

Marketing Processed Agricultural Products in Florida: Steps to Take¹

Amarat H. Simonne, Bradley J. Burbaugh, Elena Toro, Soohyoun Ahn, Keith R. Schneider, Renée M. Goodrich-Schneider, Allen F. Wysocki, and Anna E. Doughty²

Introduction

In Florida, with exception of certain Cottage food products, fresh tomatoes, and citrus (<http://www.freshfromflorida.com/Divisions-Offices/Fruit-and-Vegetables/Tomatoes>; <http://www.freshfromflorida.com/Divisions-Offices/Fruit-and-Vegetables/Citrus>), there are minimal regulations for establishments that sell and pack fruits and vegetables in their raw or natural states, including those fruits or vegetables that are washed, colored, or otherwise treated while still in their unpeeled, natural form before they are marketed. Requirements for selling fresh tomatoes and citrus, and other fresh, unprocessed fruits or vegetables, will be discussed in a separate publication.

However, fruits, vegetables, and other agricultural commodities that are further processed, bottled, or packaged for human consumption must be prepared in accordance with statutes enacted by the Florida Legislature and rules

administered by the Florida Department of Agriculture and Consumer Services (FDACS).

State regulations regarding food preparation for human consumption are outlined in Florida Statutes, Chapter 500 (<http://www.freshfromflorida.com/Divisions-Offices/Food-Safety/Business-Services/Food-Inspections>), more commonly referred to as the Florida Food Safety Act. This statute defines “food establishment” as any factory, food outlet, or other facility manufacturing, processing, packing, holding, or preparing food, or selling food at wholesale or retail. Food establishments in Florida, depending on the establishment’s type of operation, need

- an individual on staff who has completed the food protection manager certification;
- a facility that meets minimum construction and sanitation standards;

1. This document is FCS8941, one of a series of the Family, Youth, and Community Sciences Department, UF/IFAS Extension. Original publication date March 2011. Revised July 2014. Visit the EDIS website at <http://edis.ifas.ufl.edu>.

2. Amarat H. Simonne, professor, Department of Family, Youth, and Community Sciences, UF/IFAS Extension; Bradley J. Burbaugh, former Extension agent I, Duval County, UF/IFAS Extension; Elena Toro, Extension agent I, Suwannee County, UF/IFAS Extension; Soohyoun Ahn, assistant professor, Food Sciences and Human Nutrition Department, UF/IFAS Extension; Keith R. Schneider, professor, Food Sciences and Human Nutrition Department, UF/IFAS Extension; Renée M. Goodrich-Schneider, professor, Food Sciences and Human Nutrition Department, UF/IFAS Extension; Allen F. Wysocki, associate dean and professor, Department of Food and Resource Economics, UF/IFAS Extension; and Anna E. Doughty, environmental specialist II, Bureau of Food and Meat Inspection, Florida Department of Agriculture and Consumer Services, Tallahassee, FL.

The goal of this document is to give a general and simplified version of current laws and regulations for marketing processed agricultural products. It may not contain every single requirement. In addition, different kinds of agricultural products fall under different regulations. It is imperative for individuals to consult their local regulators or inspectors to learn about these specific requirements. This information is current as of July 1, 2014. Because food safety laws and regulations are constantly changing, it is the responsibility of the reader to verify the current requirements with their county Extension office or the respective state agencies.

The Institute of Food and Agricultural Sciences (IFAS) is an Equal Opportunity Institution authorized to provide research, educational information and other services only to individuals and institutions that function with non-discrimination with respect to race, creed, color, religion, age, disability, sex, sexual orientation, marital status, national origin, political opinions or affiliations. For more information on obtaining other UF/IFAS Extension publications, contact your county’s UF/IFAS Extension office.

U.S. Department of Agriculture, UF/IFAS Extension Service, University of Florida, IFAS, Florida A & M University Cooperative Extension Program, and Boards of County Commissioners Cooperating. Nick T. Place, dean for UF/IFAS Extension.

