Direct Marketing Ad Hoc Committee Report

December 2012

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EXECUTIVE SUMMARY

Convened at the request of the California Department of Food and Agriculture (CDFA), the Direct Marketing Ad Hoc Committee was tasked with reviewing and analyzing the various business functions of the Direct Marketing Program from October 2011 through September 2012. As a broad-based assembly of industry and public stakeholders, the Ad Hoc Committee was intended to create a transparent and inclusive process to reinvigorate the Direct Marketing Program. Ad Hoc Committee participants spent considerable time and effort assessing the role of direct marketing in California agriculture and reviewing opportunities for improving CDFA's efforts in facilitating the sale of agricultural products through direct marketing channels, while maintaining sufficient regulatory control to prevent misrepresentation and fraudulent selling activities. The Department was fortunate that a dedicated group of stakeholders were willing to volunteer countless hours to ensure a vibrant future for California's direct marketing industry. CDFA commends and thanks the Ad Hoc Committee participants for their tireless efforts.

Several concepts were developed by the Ad Hoc Committee, which have the potential to allow the direct marketing industry to flourish with minimal regulatory burden. For example, the Ad Hoc Committee considered a tiered approach for regulatory oversight of Community Supported Agriculture organizations (CSAs), which would be based on the public health risk associated with the California Health and Safety Code classifications. Other concepts considered included a registration system for all types of direct marketing, e.g., farm stands, field retail stands, certified farmers' markets (CFMs)/certified producers, CSAs, etc.

After exploring potential regulatory frameworks, the Ad Hoc Committee concluded that the existing regulatory framework for enforcing CFMs should remain, with an effort to streamline unnecessary and ineffective regulations. As the following pages illustrate, the biggest issue confronting the long-term health of the direct marketing industry is the "buying and reselling" of agricultural products, primarily at CFMs. Consumers expect that the products purchased at a CFM are grown by the producer. However, without appropriate funding, CDFA and county agricultural commissioners are unable to provide an adequate level of enforcement expected by consumers and the direct marketing industry.

Establishing a consensus on many issues considered by the Ad Hoc Committee was a significant challenge. Specifically, decisions were not reached on overall program design and funding. Accordingly, important decisions have to be made in order to establish a system, with appropriate funding, capable of protecting consumers and industry from misrepresentation and fraudulent selling activities. The following pages provide a brief, high-level synopsis of the opportunities and challenges affecting the direct marketing industry and resulting considerations. At the request of the Ad Hoc Committee, a survey of county agricultural commissioners, compiled by Richard Price, Butte County Agricultural Commissioner/Director of Weights & Measures is included in Appendix A.

PROGRAM BACKGROUND

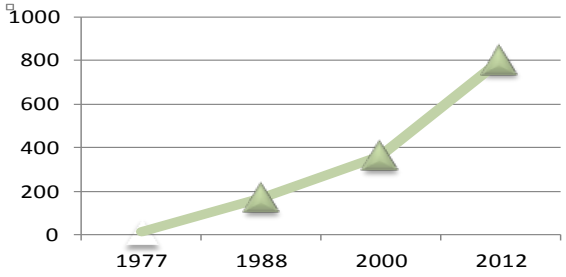
CDFA's Standardization Program enforces laws and regulations which establish minimum state standards for fruits and vegetables. The Standardization Program is administered by supervising county agricultural commissioners who carry out enforcement at the local level. In 1915, the Legislature began to establish, in statute, minimum standards for fresh fruits, nuts, and vegetables by governing such factors such as weight compliance, packaging, labeling, ripeness, color, and maturity. These mandates continue to be enforced under the California Code of Regulations and California Food and Agricultural Code.

CDFA's Direct Marketing Program provides opportunities for California farmers to market their products directly to consumers with Standardization Program exemptions for minimum size, labeling, standard pack, and container requirements. The Direct Marketing Program is intended to provide a viable channel for California farmers to market their agricultural products directly to the consumer, thereby providing a significant source of revenue for participating farmers. These exemptions were originally established within the California Code of Regulations in March 1977. Since its inception, there have been several attempts to establish appropriate regulatory control and provide adequate funding for the Direct Marketing Program.

Prior to 2008, the Direct Marketing Program specifically prohibited buying and reselling practices and authorized California producers to sell their agricultural products directly to the consumer without disrupting the normal flow of commercial wholesaling. The enactment of Assembly Bill (AB) 2168 (Jones) (Ch. 447, Stats. of 2008) significantly changed the Direct Marketing Program, allowing additional direct marketing opportunities to flourish. Specifically, AB 2168 created additional opportunities for CSA organizations, field retail stands, farm stands, and other private organizations, entities, and individuals to take advantage of minimum size, labeling, standard pack, and container exemptions.

TYPES OF DIRECT MARKETING

There are several forms of direct marketing, each presenting unique opportunities for enhancing access to California-grown produce and, likewise, challenges for enforcement. CFMs are by far the most prevalent form of direct marketing in the State of California. The Direct Marketing Program provides opportunities for approximately 3,350 certified producers to sell their certifiable agricultural products directly to the public at approximately 800 CFMs throughout California. As the chart below illustrates, since 1977, the number of CFMs and certified producers have increased substantially.



This chart highlights the exponential growth of CFMs from 1977–2012. In 1977, there were approximately 12 CFMs in the State of California. In 1988, there were approximately 170. In 2000, there were approximately 360 CFMs. In 2012, there are approximately 800 CFMs operating in the State of California.

Anecdotal evidence suggests that the number of CSAs operating in California has increased exponentially since the 1990s. For example, a review of a prominent online CSA resource indicates that approximately 300 CSAs currently operate in California. Due to a lack of definition in the Food and Agricultural Code, there is significant variability in CSA business models. According to the United States Department of Agriculture's National Agricultural Library, *CSAs are defined as a community of individuals who pledge support to a farm operation so that the farmland becomes, either legally or spiritually, the community's farm, with growers and consumers providing mutual support and sharing the risks and benefits of food production.*

In practice, there is significant variation within the State of California in regard to definition of a CSA. These models substantially deviate from USDA's definition. For example, there are entities which purchase agricultural products at CFMs, farm stands, field retail stands, the point of production, and wholesale markets and subsequently sell a "subscription" to the public. Other CSAs produce some of their own agricultural products and supplement with products from other producers or entities. As a result of the ambiguity related to the definition of a CSA, industry and consumers would benefit from a clear definition of CSAs that encompasses California's burgeoning CSA industry.

Field retail stands are producer owned and operated premises located at or near the point of production (nearest county paved road) established in accordance with local ordinances and land use codes. Farm stands are defined as field retail stands that sell or offer for sale California agricultural products grown or produced by the producer and also sell or offer for sale non-potentially hazardous prepackaged food products from an approved source. Currently, no quantitative data regarding the number of field retail stands exists. However, anecdotal evidence from public comments received suggests that farm stands and field retail stands are an important source of revenue for small farmers.

