

**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)
CERTIFIED FARMERS' MARKET ADVISORY COMMITTEE (CFMAC)
Meeting Minutes
Sacramento, California
March 26, 2007**

MEMBERS

Gene Etheridge, Chairman
Fred Ellrott
Nancy Pleibel
Joan Taramasso
Pompea Smith
Greta Dunlap
Howell Tumlin
John Silveira
Kurt Floren
Rick Landon

ALTERNATES MEMBERS

John Gibson

Interested Parties

Lance Bingham, Napa County
Dan Best
Jane Gibson
Doug Hayden

CDFA

Kevin Masuhara
Dave Carlson
Steve Patton
Susan Shelton

ITEM 1: ROLL CALL

Mr. Gene Etheridge called the Certified Farmers' Market Advisory Committee (CFMAC) meeting to order at 10:10 a.m. Mr. Kevin Masuhara called the roll and a quorum was established.

A. INTRODUCTION OF GUESTS

Introductions of the committee and guests were made.

ITEM 2: APPROVAL OF OCTOBER 2, 2006 MEETING MINUTES

The October 2, 2006 meeting minutes stated the next meeting would be May 5, 2007, it should have read March 5, 2007. The change to the minutes will be made.

MOTION: Mr. Fred Ellrott moved to approve the minutes as amended. Ms. Pompea Smith seconded. The motion passed unanimously.

ITEM 3: APPROVAL OF AGENDA

Election of officers has historically been voted on at the first committee meeting of the year. Though this is the first meeting in 2007, Mr. Masuhara stated election of officers had inadvertently been left off the agenda. It was decided this item could not be added, as action items need to be properly noticed. Nominations and election of officers will be carried over until the next meeting. Mr. Etheridge will continue as Chair until formally replaced.

ITEM 4: CDFA REPORTS – KEVIN MASUHARA

A. REVENUE AND EXPENDITURE REPORT

A copy of CDFA Certified Farmers Market Program Revenue and Expenditures is attached to these minutes and labeled as EXHIBIT A.

The report is as of March 26, 2007, and shows actual expenses for FY 2005-06, budgeted amount for FY 2006-07, and projected actual expenses for FY 2006-07. Mr. Rick Landon asked why overhead had increased so dramatically. Mr. Masuhara explained the Program Supervisor, Supervising Inspector, and all support staff are shared between various branch programs. These charges are now reflected in the overhead charge instead of in Personal Services.

Mr. Rusty Hall requested the CFM Remittance Fee Reports be distributed at committee meetings. These reports show the number of markets and amount of fees generated for each quarter.

B. REGULATIONS UPDATE

A copy of proposed changes to Section 1392.2 of the California Code of Regulations (CCR) is attached to these minutes and labeled as EXHIBIT B.

1. MODIFICATION OF PROPOSED SECTION 1392.2 (a)

CDFA's Legal Office has recommended the proposed change to CCR Section 1392.2 (a) be slightly modified and added to 1392.2 (b) instead.

Instead of 1392.2 (a) reading:

A location approved by the county agricultural commissioner of that county where agricultural products are sold by producers directly to consumers. A certified farmers' market may only be operated by one or more certified producers, by a nonprofit organization, or by a local government agency. Said operator is legally and financially liable and responsible in all aspects of operating the certified farmers' market, including regulatory compliance requirements.

Section 1392.2 (b) would change to:

(b) Certified Farmers' Market Certificate. A certificate issued by the county agricultural commissioner authorizing the location where agricultural products are sold by the producers directly to consumers. The certificate is valid only when bearing the original signatures of the county agricultural commissioner and the authorized representative of the certified farmers' market. Upon receipt of a certified farmers' market certificate, an operator shall assume and

retain responsibility for all aspects of the operation of a certified farmers' market at the location specified, including, but not limited to, legal, financial and regulatory compliance requirements.

MOTION: Mr. Ellrott moved to make the proposed changes to Section 1392.2 as suggested by CDFA Legal Office. Ms. Nancy Pleibel seconded. The motion passed unanimously.