- a food permit from the FDACS Division of Food Safety; and
- if the establishment conducts a high-risk specialized process, or stores potentially hazardous food without temperature control, a letter of process approval from a food-processing authority is required before permitting.

Cottage Food Law (Florida Statutes, Chapter 500.80)

The 2011 Florida Legislature enacted House Bill 7209, which allows individuals to manufacture, sell, and store certain types of “cottage food” products in an unlicensed home kitchen. “Cottage food operations,” as they are called, require no license or permit from FDACS, and are not inspected by any state government entity. Cottage food products are considered non-potentially hazardous foods and include such items as breads, cakes, cookies, candies, fruit jams and jellies, and fruit pies. These cottage food operations must

- Be limited to selling cottage food products directly to the consumer, from the residence, at farmers’ markets, flea markets, and roadside stands.
- Make, package, and store products in the residence.
- Have a gross sales cap of \$15,000 annually.
- Include the following words on the product labels: *“Made in a cottage food operation that is not subject to Florida’s food safety regulations.”*

Visit <http://www.freshfromflorida.com/Divisions-Offices/Food-Safety/Business-Services/Food-Inspections/Cottage-Foods> for more information on requirements, acceptable food products, and unacceptable food products.

Food Protection Manager Certification

In order for an establishment to obtain a food permit, at least one employee must be certified as a Food Protection Manager. This person is responsible for all aspects of the operation at the food establishment. All processing establishments permitted by FDACS must have a certified Food Manager onsite during food preparation and processing. To become a certified food manager, a person must pass an exam from one of the three currently approved Food Protection Manager Certification Programs in the state of Florida: the National Registry of Food Safety Professionals (FSP Certificate), Prometric, or the National Restaurant

Association Educational Foundation (ServSafe Program). Certification is valid for 5 years. Visit http://www.freshfromflorida.com/content/download/23976/486635/certified_food_protection_mgr_guidelines.pdf for more information on requirements, exceptions, and costs. Certification costs (face-to-face training and exam) typically run \$110–\$160; online training and classes are also available. The use of study guides is advised if you wish to bypass training from the aforementioned agencies. For more information regarding training and examinations in your area, visit University of Florida’s Food Safety and Quality Program at <http://fyics.ifas.ufl.edu/foodsafety/>. Training is offered through [your local UF/IFAS Extension office](#) throughout the State of Florida.

Permitted Facility

A facility that meets the minimum construction standards for preparing or processing food products is referred to as a “permitted facility.” Individuals may build, retrofit, or rent/lease such a facility. For a detailed list of minimum construction standards published by FDACS, visit the FDACS Division of Food Safety website at <http://www.freshfromflorida.com/Divisions-Offices/Food-Safety> or http://www.freshfromflorida.com/content/download/23974/486625/min_standards_chklist.pdf.

An overview of the minimum construction standards is provided below; as an overview, it is not intended to be all-inclusive and should not be taken as such.

Summary of Minimum Construction Guidelines for Permitted Facilities

The facility must be separate from living quarters and sized adequately to comfortably house all equipment. A sealed concrete floor and washable paint on the walls and ceilings should be sufficient to meet the requirements for smooth surfaces that can be cleaned easily.

A three-compartment sink is necessary to wash, rinse, and sanitize equipment and, in some cases, the product being prepared for human consumption. A separate hand wash sink is also necessary. A separate mop sink or mop basin is required so that mop water can be dumped without the use of either three-compartment hand wash sinks or toilets. All sinks described above must have hot and cold running water.

The facility should be well lit; the minimum guidelines stipulate 50 foot-candles of light in food-processing areas. Typically, a household 60-watt bulb is sufficient to meet this requirement. All lights must be shielded. Bathroom facilities are required by law. Whether a food establishment has to have a bathroom within its walls or provide access to bathrooms will depend on the type of facility and its location (e.g., bathroom access is not required for some types of mobile vendors). Access to a bathroom must not be through food-processing areas or ware-washing areas.