Community gardens are commonly defined as public or institutional gardens where individuals have access to plots of land on which they can grow agricultural products. Some community gardens require adherence to basic rules, have self-governance policies, and participatory fees. Produce sales from restaurants, markets, institutions, food carts or trucks, community events, and CFMs selling and/or serving food directly to the public are considered retail food facilities. These facilities have to meet the applicable requirements of the California Retail Food Code. Individuals or entities selling, providing, or donating product directly to institutions, and not to the general public, are considered wholesale food facilities and must meet the applicable requirements of the Sherman Food, Drug, and Cosmetic Law and the Food Sanitation Act.

Direct marketing is an important source of revenue for California farmers. As the direct marketing industry continues to flourish, so will its importance for consumers and producers. The table on the following page highlights the importance of direct marketing for California farmers.

Importance of Direct Marketing in California Agriculture by Farmgate Sales Class, 2007-California

ANNUAL FARMGATE SALES CLASS, 2007

	All Commercial Farms*	$1,000,000 or more	$500,000-$999,999	$250,000-$499,999	$100,000-$249,999	$50,000-$99,999	$25,000-$49,999	$10,000-$24,999	Under $10,000
Farms by Farmgate Sales Class	62,922	5,642	2,938	3,917	6,544	6,212	7,578	10,481	19,610
Total revenues from sales of ag products sold & govt. payments by sales class ($1,000)	34,111,132	28,586,449	2,121,228	1,387,946	1,044,497	441,698	272,641	170,136	86,537
Farms selling direct by sales class	6,360	126	109	157	348	515	738	1,307	3,060
% of farms in sales class involved in direct marketing, 2007	10.1%	2.2%	3.7%	4.0%	5.3%	8.3%	9.7%	12.5%	15.6%
Total direct marketing revenues by sales class ($1,000)	162,607	64,017	17,567	18,694	19,436	14,427	12,657	9,498	6,312
% of farmgate sales in sales class from direct marketing, 2007	0.5%	0.2%	0.8%	1.3%	1.9%	3.3%	4.6%	5.6%	7.3%
% of total direct marketing revenues by sales class	100.0%	39.4%	10.8%	11.5%	12.0%	8.9%	7.8%	5.8%	3.9%

Source: USDA-NASS, 2007 Census of Agriculture.

*Includes only farms with revenues of $1,000 or more in 2007. There were 18,111 noncommercial farms reported in California in 2007.

Prepared by Shermain Hardesty, University of California Small Farm Program.

RECENT DEVELOPMENTS

In the fall of 2010, news reports highlighted instances of cheating at CFMs, including vendors selling fraudulently labeled products and reselling fruits and vegetables from wholesale markets. Evidence suggests that instances of cheating at CFMs are widespread. If accurate, this would significantly impact the economic viability of CFMs if the public ultimately loses confidence in the Direct Marketing/CFM Program. In response to these media reports, CDFA held four listening sessions designed to solicit input for improving the Direct Marketing Program. These listening sessions were held from October 27, 2010 until November 8, 2010 in Sacramento, Santa Monica, Fresno, and Berkeley. The demographics of each listening session varied significantly, with some sessions composed primarily of producers while others were composed primarily of market managers and consumers. Notably, listening session participants suggested that CDFA, county agricultural commissioners, and market managers should enhance enforcement, communication, and education. Furthermore, many of the participants stated that the CDFA CFM fee of sixty cents ($.60) for each certified producer certificate on each market day does not provide adequate funding for enforcement at CFMs. Conversely, other individuals stated that they were against an increase in fees and had a perception that there was no enforcement at CFMs.

Upon conclusion of the listening sessions, CDFA formed a CFM Technical Planning Committee for the purpose of reviewing various functions of the Direct Marketing Program (e.g., registration, enforcement, and administration) and evaluating current processes and procedures. The CFM Technical Planning Committee consisted of producers, CFM managers, agricultural commissioners, and representatives from conventional and organic agriculture industries. The CFM Technical Planning Committee identified statutory and regulatory changes to prevent abuses at CFMs due to CDFA's inability to provide adequate enforcement and oversight on an annual budget of approximately $221,000.

The CFM Technical Planning Committee recommended statutory changes to alleviate discrepancies in how current inspection and enforcement provisions are applied from county to county and to provide uniform funding mechanisms at the state and local level. Additional statutory changes were deemed necessary to enhance compliance at CFMs, including:

- Creating three CDFA Special Investigator positions to assist in cross-jurisdictional enforcement activities.
- Establishing an appropriate funding source for counties to utilize for complaints and investigations.
- Mandating that the state to train and certify all CFM managers on an annual basis;
- Providing training of county personnel.
- Developing and sharing educational material.

In addition, the CFM Technical Planning Committee recommended that full cost recovery for county inspections should be legislatively mandated in an appropriate section of the Food and Agricultural Code. On March 10, 2011, the CFM Technical Planning Committee presented its recommendations to the CFM Advisory Committee, which endorsed the recommendation by an 11 to 3 vote. In addition, the CFM Advisory Committee expressed support for a CDFA CFM fee that shall not exceed four dollars ($4.00) for each certified producer certificate on each market day. These recommendations did not materialize during the 2011 legislative session due to a lack of significant industry support.

OPPORTUNITIES AND CHALLENGES

Certified Farmers' Markets (CFMs)

The role of direct marketing has changed considerably since it was originally established in 1977. Accordingly, the line between directly marketing products grown by a producer, and buying and reselling products has been rendered indistinguishable due to statutory changes. For example, prior to the enactment of AB 2168, certified producer's were authorized to transport for sale and sell California-grown fresh fruits, nuts, and vegetables that they produce, directly to *consumers* with exemptions from size, standard pack, container, and labeling requirements at CFMs. The enactment of AB 2168 complicated issues related to direct marketing. Specifically, individuals, organizations or entities purchasing products at the point of production or at a CFM were granted exemptions under the Standardization Program that are not available to the producer. The changing role and definition of direct marketing has created

significant challenges for enforcement. A sample of the enforcement challenges and issues related to direct marketing are presented below.

Although there are several regulations related to CFMs, there is limited funding for enforcement. This presents several problems. Consumers and participants believe that CDFA is ensuring appropriate regulatory control. In reality, CDFA and county agricultural commissioners only have the funding to conduct minimal enforcement activities. Lack of funding and significant growth in the CFM industry has further exacerbated enforcement efforts and threatens to delegitimize the Direct Marketing Program. Consequently, a lack of consumer confidence in CFMs would limit opportunities for California producers to directly sell their product to the public at CFMs.