2. ENFORCEABILITY OF PROPOSED SECTION 1392.9 (e) and (f)

The CDFA Legal Office has expressed concerns about the ability to enforce proposed Sections 1392.9 (e) and (f). CDFA has no jurisdiction outside of the CFM, so the regulation could not be enforced.

A lengthy discussion ensued regarding concerns non-certified vendors are allowed to sell goods right next to CFMs, permitting unfair competition and degrading customer confidence. It was stated if vendors are not certified producers they are not exempt from standardized container laws. Also, these issues may possibly be addressed through the Business and Professions Code.

MOTION: Mr. Howell Tumlin moved to strike Section 1392.9 (e) and (f) from the proposed CFM regulation package. Mr. Rusty Hall seconded. The motion passed unanimously.

MOTION: Mr. Tumlin moved to formally request CDFA Legal Office provide the committee written advice on how to write a regulation that would address the concerns of non-certified vendors outside the CFM. Mr. Rusty Hall seconded. The motion passed unanimously.

C. VALIDATION OF NON-PROFIT CFM OPERATORS

CDFA recently investigated a complaint regarding a market operator that no longer had non-profit status. Mr. Masuhara found CDFA could receive a verification from the Franchise Tax Board regarding an entity's non-profit status. He proposed a letter of good standing from the Franchise Tax Board be the qualification of determining a non-profit. Concern was voiced some non-profits are not tax-exempt. Further research will be conducted on this issue.

D. ENFORCEMENT PROGRESS

Mr. Steve Patton stated CDFA has held fifteen training classes for market managers and county personnel. Twelve inspections have been completed for uniformity, and a State inspector from Southern California is being trained on CFM inspections.

A CDFA email account has been set up for all CFM issues, it is cfm@cdfa.ca.gov.

E. STRATEGIC PLANNING GRANT UPDATE

A copy of Strategic Planning: The Future of California's Direct Marketing Industry is attached to these minutes and labeled as EXHIBIT C.

The grant proposal was submitted to the United States Department of Agriculture (USDA) in February. This grant requires matching funds, and CDFA has identified \$30,000 to match the requested grant of \$30,000. The matching \$30,000 is from funds other than the CFM Program.

ITEM 5: AGRICULTURAL COMMISSIONER'S REPORT

Mr. Kurt Floren stated the counties' Standardization Subcommittee has not met since the last time CFMAC met, so there are no significant updates.

ITEM 6: CHAIRMAN'S REPORT – GENE ETHERIDGE

Mr. Etheridge stated opportunities for producers seem to be increasing. A great amount of attention is being centered on youth nutrition. Mr. Etheridge is part of Alliance For Health, a group that works with USDA on healthy lunch programs for schools. As a member of this alliance he has a voice in a national setting. The committee supported Mr. Etheridge identifying himself in this forum as a member of the California Certified Farmers' Market Advisory Committee.

ITEM 7: NEW BUSINESS – DISCUSSION ONLY

Ms. Greta Dunlap asked if there were any vacancies on the CFMAC. Presently there is one member vacancy and ten alternate member vacancies.

ITEM 8: MEMBER ROUNDTABLE DISCUSSION – GENE ETHERIDGE

Mr. Ellrott's greenhouse operation will be featured on "A Lyon in the Kitchen", a new cooking show on Discovery Health.

Mr. Hall stated he saw an article in New Hampshire about a small farmer wholesale auction. Mr. Masuhara stated standardized container laws would apply to similar venues in California.

Mr. Doug Hayden stated California is fortunate to have certified producers' certificates. They are not used in England and Canada and the difference is noticeable.

Ms. Joan Taramasso attended a meeting in the mid-90's where a global website was discussed. This website would allow certificates to be viewed and issued, etc. Mr. Masuhara stated he has run across something similar; however, it was never fully developed and there are no plans for future progress.

ITEM 9: NEXT MEETING/AGENDA ITEMS

The next meeting is scheduled at 10:00 a.m. on October 15, 2007 in Sacramento.

ITEM 10: ADJOURNMENT

The Committee adjourned at 12:28 p.m.