The water supply must be adequate, clean, safe, and provided through a licensed water provider, like a utility or municipal supply. If you have a well-water system, you will need to contact your County Health Department to submit a water sample in order to receive an analysis stating your water is clean, safe, and adequate for human consumption.

Wastewater must be disposed of properly. If you use a municipal sewage system, you will need to provide proof that you are on this municipal system. Septic tanks are regulated by the County Health Department, which will approve this step of the process. A residential septic system may not be suitable. However, the Health Department can determine whether an additional tank is required for the processing facility. Be sure to communicate the scale of your operation to the inspector. Depending on the operation, a grease trap may be required.

Plan Review

In order to save time and money, individuals may request assistance from FDACS, which offers a plan-review service for a nominal fee. The purpose of the plan review is to approve plans for your facility before construction or retrofitting starts. Upon approval of the plan review, construction can begin. For more information on this topic, visit <http://forms.freshfromflorida.com/14222.pdf>.

Opening Inspection

Once the facility has met the aforementioned minimum construction standards and an employee has become a certified food manager (and, in some cases, received process authority approval), an initial inspection can be requested by contacting FDACS Division of Food Safety. This form should be completed and returned to FDACS at least 10 days prior to your scheduled opening. The request for initial inspection can be obtained at <http://www.freshfromflorida.com/Divisions-Offices/Food-Safety/Business-Services/Food-Inspections>.

Permit Fees

The cost of the food permit will vary depending on the commodity. For a complete list of food permit fees, visit <http://www.freshfromflorida.com/Divisions-Offices/Food-Safety/Business-Services/Food-Inspections>.

Process Approval

Establishments that conduct high-risk specialized food processing and store potentially hazardous foods without temperature control within the State of Florida are required by FDACS to have a letter of process approval from a food processing authority. However, for those foods that are not considered potentially hazardous foods as defined by the Food Code 1-201.10 (B) (65), FDACS would not require process approval from a process authority. Examples of non-potential hazardous foods are baked goods like cookies, brownies, and cupcakes, and typical fruit jams, jellies, or preserves, as described in 21 CFR Part 150. Foods processed using high-risk specialized processes as described in section 3-502.11 of the Food Code, which includes acidification, low-acid food canning, and reduced-oxygen packaging may be subject to the process-approval requirement. Many sauces and salsas are acidified foods where an acid like vinegar is added in order to reduce the pH as part of ensuring food safety when stored at room temperature. Low-acid canned foods are foods that have a pH greater than 4.6 and are heat processed in the can—these would require process approval. Reduced-oxygen packaging is a process where oxygen is removed as food is packaged, and foods when packaged in this manner will require process approval. A process authority is a laboratory or a food safety expert that will carefully examine the recipe, the methods used to prepare, package, and store the item, and compliance with food safety precautions required to produce a safe product. Once the process is approved, a letter of process approval will be issued to the producer. The producer is to provide the documentation from the process authority to FDACS to determine if additional paperwork is required before the permitting process can proceed. For more information on process approvals and process authorities please contact FDACS at 850-245-5520 or foodinsp@freshfromflorida.com. Furthermore, Food and Drug Administration (FDA) regulations require that during production of all acidified and low-acid food products, processors must have someone on the premises who has successfully completed the Better Process Control School. University Extension programs throughout the Southeast offer this four-day, food-safety training course.

Additional Options

If you wish to process food products, but do not have the facilities or capital to invest in infrastructure, you may be able to find a facility that you can use. Some restaurants, community centers, and halls, for instance, allow the use of their facilities for food processing. “Commercial” or “community” inspected kitchens may be available in your area (for restaurants, see http://www.myfloridalicense.com/dbpr/sto/file_download/public-records-food-service.html; for other inspected facilities, contact FDACS at 850-245-5520).

The Department of Business and Professional Regulation (DBPR) regulates restaurants in Florida. You can apply for a food permit to process products like eggs, honey, salsa, relish, jams, jellies, etc., in a restaurant facility. This eliminates the need to retrofit or build a facility.