As referenced previously, direct marketing was originally intended to be a marketing channel for California producers without the need for a third party (e.g., packers, handlers, etc.). However, the growth of the CFM industry has been coupled with increased regulations without corresponding funding for enforcement. Accordingly, due to the constraints and burdens of the regulatory framework for CFMs, California producers are at a disadvantage in comparison with individuals that buy and resell agricultural products through approved and prohibited means. For example, while California certified producers are mandated to sell only the products they grow at CFMs, individuals, organizations, and entities are authorized under the Food and Agricultural Code to purchase product at a CFM or the point of production and sell the product directly to end users with exemptions for minimum size, labeling, standard pack, and container requirements. The lack of a clear definition of direct marketing has the potential to impact California certified producers, as they must compete with individuals buying and reselling products through approved and prohibited means.

Food Safety

There is ample opportunity to improve the knowledge of food safety practices for the direct marketing industry. Mixing and reusing of containers with high-risk commodities such as tomatoes and melons increases the potential for *E. coli* and *salmonella* contamination, respectively. Likewise, the mixing of produce with meat, dairy, and egg products exacerbates food safety concerns.

Produce from farms in California are considered to be from “approved sources” pursuant to the California Health and Safety Code. However, there may generally be no specific food safety oversight by any regulatory agency except where the product or commodity is covered under a marketing order such as the Leafy Green Marketing Agreement. Concern over food safety has recently been elevated with the rapid increase in small scale farming operations such as community and backyard gardens. Because California law does not define a “small farm” there is no clear delineation of where food safety oversight begins and ends. Local environmental health officers and county agricultural commissioners are expected to provide guidance and

oversight of these small scale operations in some cases. Temperature control is also a food safety concern when *potentially hazardous foods*[1] require temperature control for safety.

DIRECT MARKETING AD HOC COMMITTEE

The Direct Marketing Ad Hoc Committee began the process of reviewing and analyzing the various business functions of the Direct Marketing Program in October 2011. Composed of a broad based spectrum of industry and public stakeholders, the Ad Hoc Committee was assembled to create a transparent and inclusive process for revitalizing the Direct Marketing Program.

After reviewing the various challenges and opportunities affecting California's direct marketing industry, the Ad Hoc Committee established the following subcommittees:

- Certified Farmers' Markets
- Community Supported Agriculture
- Access
- Gardens
- Farm Stands
- Selling
- Food Banks

These subcommittees were charged with developing systems to improve their respective subject areas while also maintaining a focus on improving consumer access to safe and healthy food and promoting robust regional markets for producers. In addition, each subcommittee established objectives specific to their particular industry. Several subject matter experts provided input to the Direct Marketing Ad Hoc Committee, including: market managers and operators, certified producers, members of the public and consumers, farm and field retail stand operators, CSA operators, CDFA's Marketing Division, CDFA's Animal Health and Food Safety Division, CDFA's Division of Fairs and Expositions, Environmental Health professionals from several jurisdictions, farm trail operators, and a USDA organic accredited certifier.

Common considerations included:

- The need to streamline laws and regulations and eliminate redundancies.
- The benefits of statewide regulatory consistency.
- The desirability of promoting California agricultural production.
- The public health advantages of broader access to fresh fruits and vegetables.
- The importance of a robust and pertinent enforcement policy;.
- Establishing an appropriate level of regulatory oversight to ensure truth in labeling and food safety.

[1] *Potentially hazardous foods* are defined in accordance with Health and Safety Code §113871 et seq., as a food that requires time or temperature control to limit pathogenic micro-organism growth or toxic formation.

- The need to recognize that the level of government oversight should be commensurate with risk to the public and that there be consistency in the level of regulation across the various pathways of direct marketing.
- The importance of making use of available technology to enhance communication and enforcement.
- Establishing a statewide Direct Marketing Program producer registration system.
- Connecting various segments of the direct marketing industry into an advisory board.
- Creating standard pack, container, and labeling exemptions for all direct marketing outlets.

The Ad Hoc Committee listened to subject matter experts and could not come to a consensus in regard to the use of private organizations as third party enforcement officials. In addition, the Ad Hoc Committee analyzed the potential for defining the term "locally grown." Due to production scale diversity within California, the committee chose not to establish a statutory definition for the term "locally grown" and to allow for regional efforts to develop on their own.

The concept of a direct marketing registration for all types of direct marketing, e.g., farm stands, field retail stands, CFM/certified producers, CSA operator, etc. was explored by the Ad Hoc Committee. The intent behind this concept was to streamline the registration process for all types of direct marketing, establishing a statewide enforcement and registration process for all direct marketing activities and provide for additional access and agritourism opportunities. The committee was unable to come to a conclusion in regard to whether to charge a fee and, to a certain extent, the necessity of a direct marketing registration for farm stands and field retail stands.

The Ad Hoc Committee spent considerable effort exploring and developing a risk based food safety approach similar to that embodied in AB 1616 (Gatto, Ch. 415, Stats. of 2012). The Ad Hoc Committee generally agreed that direct marketing operations selling agricultural products had potentially lower risk to public health because of the scale of the operations involved and the nature of the product should be subject to a lower level of oversight. In lieu of a customary food facility permit and routine inspections by a local or state enforcement agency, some operations could be required to register their operations with the appropriate government agency and self-certify that the operator is in compliance with best management practices (BMPs) or Good Agricultural Practices (GAPs) determined to be applicable for that operation. Registration and self-certification offer certain food safety, traceback, and recall assurances at a significantly reduced cost to operators and regulatory agencies. Certain operations such as retail field stands are currently exempt from the California Health and Safety Code and serve as a model for exempting other direct marketing operations selling agricultural products.

Over the course of 2013, CDFA will collaborate with the stakeholders identified in the following pages in providing appropriate regulatory reform and, when appropriate, assist in identifying legislative solutions.

The following pages provide a brief, high-level synopsis of the issues considered by each subcommittee.

CERTIFIED FARMERS' MARKETS (CFMs)

The primary objective of the CFM Subcommittee was to identify opportunities to allow the CFM industry to continue to flourish while providing a relevant enforcement program to ensure that producers grow what they sell. Additional objectives included: protecting the integrity of CFMs; improving the certified producer certificate and application; eliminating unnecessary and unenforceable regulations that are burdensome to the industry; providing tools for a consistent CFM structure through market manager training; and exploring industry-driven compliance models. After considering alternate structures for administering and regulating CFMs, the CFM Subcommittee concluded that with specified improvements, the current structure for regulating and administering CFMs presents the best opportunity for ensuring that the CFM industry continues to prosper.

CFMs often take place within or adjacent to events permitted as community events under California Health and Safety Code §113755. Within these community events (but outside the boundaries of the CFM), individuals are permitted to sell agricultural products, provided that Standardization Program regulations are followed. This has led to some confusion for consumers, as there is no statutory mandate requiring that these agricultural products are grown in California or produced by the entity selling the product. As a result, the CFM Subcommittee concluded that statutory changes should be implemented mandating that there should be no produce at ancillary events that are not grown directly by the producer.