Respectfully submitted by:

Kevin Masuhara, Program Supervisor
Certified Farmers' Market Program
Inspection and Compliance Branch

**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE
CERTIFIED FARMERS MARKET PROGRAM
REVENUE AND EXPENDITURES**

March 26, 2007

	2005-06 ACTUAL AMOUNTS	2006-07 BUDGET	2006-07 MID YEAR PROJECTION
MARKET FEES	182,264	185,000	177,872
LATE CHARGES	17,537		15,899
MISC.	2,521		622
TOTAL AVAILABLE RESOURCES	202,322	185,000	194,393
SALARIES	69,242	53,016	0
BENEFITS	13,226	17,747	0
TOTAL PERSONNEL SERVICES	\$82,468	\$70,763	\$0
GENERAL EXPENSES	838	1,000	10
PRINTING AND POSTAGE	3,492	3,383	3,300
COMMUNICATION	2,830	700	3,394
TRAVEL (IN-STATE AND OUT-OF-STATE)	15,314	3,625	13,070
FACILITIES OPERATION	5,334	9,536	5,550
DIRECT CHARGES		9,842	
PAYMENT TO COUNTIES			
OTHER ITEMS OF EXPENSE	161		
TOTAL OPERATING EXPENSES	\$27,969	\$28,086	\$25,324
STATE PRO RATA	4,541	3,505	9,913
INDIRECT EXEC/ADM	10,056	9,665	9,996
INDIRECT DIVISION	3,362	3,361	4,244
DIRECT DIVISION CHARGES	92,643	57,898	127,873
INDIRECT CHG/RECOVERY			
INTERDEPT CONS/PROF/OAH HEARINGS		5	1,500
INDIRECT LEGAL		724	
TOTAL OVERHEAD COST	\$110,602	\$75,158	\$153,526
UNALLOCATED	0	(1,495)	0
TOTAL PROGRAM COST	\$221,039	\$172,512	\$178,850

Certified Farmers' Market Advisory Committee
March 26, 2007
Agenda Item 4 Reference Material

Agenda Item 4 (b) (1)- This item is an action item to approve the language recommended by CDFA's Legal Office in place of the language previously approved by the CFMAC. CDFA's Legal Office also recommends moving this language to Section 1392.2 (b) instead of Section 1392.2 (a), which was also previously recommended by the CFMAC.

The underlined sentence below was voted and approved by the CFMAC as a proposed modification to the existing regulations.

Section 1392.2. Definitions

Unless the context otherwise requires, the following definitions govern the construction of the language in this article.

(a) Certified Farmers' Market. A location approved by the county agricultural commissioner of that county where agricultural products are sold by producers or certified producers directly to consumers. A certified farmers market may only be operated by one or more certified producers, by a nonprofit organization, or by a local government agency. Said operator is legally and financially liable and responsible in all aspects of operating the certified farmers' market, including regulatory compliance requirements.

CDFA's Legal Office has recommended that this proposed language be modified and placed in Section 1392.2 (b). The proposed Section 1392.2 (b) with the CDFA Legal Office recommendation would read:

(b) Certified Farmers' Market Certificate. A certificate issued by the county agricultural commissioner authorizing the location where agricultural products are sold by the producers directly to consumers. The certificate is valid only when bearing the original signatures of the county agricultural commissioner and the authorized representative of the certified farmers' market. Upon receipt of a certified farmers' market certificate, an operator shall assume and retain responsibility for all aspects of the operation of a certified farmers' market at the location specified, including, but not limited to, legal, financial and regulatory compliance requirements.

Agenda Item 4 (b) (2)- The following two proposed additions to Section 1392.9 were approved by the CFMAC. After review by CDFA's Legal Office, issues related to jurisdiction and enforceability has been raised.

Section 1392.9 Direct Marketing, Compliance Requirements for the Operator of a Certified Farmers' Market.

