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## New farm stand regulations expand options

*By Penny Leff, UC Small Farm Program Agritourism Coordinator*

A farm stand piled high with fresh-picked peaches is a timeless picture of summer in California. Farmers have been selling their produce at roadside stands just about as long as there have been roads and customers to drive on them, but farm stands have changed over the last 50 years as lifestyles have changed. New rules for farm stands this year help today's farmers keep up with changing customer demands at their farm stands.

For legislative language and history, view the complete [AB 2168 legislative documents](#).

The new regulations are from Assembly Bill 2168, which became effective January 1, 2009 and created more allowances for modern farm stands throughout California.

### Jams, pickles allowed at farm stands

AB 2168 establishes a new category for farm stands that are allowed to sell processed agricultural products, such as jams, preserves, pickles, juices, cured olives and other "value-added" products made with ingredients produced on or near the farm, in addition to fresh produce and eggs produced on the farm.

Local processed farm products sold at farm stands must all be:

- Shelf-stable, specifically "non-potentially hazardous." This generally means food products that can be safely held without temperature controls because the product would not support the rapid growth of infectious or toxic organisms.
- Prepared and packaged in a health department-approved facility, not a home kitchen. For low-acid canned goods with pH levels greater than 4.6, such as preserved corn or green beans, processing must take place in a state-licensed cannery. For products such as salsas or chutneys where acid levels are unknown, the state offers free testing. For more information, see <http://www.cdph.ca.gov/programs/Pages/fdbCAN.aspx>.
- Produced in "close proximity" to the farm stand.

One advantage of selling value-added products is growers can create jams or juices from produce that might not otherwise be sold because of cosmetic blemishes, seasonal market saturation, or overproduction. Converting excess fruits or vegetables into a product that can be sold in the off-season is one more chance for income. Having products to sell year-round can also mean more regular customers.

### Bottled water also allowed

Farm stands are now also allowed to sell some bottled water, sodas and other non-local foods in limited quantities. These non-local, pre-packaged foods and drinks are limited to 50 square feet of selling space. The legislation specifically includes bottled water and other drinks, but also allows for other "non-potentially

hazardous” foods.

The addition of bottled drinks and some non-local, prepackaged foods helps modern farm stands be more convenient for visitors.

## Health regulations

Farm stands that make use of these new regulations—and sell anything other than fresh, farm-produced fruits, vegetables, nuts and shell eggs—are considered “retail food facilities,” and are therefore regulated by California Health and Safety Code. But requirements for farm stands are much less strict than those for most retail food facilities. For farm stands, health department inspectors require:

- No food preparation at the farm stand, other than sampling. Food sampling is allowed if at least a portable toilet and temporary hand-washing facilities are available for use by employees.
- Processed foods must be stored in a vermin-proof area or container when the facility is closed.
- All garbage and refuse must be disposed of in an appropriate manner.
- No live animals within 20 feet of food storage or sales area, except service dogs.

## Field retail stands

For farmers who have no interest in selling value-added products, previous regulations for on-farm sales still exist as a re-named category called “field retail stands.”

Field retail stands are restricted to selling whole produce and shell eggs grown by the producer on or near the site, exempt from standard wholesale size and pack requirements. These traditional field stands are exempt from California Health and Safety Code, as long as they adhere to the previous set of rules.

## Direct sales to chefs and organizations

With the regulations, chefs and charitable organizations—who sell or distribute directly to consumers—are now also allowed to purchase product exempt from wholesale size and pack regulations at farm stands, field retail stands or farmers markets.

However, farmers who sell to chefs or organizations from their farm stand (or farmers market stand) must provide these buyers with a memorandum that lists the name and address of the producer, and type and quantity of the produce purchased. A basic bill of sale or a container label including this information meets this requirement.

As with other direct-to-consumer sales, all fresh fruits, nuts and vegetables must still meet maturity and quality standards set by the California Code of Regulations.

## Further defining the rules

Even with the new regulations from AB 2168, county officials will need to clarify and more specifically define some aspects of farm stand regulations. For example, products can now be sold at farm stands if they were produced in “close proximity” to the stand, a phrase that appears to be open to further definition. Other questions may arise with farm stands that provide potential dining areas, such as a picnic table, near the farm stand. These and other questions may be decided by local officials.

In addition, any farmer who wants to set up a roadside stand—whether it’s a “farm stand” or a “field retail stand”—still needs to meet with their county planning department to learn their individual county’s rules for building, parking, grading, signage and any other regulations relating to their potential new business venture.

## How California’s farm stand rules changed

Fifty years ago, a typical customer at a farm stand would buy several lugs of in-season fruit to make jams, jellies

and pies. Today, a typical customer at the same farm stand is more likely to purchase a few farm-fresh fruits or vegetables to eat out of hand, or as ingredients for dinner. Customers are still interested in jam and pies, but now they want to buy them already made.

Before the new rules, farms that expanded sales into value-added products—such as jams, pickles and olive oil—were considered full-blown “retail food facilities,” which required the farm stands to meet stringent requirements such as grocery store-like buildings with impermeable flooring and mop sinks, which were costly and sometimes impossible for rural, small-scale farm stands.

Farmers and organizations in one county—Contra Costa—made strides in changing local regulations to help modernize farm stands. From there, California Farm Bureau Federation took up the cause of reforming state regulations. Members worked with Assemblyman Dave Jones (D-Sacramento) to initiate and support Assembly Bill 2168. In 2008, the governor signed the bill that is now law.

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