There was general agreement on a number of issues, including: the necessity for adequate enforcement funding; that cross-county inspections and investigations need to be supported with appropriate funding; CFM fees should be allocated only to CFM functions; and primary enforcement efforts of CDFA should include ensuring that the agricultural products offered for sale are of the seller's own production, and eliminating false and misleading representation. In addition, the CFM Subcommittee recommended that any agricultural product sold at a CFM should be grown by the producer. Furthermore, the CFM Subcommittee stressed the importance of verifying that products sold are of the producer's own production.

General considerations of the CFM Subcommittee included:

- Use of private third party inspection services. There was general agreement that a wholesale shift to a private third party inspection model is not currently viable. However, if desired, markets should be permitted to fund and develop their own compliance programs. In addition, opportunities to enhance cooperation and communication among county agricultural commissioners, CDFA, and Market Managers to facilitate effective industry-driven projects should be pursued.
- Standardizing county funding and establishing uniformity for county certificate and inspection fees.

- Adding a new section under the Food and Agricultural Code that establishes a prohibition and penalty section for false, deceptive, or misleading marketing of agricultural products similar to that in Business and Professions Code §17500. This proposed addition would specifically address misrepresentations concerning geographical area of production, the identity of producers of an agricultural product, and the manner and methods of production of an agricultural product. Active enforcement of the section on all segments of the food marketing, not just direct marketing, is the reason it is placed in the general provisions of the code rather than in a specific portion.
  - Actions under this section may be initiated by the CDFA Secretary or by any agricultural commissioner on behalf of the secretary. Funds generated from penalties would be specifically earmarked for actions under this section, and for contracting with agricultural commissioners for aid in such actions.
  - In addition or in lieu, punitive action may also be taken against any applicable license, permit, or registration of the accused.
- Making corresponding changes to the California Code of Regulations specifying that all products sold at CFMs and immediately adjacent shall be California grown.
- Specifying that CDFA shall not mediate disputes between vendors and markets. Language pertaining to the rulemaking of CFM operators must be rewritten to clearly define nonprofit or other qualified operators (non-government operators) to be private entities whose rulemaking powers are abridged only by the condition that they be uniformly applied and in a nondiscriminatory manner.
  - Imposing a Direct Marketing Program fee assessment on market operators. Such a program fee is to be used for CDFA to administer the Direct Marketing/CFM Program. In addition, a separate special investigation and enforcement fee assessment, with a sunset provision, would be assessed on market operators. The money generated by the imposition of the fees assessed under this section shall be used exclusively to pursue and conduct investigations and enforcement actions upon properly filed complaints concerning the Direct Marketing/CFM Program. The market operator assessment must be used for enforcement, inter-county coordination, and data maintenance. No consensus was reached, but there was general agreement that the option is worthy of continued exploration.
- Transitioning to an application/renewal structure for Certified Producers:
  - First time applicants: mandatory field inspection, GPS mapping, and office process which includes providing basic processes regarding direct marketing instructions by county agricultural commissioners.
  - Renewals in good standing: producers provide forms, maps, crops, noting changes from previous year. Routine field inspection may be waived depending on degree of change from previous year's growing plan or sites.
  - Extending renewal process to every two years.
  - Mandating an annual inspection for certified producers with violations.
- Improving the certified producer's application and certificate to provide more useful information to market managers and to inspectors for field and market inspections.

This can be accomplished by utilizing cross-county resources and a change to an online based registration system.

- The CFM Advisory Committee will continue to advise the CDFA Secretary on issues affecting CFMs, a larger subcommittee composed of direct marketing stakeholders may be convened as necessary.
- Developing Market Manger Certification Modules; joint inspection training modules for state and county staff; multi-lingual informational brochure that communicates the basic regulations.
- CFMs must service the needs of rural food deserts and large selling counties in a consistent manner.

The CFM Subcommittee considered the need for enforcement and registration functions. Considerations included:

- Possible funding sources and models:
    - Standard statewide certified producer application fee, plus supplemental fees for each additional selling county a grower participates in to support selling-county inspections.
    - Cost-recovery programs.
    - A contract model between state and counties.
    - An economy of scale that is equitable for small and large counties.
    - Non-ag vendor fees charged by market operator may be used for enforcement.
    - Market Operator assessment to be used for enforcement, inter-county coordination, and data maintenance.
    - Creation of a new work plan format for field and market inspections to more efficiently utilize existing monies.

Areas where consensus was not yet reached, but agreement that exploration should continue:

- Level of onus on grower;
- Alternative models for selling California grown agricultural products;
- Certification and inspection; and,
- Establishing a Direct Marketing Advisory Committee in lieu of the existing CFM Advisory Committee.

COMMUNITY SUPPORTED AGRICULTURE (CSA)

As applied to the practice in California today, the term CSA is applied to several varying models used to deliver produce to consumers. Many CSAs in California are effectively delivery services of boxes of produce/products that do not involve direct involvement by the consumer in the operation of the farm. To provide greater variety and selection, most CSA operations aggregate products from different farms or sources. Many CSAs distribute a large volume and variety of products over an extensive distribution range. Concerns have been raised over the lack of consistent regulatory oversight over these operations.

There are a number of key considerations with regard to the appropriate level of regulatory oversight of CSAs to ensure commodity integrity, truth in labeling, and food safety. These include:

- Point of purchase;
- Source of produce/products in the boxes; and
- Type of product(s) sold in the boxes, ranging from uncut fruit and vegetables to processed and *potentially hazardous foods*.

The CSA Subcommittee agreed that some additional regulatory oversight of CSAs may be necessary to ensure integrity of commodity marketing, food safety, and a level business playing field. Additional CSA objectives included:

- Mandating that CSAs sell all products prior to delivery;
- Establishing definitions, in statute, for different CSA models;
- Establishing guidance with regard to food safety, sanitation, traceability, and self-certification, and;
- Identifying permitting, licensing, registration, and enforcement structures.

The CSA Subcommittee considered establishing a three-tiered approach for regulatory oversight of CSAs that is reflective of the type of operation and the source and content of CSA products currently being sold. All CSAs would be required to sell their products prior to delivery.

Single-farm CSA: may sell uncut fruit and vegetables and permitted shell eggs plus value-added foods (*non-potentially hazardous foods*) and *potentially hazardous foods* that are of the producer's own production;

Multi-farm CSA: may sell uncut fruit and vegetables and permitted shell eggs plus value-added foods (*non-potentially hazardous foods*) and *potentially hazardous foods*. This is the most common form of CSA in California, where a farm buys some products from other farms. The subcommittee considered language that would require the operator to identify the direct marketing registrant that they will purchase the products from on an annual basis. Although a decision was not reached, the subcommittee also considered establishing a maximum number of direct marketing producers associated to each multi-farm CSA registration.