(e) A certified farmers' market operator or designated agent shall not sell, nor grant permission nor charge a fee to any individual or entity for the privilege of offering for

Certified Farmers' Market Advisory Committee
March 26, 2007
Agenda Item 4 Reference Material

sale any raw, unprocessed fruits, nuts, vegetables, shell eggs, honey, flowers or nursery stock outside the designated area of the certified farmers market. "Unprocessed" for the purposes of this section shall be defined as an agricultural product in its raw or natural state. A certified farmers' market operator or designated agent may grant permission or charge a fee to any individual or entity for the privilege of offering for sale any non-certifiable agricultural products outside of the farmers market provided that the products have been produced or derived from plants or animals raised or produced by the seller.

(f) A certified farmers' market operator or designated agent shall not sell, nor grant permission nor charge a fee to an individual or entity for the privilege of offering for resale, any certifiable or non-certifiable agricultural products as defined by the California Department of Food and Agriculture outside of the designated area of the certified farmers' market. This provision does not apply to vendors selling non-agricultural food products that operate as mobile food facilities and are required to have a valid permit from the local environmental health agency. "Non-agricultural food products" are food items other than certifiable agricultural products and non-certifiable agricultural products, such as bakery products.

FEDERAL STATE MARKETING IMPROVEMENT PROGRAM

United States Department of Agriculture

**STRATEGIC PLANNING THE FUTURE OF CALIFORNIA'S DIRECT
MARKETING INDUSTRY**

Submitted by the

California Department of Food and Agriculture

February 9, 2007

Abstract

The California Department of Food and Agriculture (Department) is requesting \$30,000 and will provide \$30,000 to facilitate strategic planning for the direct marketing industry. The Department is committed to maximizing the marketing opportunities for producers of fresh fruits and vegetables and increasing the overall consumption of fresh produce by California's consumers.

The direct marketing of fresh fruits, nuts and vegetables in California is carried out under an exemption to the existing fruit and vegetable standardization laws and regulations. The Department provides state level oversight to local agricultural commissioners in carrying out inspection activities for the program. The Department communicates and receives recommendations on policy matters with this industry from a statutorily defined advisory committee. The committee has expressed an interest in utilizing a strategic planning process to determine how the Department can best serve the direct marketing industry. The current funding model for the statewide program is only adequate to provide the necessary inspection oversight and cannot fund any planning activities.

The goal of the strategic planning process will be to develop a framework that clearly identifies how the Department can best administer a program to support direct marketing.

Project Contacts: Nate Dechoretz, Director
 California Department of Food and Agriculture
 (916) 445-0029

 Kevin Masuhara, Program Supervisor
 California Department of Food and Agriculture
 (916) 445-2180

BACKGROUND AND JUSTIFICATION

The Department organized a Direct Marketing Committee in 1975 to determine the potential impact of the direct marketing concept and the most effective approach for state involvement. In the summer of 1975, a surplus of cling peaches precipitated a ten-day experiment shipping bulk bins of product directly to retail stores in the San Francisco Bay area. Marketing regulations negated some of the benefits of shipping in bulk bins and the Department took action to exempt these peaches from regulations under the state marketing order.

In March of 1976, AB 3276 was introduced in the California Legislature giving the Department the authority to establish pilot studies in direct marketing activities. This bill was strongly opposed by the retail grocery industry. After encountering opposition, CDFA withdrew its support. AB 4296 was introduced also in March of 1976. This bill encouraged the direct marketing of agricultural products by farmers to consumers. The Agricultural Council, Retail Clerks, California Growers Association and the Teamsters Union also opposed this bill and it was withdrawn as well.

The Direct Marketing Program became involved in the development of farmers' markets in the spring of 1976. The first markets opened with assistance from the Comprehensive Employment and Training Act (CETA). In June of that same year, a hotline was established to put consumers who wanted to purchase produce in direct contact with farmers via an information center. As a result of media publicity, there were more calls than the phone line could handle. It was determined that weekly news releases would allow responses to a greater number of consumers and a newsletter was established. The newsletter contained regulatory information, as well as current listings of direct marketing outlets, producer or consumer co-operatives, community canneries, plus legislation information.