Another option is to contract with a co-packer. These facilities will prepare the product to your specifications in their facility for a fee. For a list of certified co-packers in Florida, visit <http://gourmetbusinessdirectory.com/>.

Labeling of Processed Foods

All processed foods (including pre-packaged, chopped, canned, baked, or frozen foods) sold for human consumption must bear labels on the packaging. This includes processed foods sold at farmers’ markets, on the Internet, to restaurants, and to grocery stores. The State of Florida food labeling requirements are based on the Food and Drug Administration’s Labeling Guide, which can be found at <http://www.fda.gov/food/guidanceregulation/guidancedocumentsregulatoryinformation/labelingnutrition/ucm2006828.htm>.

Labels for processed foods must meet the following requirements.

Language and Product Identity: All information must be legible and in English; other languages may be present, but English is required. The common or usual name of the food product must be prominent on the principal display panel (e.g., *pumpkin bread*, *whole chicken*, *blueberry jam*).

Ingredient Statement: Ingredients must be listed by their common or usual names in descending order of their predominance by weight. All ingredients must be listed in the ingredient statement with all subcomponents listed in parentheses. For example, butter might be listed this way: *butter (cream, salt, annatto)*. Subcomponent ingredients must also be listed in descending order. The font size of the

ingredient statement must be at least 1/16 of an inch, as measured by the lower case “o.”

Name and Address: Labels must include the name and street address of the producer/processor, packer, or distributor’s principal place of business. The street address may be omitted if the business is listed in a current city or telephone directory. The company name, city or town, state, and ZIP code are still required. Phone numbers and Internet addresses can be added but cannot be used instead of the name and address.

Net Weight: Labels must include an accurate statement of the net contents in avoirdupois pound and ounce for weight, and in U.S. gallon, quart, pint, and fluid ounce for fluid measure. Metric values for net contents may also be declared but are not mandatory. This weight statement must appear within the lower 30 percent of the label panel, in lines generally parallel to the base of the package (Figure 1). The net weight must appear in conspicuous and easily legible, boldface print or type in direct contrast to other matter on the package. Below is the acceptable format for reporting net weight:

Net wt 1 lb 8 oz (680g) OR Net wt 1 lb 8 oz 680 g

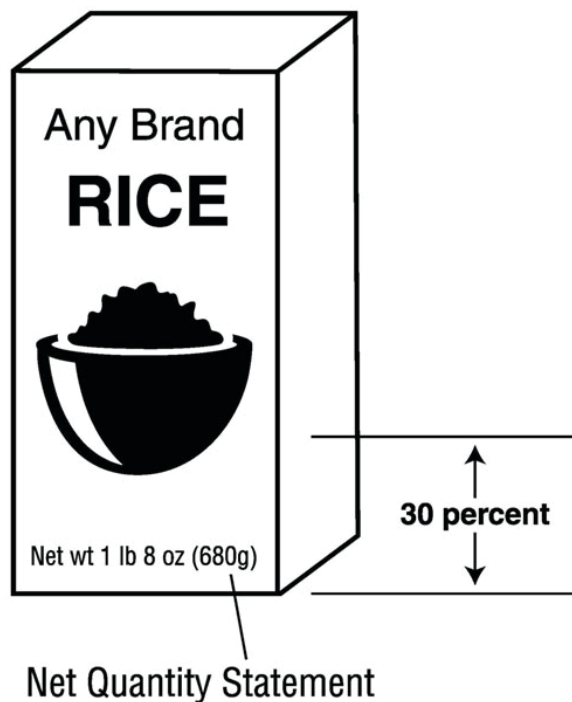


Figure 1. Example of Net Quantity Statement’s placement on product label.

Perishable Foods: If products require refrigeration before or after opening, such information must be on the label.

Nutritional Facts Panel

The federal Food, Drug, and Cosmetic Act requires that packaged foods bear nutrition labeling unless they qualify for an exemption. A small business may be exempt from displaying the Nutrition Facts panel if (1) its annual gross sales of food to consumers total less than \$50,000; (2) it has fewer than 100 employees; (3) it sells to outlets whose gross sales are less than \$500,000 per year; and (4) it has sales of fewer than 100,000 units per year. Note: If any nutrient-content claim or health claim (e.g., “*Low-fat*” or “*Supplies 100% of the daily recommended amount of Vitamin C!*”) is made on the labeling or advertising of the product, the small business exemption is not applicable.