California Grown Box: would allow an operation to sell a box of agricultural products produced by direct marketing registrants exempt from standard pack requirements. This allows any person to aggregate and market California grown products from direct marketing registrants. Entities aggregating in such a manner could not call themselves a CSA.

The table on the following page outlines proposed regulatory food safety oversight for the three tiers, accounting for the public health risk associated with the California Health and Safety Code classification of the product sold. The first table includes on-farm operations only. All

food processing and distribution undertaken off the farm is subject to existing federal, state, and local permitting and inspection. The Ad Hoc Committee did not consider changes to off-farm processing and distribution.

Category/Tier	Proposed California Health and Safety Code Regulation of On-Farm Processing & Distribution		
I **Single Farm**	Uncut Produce & Eggs: EXEMPT for California Health and Safety Code	Non potentially hazardous food (PHF)[2]: EXEMPT if consistent with AB 1616 (2012) list	PHF[3] = Full Retail Food Facility Permit (maybe not if in compliance with "cut and wrap")
II **Multi Farm**	Uncut Produce & Eggs: EXEMPT from California Health and Safety Code	Non PHF: Self-Registration	PHF = Full Retail Food Facility Permit
III **California Box**	N/A	Non PHF: Self-registration or permit	PHF = Full Retail Food Facility Permit
Current Equivalent Regulation	Retail Field Stand	Farm Stand	Full Food Facility Permit

Tiers	Current Off-Farm Processing & Distribution
I	All tiers subject to State and/or local health permits
II	
III	

There was general agreement that all three categories should be subject to some basic food safety requirements, including:

- Mandating clean and cleanable boxes with suitable lining or protection to prevent contamination;
- Establishing a traceability requirement, including operation's address and batch number/date; and,
- Requiring adherence to statewide Best Management Practices (BMPs) or Good Agricultural Practices (GAPs).

Additionally, there was agreement that the list of *non-potentially hazardous* foods or "reduced risk foods" that are to be identified by CDPH pursuant to AB 1616 should be adopted as the list of approved "value-added" agricultural products to be considered non-potentially hazardous for the purposes of regulating direct agricultural marketing.

No agreement was reached on the following related issues:

[2] Non-PHF: *non-potentially hazardous foods* pursuant to California Health and Safety Code §113871 and as further described in the list to be posted by California Department of Public Health under AB 1616 (Gatto, Ch. 415, Stats. of 2012).

[3] PHF: potentially hazardous food pursuant to California Health and Safety Code §113871.

- Whether *potentially hazardous foods* that comply with USDA/CDFA "cut and wrap" provisions should be required to obtain a full retail food facility if operating as a single farm;
- Appropriate level of food safety regulation for a California Box which includes *non-potentially hazardous foods*, i.e., self registration or full retail food permit;
- Ag co-operatives with potentially hazardous food: California Health and Safety Code §113789(c)(1) exempts "co-operatives"; however, the CSA Subcommittee did not see the logic in exempting all "California Box" operations that operated as cooperatives from food safety requirements;
- The appropriate local oversight agency for registering and enforcing "self certification" provisions – county agricultural commissioners or local environmental health/public health agencies.

ACCESS

The Access Subcommittee explored the general notion of enhancing and increasing access to healthy fresh agricultural products (primarily, fruits, nuts, and vegetables) to the public. The subcommittee focused primarily on expanding access in "food deserts" or areas where access to fresh produce are limited because of the absence of, or limited access to, retail outlets that provide these products. The subcommittee encouraged the promotion of food systems which increase healthy food access opportunities, and integrating the work completed by the Food Access Advisory Group, which has been established pursuant to AB 581 (Perez, Ch. 505, Stats. of 2011).

This AB 581 Working Group is composed of representatives from the Legislature, food policy advocates, the grocery industry, financial institutions, food systems researchers, the agricultural industry, underserved communities, nonprofit and philanthropic organizations, health care providers, and others. The AB 581 working group is intended to assist the California Healthy Food Financing Initiative Council in complying with its mandates of:

- Developing financing options using public or private funds and resources to support access to healthy foods for all Californians;
- Developing program parameters, including, but not limited to, all of the following: defining eligible entities for participation; developing minimum eligibility thresholds for participation; and, establishing minimum and maximum levels of financial assistance;
- Partnering with federal, state, or local government agencies, nonprofit organizations, and philanthropic programs to further the purposes of the initiative;
- Reviewing recommendations of the advisory group established by the California Health Food Financing Initiative; and,
- Providing updates to the Legislature, as requested.

After significant discussion, considerations of the Access Subcommittee included:

- Establishing an effective network of communication that will allow for collaboration with entities such as the Food Access Advisory Group in expanding access to fresh and healthy agricultural products via direct marketing;
- Utilizing electronic benefit transfer (EBT) and the Women, Infant and Children's Program to enhance access to California agricultural products sold through direct marketing operations;
- Ensuring that all direct marketing models explored (e.g., CSA, CFM, farm stand) adhere to the intent of *Ag Vision 2030,* specifically, improving access to safe, healthy food for all Californians; and, promoting robust regional markets for all California producers while adhering to direct marketing principles. A copy of Ag Vision 2030 can be found online at: http://www.cdfa.ca.gov/agvision/.

GARDENS

The Gardens Subcommittee determined that its scope included culinary, school, community, victory, and other small-scale plots used for growing fresh fruits and vegetables. Due to issues concerning land use, zoning, and food safety requirements, several local agencies have started to formalize an approval process to allow these gardens to grow, donate, and sell the produce grown.

The key considerations for the committee included whether any product grown in a garden was sold or entered the stream of commerce; whether the sale of produce was offsite or onsite; and whether the produce was sold or donated to the general public or fellow growers and immediate family. The subcommittee determined that the sale of produce from these gardens should be regulated in a manner consistent with CSAs and retail field stands or farm stands under the California Health and Safety Code.

Garden objectives included:

- Establishing a statewide process of self-certification to meet the requirements of an approved source;
- Establishing statutory definitions for gardens (i.e., community, school, victory, culinary, etc.);
- Establishing guidance in regard to food safety, sanitation, traceability, labeling, and self-certification (approved source); and,
- Identifying a permitting, licensing, and registration structure as well as an enforcement mechanism.