Since the Legislature was not receptive, supporters of direct marketing looked for alternative solutions. Major concerns for producers were the regulations designed for produce being transported long distances. They realized maturity and quality standards were necessary, but believed other regulations such as sizing, pack arrangements, labeling and standard container requirements could be eliminated. This was done through the Department's Standardization Program and was not subject to Legislation. A certification process was developed to exempt direct marketed produce from the above-mentioned regulations. The Department was required to hold two public hearings because some legislators felt this process circumvented their process, however the regulations passed.

The Direct Marketing Program functioned as a component of the Standardization Program until 1997. Legislation was then passed creating an Advisory Committee and specific regulations. In 2000 Legislation passed creating a sixty cent "stall fee" to fund the Department's program and support the Advisory Committee. It was quickly determined that the sixty cent "stall fee" was not adequate to support the program and the program ran at a deficit from 2000 to 2006. Due to the inadequate funding available, the Department was forced to restructure its enforcement and administrative activities to align with current revenues.

There are differences among industry groups how much involvement the state and counties should have. Some feel they should be self-regulating and less dependent upon outside enforcement from the state and counties, while some feel more regulations are necessary. There is a faction that wants its fees spent on advertising and promotion. There are also many opinions about the operation of the markets themselves. One group wants to allow only produce to be sold in its natural form from the producer to the consumer while another group wishes to use their produce to create “value added “ products through processing. Some markets do not want outside vendors and only allow farmers to sell their produce with no sales of non-farm items such as crafts or hot food.

JUSTIFICATION

The direct marketing program, as it is currently administered in California, is a result of legislative, regulatory and policy directives aimed at solving specific issues. A comprehensive examination of the overall needs of the industry from the producers perspective has not been attempted. Because of this fact, the industry has been very divided on many issues that would have benefited from more broad based support. If a strategic plan is developed by utilizing input from the producers and marketers involved in direct marketing, a sustainable program model can be designed for the Department to administer. The Department believes it is vital to the success of the program to provide a strategic planning process to this industry.

An updated, more contemporary program will increase producer participation and better position the direct marketing industry to capitalize on the ever-expanding urban/rural interface. Other states are experiencing similar rural to urban migration patterns and will be able to emulate components of the plan that applies to their conditions and capabilities.

GOALS AND OBJECTIVES

The primary goal of this strategic planning process is to develop a plan for the direct marketing industry to clearly define what type of program their industry wants the Department to administer. The following objectives are necessary for this goal to be sustainable going forward.

- Identify the funding levels needed and where they will come from.
- Determine if changes to existing laws and regulations are necessary.
- Identify key metrics for gauging program success.
- Specify a timeline for implementing any programmatic changes proposed.

WORKPLAN

The Department will utilize a consultant with strategic planning skills and knowledge specific to working with large, diverse industry groups. The work plan the chosen consultant will be tasked with carrying out will be:

Establish appropriate communication channels to insure industry-wide input is received-
The Department will work with the consultant to identify effective communication channels

with direct market participants to obtain feedback. Possibilities include focus group discussions and regional town hall style forums.

Timeframe: September 2007

Responsible Parties: CDFA, Planning Consultant

Facilitate the communications to determine what program model the Department should administer for the industry- The consultant will facilitate and manage the communications to gather the necessary information from the stakeholder group. Because of the diverse nature of the direct marketing industry, sessions tailored to specific areas of the state are likely to be required to fully capture the spectrum of information needed.

Timeframe: September 2007

Responsible Parties: Planning Consultant

Identify the current program elements that are aligned with the program model goal and what new program activities will be necessary to support a new model- Once a new program model is identified, the Department will analyze its current program capabilities to determine which activities should continue. An analysis will then be performed to identify the new activities needed to support a new model. This will include an in-depth analysis of how to satisfy the four objectives stated in the Goals and Objectives section. Any obstacles or gaps in implementing the program model goal will be identified and options for addressing them will be developed.