Keep in mind, however, that wholesale buyers may require that the Nutrition Facts panel be on the product label. A separate Nutrition Facts panel is required for each size of container or package. For a nominal fee, University of Georgia Extension Food Safety specialists will provide a Nutrition Facts panel in digital format that is specific to your product and ready to put onto your label. Florida businesses may follow this link for more information: http://www.caes.uga.edu/departments/fst/extension/documents/2010_out-of-stateNFP.pdf.

Product Traceability

With the recent emphasis on product traceability, it is our recommendation that producers generate batch numbers and traceback codes at the time of packaging. Many smaller processors use a simple date-code or use-by-date method. It is generally best for each batch of product to have a specific code; these codes should be kept in an organized database. Additionally, the producer should be able to relate cleaning protocols, raw ingredients, name of the product, recipe used, etc., back to the batch code (for more on this topic, see EDIS document FSHN10-04/FS152 *Food Safety on the Farm: Good Agricultural Practices and Good Handling Practices—Traceback* at <http://edis.ifas.ufl.edu/fs152>).

Conclusion

For information on getting the appropriate permit and from the appropriate agency, visit <http://edis.ifas.ufl.edu/fs152>. In order to operate a food processing business in Florida, individuals must

- complete the Food Protection Manager certification;
- use a facility that meets the minimum construction standards;

- obtain a food permit from the FDACS Division of Food Safety; and
- in the case of high-risk specialized processes and potentially hazardous foods stored without temperature control, obtain a letter of process approval from a food processing authority.

The information contained within this document was compiled using pertinent state statutes and guidance from the Florida Department of Agriculture and Consumer Services Division of Food Safety. The Florida Legislature statutorily enacted the regulations into law in order to protect the citizens of Florida. By statute, FDACS is responsible for implementing all these regulations.

Readers are advised that this document was developed to help producers understand the promulgated rules governing direct marketing in Florida. These rules are subject to change at the discretion of the United States Department of Agriculture, the Food and Drug Administration, the Florida Department of Agriculture and Consumer Services, and the Florida Legislature.

Additional Resources

Information clearinghouse on food permits and references: <http://www.freshfromflorida.com/Divisions-Offices/Food-Safety/Business-Services/Food-Inspections>

Florida Statutes, Chapter 500, Florida Food Safety Act: <http://www.flsenate.gov/Laws/Statutes/2013/Chapter500>.

For a more detailed account of the rules the Florida Food Safety Act, visit the Florida Administrative Code: <https://www.flrules.org/gateway/chapterhome.asp?chapter=5k-4>.

FDACS: Florida Department of Agriculture and Consumer Services

Division of Food Safety

3125 Conner Boulevard, Suite H

Tallahassee, Florida 32399-1650

Phone: (850) 245-5520

Fax: (850) 245-5553

Email: foodinsp@FreshFromFlorida.com

Literature Cited

U.S. Food and Drug Administration. (2009, May 8). *Guidance for Industry: A Food Labeling Guide*. Retrieved February 9, 2011, from <http://www.fda.gov/food/guidanceregulation/guidancedocumentsregulatoryinformation/labelingnutrition/ucm2006828.htm>.

Florida Department of Agriculture and Consumer Services Division of Food Safety. (2011, February 9). *Minimum Construction Standards and Specification Checklist*. Retrieved February 9, 2011, from http://www.freshfromflorida.com/content/download/23974/486625/min_standards_chklist.pdf.

Florida Department of Agriculture and Consumer Services Division of Food Safety. (2009, April 14). *Food Protection Manager Certification Information*. Retrieved February 9, 2011, from http://www.freshfromflorida.com/content/download/23976/486635/certified_food_protection_mgr_guidelines.pdf.