The Gardens Subcommittee determined that local and state agencies should collaborate in increasing public awareness of the benefits, but also the potential health risks associated with these operations. When the products enter the stream of commerce, registration and self-certification should be mandated for best management practices (BMPs) and good agricultural practices (GAPs). Additional considerations included:

- Encouraging CDFA, CDPH, and local and environmental health agencies to collaborate in the development of web-based information on BMPs/GAPs for the production, distribution, and consumption of herbs, fruits, and vegetables grown in these gardens;
- Community gardens (excluding school gardens) in which only herbs, vegetables, or fruit are grown (no livestock) and consumption is by the producers and direct family of producers should be exempt from the California Health and Safety Code, but subject to any other applicable laws or regulations governing zoning, land use, or agricultural practices such as pesticide use and registration;
- School gardens and community gardens where product is donated to or shared with consumers that are not producing the products, or culinary gardens for consumption by customers ON SITE of the restaurant, shall be required to be self-registered with the appropriate local agency; and,

The subcommittee did not determine whether the above considerations should be regulated by a county department of environmental health, county agricultural commissioner, or a combination thereof. The selling of home garden produce directly to the consumer at a private residence was considered. The type of exchange, similar to community gardens and school gardens, allows the consumer to know where the produce is grown and under what conditions. In contrast, if the home garden sells the produce off-site at a CFM or to local restaurants, the consumer cannot see firsthand under what conditions the produce is grown. Under the first scenario, the consumer is more aware of the food source and the garden operation should not be subject to the California Health and Safety Code. Under the second scenario, the consumer is less aware of the growing operation and the garden operator would be subject to registration and certification of good growing practices.

As indicated above, some local jurisdictions have started developing processes to allow community garden produce to be sold directly to the consumer or to be considered an "approved source" under the California Health and Safety Code. These existing procedures should be evaluated when determining how to craft new language. Furthermore, the Gardens Subcommittee suggested that AB 1616 (Gatto, Ch. 415, Stats of 2012) should be used as a template for any new proposed legislation related to gardens and to streamline the local registration and certification process.

FARM STANDS AND SELLING

The Farm Stand and Selling subcommittees merged early in the process, as it became apparent that their objectives converged.

Farm Stand and Selling objectives included:

- Establishing guidelines and an enforcement model to eliminate misrepresentation and identify the origin of product sold at roadside stands.
- Exploring the feasibility of allowing growers to be able to sell product of their own production direct to a consumer outside of existing direct marketing models, and;

- Providing a structure which would allow for additional direct marketing opportunities where CFMs may not be successful.

Considerations of the Farm Stand and Selling Subcommittee included:

- Exploring changes to the California Food and Agricultural Code which would allow registered direct marketing producers to transport and sell California-grown fresh fruits, nuts, and vegetables that they produce, directly to the public.
- Mandating that all roadside vendors must be registered by the Direct Marketing Program. Any agricultural product sold must have a permit with the appropriate local entities, have a produce handler's license (under applicable circumstances), and proof of ownership.
- Establishing language which would make the selling of agricultural products on a public right-of-way a citable offense under the Vehicle Code without proper permits or authorization.

FOOD BANKS

Although food banks are not, strictly speaking, a pathway for direct agricultural marketing, the Food Banks Subcommittee reviewed local, regional, and statewide organizations that assist Californians in accessing food assistance and nutrition programs and in distributing fresh produce. Specifically, the subcommittee sought to identify obstacles to expand food bank services and consider opportunities to overcome these obstacles.

After reviewing opportunities for assisting Californians in accessing food assistance and nutrition programs, considerations included:

- Assessing the feasibility of food banks acquiring foods subject to disposal orders at ports of entry. This would apply only to foods not subject to any safety or pest quarantines;
- Establishing a point of contact for produce at the port of entry;
- Establishing connections between California produce handlers and food banks;
- Pursuing the concept of a CDFA Standardization Program "rebate program" for food donations;
- Evaluating whether CDFA's Standardization Program requirements hinder the distribution of food donated and/or purchased by food banks. The subcommittee concluded that the Standardization Program does not hinder food bank distribution models;
- Exploring channels to facilitate and expedite food bank milk distribution. Recognizing the need for commodity and health controls, CDFA and USDA should be tasked with reviewing current recordkeeping processes to determine whether it can be safely reformed to cut costs and time for milk distribution by non-profit food banks;
- Facilitating a dialogue with the Department of Education and school districts (e.g., bonus buys); and,

- Establishing support for California food banks' efforts to access fresh produce and other food products that otherwise cannot be absorbed through normal distribution channels associated with USDA Bonus Buys and other federal programs.

Appendix A
California County Agricultural Commissioners
Certified Farmers Market Survey Questions[1]

This survey is to provide input to the Direct Market Ad Hoc Advisory Committee about actual costs and potential cost for the CFM portion of the program.
County name-

1. What were your county department total program expenditures during fiscal year 2010-11 for the Certified Farmers Market program, including CPC registrations, field inspections and market inspections? **CAC Total Expenditures 2010-11 -$2,080,426 2004- $1,115,035**

   6 counties do not have program expenditures

2. What was the total revenue (not including unclaimed gas tax), that you received for the CFM program for 2010-11? **CAC Total Revenues 2010-11- $408,336 2004-285,165**

   13 counties do not charge fees

3. What would be your counties approximate cost to conduct an annual inspection of all your Certified Producers growing locations?

   CAC state total estimate is $1,315,135 to conduct an annual survey of CPC sites

4. Does your department have the ability to establish a GPS coordinate for each growing location?
   43 counties confirmed that they have GPS capability

5. If you could change the existing CFM program, what would you change?

- Standardized certificates for all counties
- Stronger fine matrix
- Adjust the fee cap to better recover costs and perhaps institute a sliding scale for fees based on the size of the farm/volume of product produced or some other criteria;
- Create a formal procedures manual and standardized inspection forms for the CFM program;

[1] This survey was administered and compiled by Richard Price, Butte County Agricultural Commissioner/Director of Weights & Measures in July 2012, at the request of the Direct Marketing Ad Hoc Committee.

- Improve the on-line CFM database interface for CAC staff and certified producers. The current program is difficult to update and add or amend information.
- All CFM Managers should be certified by the State annually and required to attend a yearly refresher seminar.
- Producers, immediate family members, & employees should be required to carry employment/ relationship verification and to carry a State-issued ID card. This would provide means to determine selling authorization and prevent misuse of otherwise valid CPCs by non-employees.
- Nursery stock should be removed as a certifiable agricultural product. Practice of the agricultural arts cannot be documented on nursery stock and there are no exemptions (labeling, standard container, standard pack, etc.) that apply to nursery stock under the DM program. The ability to regulate nursery stock (prohibiting buying/reselling) cannot be reasonably accomplished.