Timeframe: October 2007

Responsible Parties- CDFA, Planning Consultant

Prepare a strategic plan document- The document produced as a result of the communications and subsequent analysis of the gathered information will serve as the primary justification for any statutory, regulatory or policy changes needed to carry out the strategic plan. The document will include:

- A clear program goal for the Department
- An inventory of actions needed to achieve the goal
- A timeline for executing the plan
- A list of resources necessary to sustain the plan over time

Timeline: October 2007

Responsible Parties: Planning Consultant

EXPECTED OUTCOMES

Increased Producer Participation- California leads the nation in producing fresh fruits and vegetables, both in terms of overall volume and in the sheer number of different commodities produced. At the same time, urban and suburban expansion has caused some traditional agricultural regions to migrate toward smaller format agricultural enterprises. Smaller format

enterprises located near urban and suburban areas are better positioned to perform well in direct marketing venues. Developing a program model around factors such as this will lead to greater accessibility for farmers to participate in these markets.

Increased Consumption of Fresh Fruits and Vegetables- As the participation in direct marketing increases, the amount and variety of produce offered for sale at value-driven price points will increase. These factors will cause existing customers to increase their purchases of fresh produce as well as introduce new customers to the expanded availability of fresh fruits and vegetables. Numerous medical studies in recent years have identified increasing consumption of fresh fruits and vegetables as one of the most important factors in better overall health for Americans.

Higher Percentage of Gross Sales from Fresh Produce to Farmers- The traditional fresh produce market channels rely on multiple “touch points”, such as packing houses, pre-cooling facilities, shipping terminals, trucking firms, wholesale distribution terminals and finally, the retail vendor, to move the product to the retail shelf. Often times, the businesses involved in these activities add costs to products equal to or greater than the producer received at the farm gate sale. The majority of the consumer dollar spent on this produce goes to support enhanced packaging and handling activities that are necessary only in high volume, large format business models. Direct marketing venues eliminate the necessity of much of this handling and allow more of their dollar spent to go directly to the producer.

Model for Other States to Utilize- Though California is unique in the amount of fresh fruits and vegetables its climate and land resources enable it to produce, it shares a common experience with many other states. Many states have their urban and suburban boundaries constantly expanding into agricultural areas. When this happens, the producers located in the new transition zones often have a greater incentive to cease their agricultural operations and sell their land to non-agricultural interests. An increased market opportunity for fruits and vegetables that can be successfully produced in these areas will lead to more farmers deciding to remain in an agricultural business rather than leave. Other states can utilize the components of the direct marketing program that may help in stabilizing their agricultural producers faced with similar business decisions.

PROJECT EVALUATION

There is no current information on the dollar or volume amount of produce sold in California’s farmers’ markets. The current number of farmers’ markets operated in California in 2006 was 472, with 2,024 producers certified to sell at these markets. These numbers represent a 10 percent increase in the number of farmers’ markets operated and a 20 percent decrease in the number of producers when compared to 2004.

Once this strategic plan is implemented, it will likely be 2008 before the new program will be fully operational. If the total producer numbers increases, then it can be reasonably concluded that the new program model led to greater participation and increased sales of fresh fruits and vegetables in California.

PROJECT PERSONNEL

Strategic Planning Consultant

The Strategic Planning consultant will be selected based on criteria important to the success of this project. The criteria will include experience facilitating planning with large, diverse industry groups, ability to establish effective communication channels, and a demonstrated skill set in strategic planning in a government environment.

Rick Jensen- Branch Chief, California Department of Food and Agriculture

Mr. Jensen will provide oversight for adherence to project timelines. He will meet with project staff and the consultant as needed to receive status reports and discuss progress.

Kevin Masuhara- Program Supervisor, California Department of Food and Agriculture

Mr. Masuhara will provide program administration perspective and subject matter expertise in direct marketing programs. He will work directly with the consultant and industry group to carry out the necessary activities to produce the strategic plan. He will also coordinate the analysis necessary for a new program model.

Steve Patton- Supervising Inspector, California Department of Food and Agriculture

Mr. Patton will provide program administration perspective and subject matter expertise in direct marketing programs. He will participate in all aspects of the strategic planning process and assist in analysis.