried legumes and seeds	X		X	
flour	X		X	
nuts in shell	X			
shelled nuts	X			
eggs in shell	X		X	
natural honey, no additives	X		X	
canned fruit, syrups, preserves, jams, jellies		X	X	
salsa and hot sauce		X	X	
sauerkraut or lacto fermented vegetables		X	X	
pickles		X	X	

\*Consignment allowed when the egg producer has an egg handler license.

+Not unless part of routine post-harvest handling.

**Attachment B: Conditions of Sale  
Unlimited Sales**

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

**Subject to \$20,000 Annual Gross Sales Limitation and extra labeling requirements**

canned fruit (acidic, fruit-based)  
syrups (acidic, fruit-based)  
preserves (acidic, fruit-based)  
jams (acidic, fruit-based)  
jellies (acidic, fruit-based)  
salsas that are naturally acid, or made acidic by addition of ingredients  
sauerkraut, kim chi, and other lacto fermented fruits and vegetables  
pickles in vinegar (fruit or vegetable)  
pickle relish, acidified  
chutneys that are naturally acid, or made acidic by addition of ingredients