- Repeal or make substantial amendments to existing statutes & return to the original purpose of the program –to facilitate the economical marketing of agricultural products directly to end consumers &/or

- The serious consideration of developing a compliance program using third party inspections. This would allow interested parties to do compliance inspections, offer advice & assistance to growers, markets & others. These groups could be used to address the newer direct marketing venues that CACs may be expected to regulate such as culinary gardens, CSA's, etc Then if need be refer regulatory/enforcement issues to CAC or CDFA. This would be similar to the Organic Certification process. Sponsor needed legislation to allow for this, rather than dismiss it out of hand, &/or

- Amend existing statutes that mandate market and producer inspections. Eliminate the mandates and provide the CAC with the flexibility to allocate resources in problem areas & on spot checks. Allow the CAC to use knowledge of local situations to ***EFFICIENTLY*** use resources, such as the elimination of annual (or greater) inspections for perennial crops &/or

- Place more responsibility on the markets to effectively police themselves &/or
- Require market managers to become licensed or certified w/ (annual) training/education requirements &/or

- Develop an audit based inspection/enforcement program that provides for mandated CAC inspections initially when a market or producer first begins work in county and then at some to be determined interval, such as every 3 to 5 years, but allowing CACs to do them more frequently as local conditions warrant &/or

- Do not expand the DM program into new areas until the CFM portion of the program is adequately addressed.

- I very strongly feel that all certifiable agricultural sellers should only be allowed at CFM's if they are within the designated CFM area of the market. This includes eggs, livestock products and nursery plants and flowers. Currently it is allowable to be outside of the designated area if you are not a CPC (or a grower in the case of eggs and livestock products). This is not right and is contrary to the philosophy of the CFM as well as defrauding to the public in my opinion.

- Simplify and clarify the lease and partnership agreements. The code is not clear. Get a legal interpretation of the lease requirements. The signature and notarizing process is cumbersome and confusing. Put it in writing and create guidelines to be used equally amongst all of the Counties. Expand CPC name allowance from Husband/wife, grandparents, son/daughter and grandchildren to include immediate brothers and sisters. No cousins. Note time of year that harvest will occur, and be specific as to the year and months. Such as, March thru May 2012, or September to November 2012. Do not use spring or fall. Increase fee as defined in code from $60/hour to $75/hour, or better yet actual cost. Most importantly, insure uniform and consistent inspections statewide.

- Allow producers to declare commodities at the genera level of detail (not to the variety or species level as is currently required).

- Ability to charge for more frequent Farmers Market inspections.
- Ability to charge for Certified Producer complaint related inspections.
- Ability to charge for routine CPC inspections

- Make it self-supporting with a CDFA agreement to bill against to cover the **all** the costs of registrations, inspections, investigations, complaints, etc.
- Have more spot inspections and oversight/training from CDFA for market managers
- Hold the CPs and CFM managers more accountable and make it easier to issue ACPs/fines/etc.
- Put it under Environmental Health…

- Significantly increase funding, eliminate 2nd certificates, implement steeper fines and expulsion from direct marketing (ramp up fine matrix), have computerized database for cross-checking other county producers, standardized online certified producers certificates, increase the allowable fees for certified producers certificates, limit the number of certified producers certificates that can be issued, mandate audits on producers and markets, not allow certified farmers' markets to operate when no certified producer is selling product.

- Go with a work plan format. Funding can go to all counties including those which do not to have fees and / or can not to do inspection activities without outside revenue. The level of inspections from county to county would become more consistent.

- Require a minimum amount of production to become certified. Eliminate the ability of individual Certified Producers to operate markets. Require incorporation or non-profit status for all market operators.

- Inspection costs are currently capped at $60 per hour in regulation. These costs must be based on actual expenditures to ensure adequate funding.
- Inspection frequency in regulation is two inspections per year. This frequency should reflect the commodity being produced. For example, tree crops require fewer inspections than row crops.
- Require market managers to document and maintain records of compliance with laws and regulations each market day.

- CDFA Contracts with counties to pay for audits, investigations, market inspections
- More CDFA training – meet with counties, put on area training sessions
- Raise stall fees to $2.00 (or whatever to cover CDFA contract costs). Sixty cents seems very inadequate.
- Raise our own certificate fee for producers to $50; continue no charge for amendments.
- Routine Verification with origin county - Insist that at least one booth per market inspection be photographed and those photos be forwarded to the origin county; making sure that what is sold is what the origin county certified
- CDFA needs more money to educate public about what "certified" means. So many Farmer's Markets are popping up – it sounds like they all are populated with farmers selling their own produce.
- Share more NOV/NOPA info with counties perhaps do quarterly conf calls to discuss
- Have only Vegetables and Fruits as certifiable commodities. All other commodities (nursery stock, eggs, honey) can be verified by the market operator based on other documents – Nursery license, licensing by the state for selling eggs, registration of hives with the commissioner.
- The law needs to be expanded and clarified to accommodate CSA operations that deliver produce to people's home based upon a membership or monthly fee.

- Enforcement – Producers with perennial crops to be issued certificates good for up to two years with only one inspection required. Also, an organic grower who is certified organic through a certifying agency could be issued a certificate based upon the information provided by the certifying agency, and avoid an additional county inspection fee. Market managers should be held more accountable as the primary enforcer of Direct Marketing laws and regulations – Obvious problems at market stalls

like unsealed scales, neglecting to post certificates, the sale of items not listed on the certificate – these should be considered violations by the market as well as the producer. Fundamentally, it appears that the program may have to shift to market managers and independent certifying agencies for maintaining program integrity, because county resources will become leaner over time.

- Also, a statewide database or website where CPCs can be viewed by all county ag departments. This would be very helpful for communication between counties regarding growers who sell in multiple counties. The current website is not up to this task, and is cumbersome.

- 1) Increase funding level to allow full cost recovery; 2) Increase state training and outreach to market managers and operators; 3) Require more transparency to customers: require signage (something like Petroleum requirements with placement and size of lettering) at CFM booths that says where the produce is grown. Require sign at market with definition of 'organic' and 'certified producer'. Many customers do not know what 'certified farmers market', local grown, or organic really mean; 4) Uniform commodity listing protocol statewide (something like organic commodity list), to make inspections of producers at market easier; 5) Standard certificates statewide to make inspections easier at markets.

- Direct marketing investigations are dreadfully time consuming, largely due to the effort required to locate and gather necessary information and evidence. To improve efficiencies, we would propose that CDFA develop an easily searchable online database that provides:
- Copies of every market certificate statewide
- Copies of every producer certificate statewide
- Names of certified producers selling at each market (updated regularly by the markets)
- Load sheets from each market (updated weekly by the markets)
- In lieu of the above, establish regulatory requirements that producers provide the Commissioner a list of markets they attend, and that markets provide load sheets promptly upon request by an official.
- Standardize load sheet format to clearly describe commodities and quantities sold.
- Standardize certified producer certificates so that information is consistent, produce varieties are specified, and units of measure are uniform.
- Remove provisions that certified producers may sell for other certified producers. This violates the direct marketing concept and greatly complicates investigations.
- Post all CDFA Direct Marketing Notices in a central online location to help insure consistent interpretation of laws and regulations.
- Provide guidelines and training concerning production yield and seasonality for specific commodities.
- Provide periodic training/review sessions for regulatory officials.

- Whole new grey area created by definition of flavorings; i.e. - “no, I didn’t produce the rosemary, lemons or garlic ingredients, but they are flavorings”
- Eliminate potted plants as certifiable agricultural commodities or greater specificity as to horticultural and cultivative practices (too many 6” plants in 1 gal containers)
- Additional criteria for market certificate than merely possession of a CPC. We have a guy running three markets because he has a lemon tree in his front yard.
- Designate a non-profit status that is truly non-profit (see above)
- Educate Market Managers and their staff about direct marketing.
- Faster notification on violations so we can provide immediate follow-up enforcement if they continue practice in our local market.

- Place more responsibility and consequences on market associations to police their markets; increase the number of violations that could be written to the association and decrease the number of violations that could be written to the producer
- Provide a cost recovery mechanism for investigations
- Create a funding source for the entire program outside of the revenue generated by issuing certificates
- Eliminate second certs and one grower selling for another

- It is not likely that producers or market managers are prepared to pay government employees the amount of money required to recover the cost for adequate program oversight. It may be time to turn the program oversight over the markets themselves.

- Privatize it to a third party certifier. Philosophically, I do not believe that the government should regulate arenas that do not have empirical value to the public.

- SIMPLIFY !
- I believe that an industry member brought up a simplification concept at our 2004 Interim Meeting in Woodland that should receive serious consideration. Basically, require “certified producers” to advertise/publicize something along the line: “All produce offered for sale was produce by XYZ”. If in fact that is a false statement they are in violation of Business & Professions Code Section 12024.6 - *No person, firm, corporation, or association shall advertise, solicit, or represent by any means, a product for sale or purchase if it is intended to entice a consumer into a transaction different from that originally represented.*

- Do a 50% surprise inspection of all locations at least once instead of the other types.

- Change to a state driven program similar to the Organic Program. Migrate to an inspection frequency of a fraction of the CPC grower locations maybe ¼ of the growers. Establish more reliance on the Market Managers to identify violators at their locations and have them removed without county involvement.

6. If you had the option to base your program under a new work plan format to flexibly address your local county priorities, instead of using the existing inspection frequencies as stated in regulation, what would a rough work plan proposal for conducting certified producer growing site inspections and certified markets look like for your county? (For example a program could be adjusted to reduce the inspections for perennial crops versus annual crops, increase the number of inspections for larger markets, etc. under a new program format)

- Reduce inspections for perennial crops to every 2-3 years. Increase inspections where there are complaints, reduce where you do not see problems. Since we have yet to find a problem when doing field inspections possibly have annual crops on a variable frequency inspection program unless we start seeing problems. Currently all of our markets are small and the market managers are policing and suspending any producer that is not following the regs.

- Flexibility for # of growing site inspections based on commodity and growing season and CPC compliance history
- Flexibility with # of inspections per market due to past compliance history of CPC holders and market managers

- I don't really see the value of using a work plan format for the CFM program. Work plans are usually implemented to provide a uniform methodology for allocating limited resources for programs where CDFA has a limited amount of money and needs to contract with CACs for service. In the case of the CFM program, the resource allocation, while insufficient, is received and allocated at the local level. If the inspection frequencies as currently written in the regulations need to be amended, then there should be an effort made to amend the regulations. Counties should be afforded the maximum flexibility to implement whatever level of inspection they believe is necessary given the number of producers, volume of product, number of markets, etc.

- Minimum once a year visits to all CFM's, with flexibility to add additional inspections based on risk: ie larger and problem markets get more inspections
- Flexibility to tailor CPC site inspections based on risk: inspections for new certs and growers not familiar to the department; no (or less frequent) inspections for permanent crops and growers we know through contact in other programs

- In order to effectively enforce the direct marketing program, we would increase the number of market inspections with the ability to target markets with compliance problems. We would also conduct additional spot inspections and audits on certified producers on a random basis and in response to problems at certified farmers' market inspections. These activities would require a substantial amount of time which in turn requires funding.

- CFM Inspections: Conduct once a year inspections plus re-inspections of markets where violations were found. Additional re-inspections each time violations are found. Conduct once a year undercover inspection at each market to investigate claims of "organic, no sprays, pesticide free."
- Producer Property Inspections: Inspect growers with annual crops seasonally and tree crops annually. Also inspect after market inspections to verify production.

- In favor of anything and everything that simplifies our current system.

- Reduce the frequency of market inspections to once per year. The Commissioner would still have discretion to make more frequent inspections if indicated by seasonality, number of vendors, or compliance history.
- For certified producers with only perennial crops listed on the initial certificate, reduce the frequency for site inspections to initial and every third year, provided there is no subsequent certificate amendment.
- For certified producers with annual crops listed on the certificate, reduce the frequency of site inspections to once per year.

- Seek legislation to amend the existing statutes to eliminate the specified frequency of inspection requirements for certified producers and markets.
- Develop full COUNTY & STATE funding strategy for the program that covers actual costs, including actual overhead – no arbitrary limits imposed because the costs are unpleasant to consider. DO NOT attempt to fund county program exclusively by local fees – if it is the Advisory Board's and CDFA's desire to develop and implement a more robust regulatory system they should bear the burden of fee collection & program financing. Fee collection, after the fact, i.e. billing someone for an inspection can be costly and cumbersome.
- Seek legislation to provide authority to immediately suspend any certified certificate (& any other similar certificate or license that might be developed in the future) for non-payment of anything.
- Develop a workplan template that provides guidance to CACs. This will allow them to develop an enforcement program based on their knowledge of local conditions, while maintaining a level of statewide uniformity.
- CDFA would need to implement a systematic training program for counties and third party inspectors and provide programmatic guidance including a review, if requested of CPC certificates to evaluate accuracy.
- A statewide program might include a programmatic goal of inspecting all markets & certified producers when they initially register with a county and then place them on either a variable frequency of inspection program based to some degree on their compliance records (if they have been in business) and/or CAC knowledge. They would have to be inspected at least once in a three, four, or five year period.

- Recognizing that this industry is changing and there are new direct marketing venues the program will have to change. In the past the program has changed by adding new regulatory requirements on top of existing requirements. It is time to do a complete review of the program. The current statutory and regulatory requirements are inefficient, burdensome, and underfunded. To add additional requirements to the existing program would diminish the program's effectiveness.

- Define small, medium and large. Then allow inspecting counties to inspect small markets once a year, medium markets 2X a year and large markets 3X a year (or more if needed). All annual crops shall be inspected for each initial/renewal and revised certificate. Perennial crops could be inspected at least initially, then at the discretion of the county.

- Move to a compliance based system, inspecting new growers initially and then as needed based on compliance. Growers with a proven track record would be inspected once every two years and those with poor compliance rates would be inspected more frequently