

DEPARTMENT OF FOOD AND AGRICULTURE  
PROPOSED CHANGES IN THE REGULATIONS  
Title 3. Food and Agriculture  
Division 3. Economics  
Chapter 1. Fruit and Vegetable Standardization  
Subchapter 4. Fresh Fruits, Nuts and Vegetables  
Article. 6.5. Direct Marketing  
§1392.8.1 Certified Farmers' Market Fees.

**INITIAL STATEMENT OF REASONS**

**PROBLEM STATEMENT**

The Food and Agriculture Code Section 47000 et. Seq. provides opportunities for California farmers to market their agricultural products directly to consumers with exemptions for minimum size, labeling, standard pack, and container requirements. These exemptions allow farmers to sell their products directly to the consumer without added expense of commercial preparation. There are over 2,000 certified producers and 800 certified farmers' markets in California.

CDFA is authorized to enforce the statutes for Direct Marketing, which include CFMs, under Sections 47000-47062, which in part states, "The department should assist producers in organizing certified farmers' markets, field retail stands, farm stands, community-supported agriculture, and other forms of direct marketing by providing technical advice on marketing methods and in complying with the regulations that affect direct marketing programs."

The growth of the Certified Farmers Market Program and stagnation of funding has resulted in insufficient enforcement ability of state and county officials, providing opportunities for fraudulent activity at CFMs. Today, the early framework of Assembly Bill (AB) 593 only provides the capability for cursory inspection work and it has been identified that different enforcement tactics, including educational pieces, are necessary to fix the problem. AB 1871 allows for additional funding which will fund necessary enforcement activities.

**BENEFITS**

The proposed regulatory action will create a funding mechanism for counties to be reimbursed for enforcement activities outside of the certification process. It will also expand current state enforcement capabilities. The benefits of this additional enforcement include increased consumer confidence, an equitable marketplace among producers, collaboration among state and county partners, level producer competitiveness and profitability; and, enhanced education and outreach efforts.

**PURPOSE**

Section 14 of the Food and Agricultural Code authorizes the Department to adopt rules and regulations in accordance with the Administrative Procedure Act. Additional authority vested in the Food and Agricultural Code grants the California Department of Food and Agriculture Secretary the authority to amend or repeal rules and regulations.

Section 407 of the Food and Agricultural Code authorizes the Secretary of the Department to adopt such regulations as are reasonably necessary to carry out the provisions of the Food and Agricultural Code which the Secretary is directed or authorized to administer or enforce.

Section 47001 of the Food and Agricultural Code specifies, in part, that the Secretary of the Department may adopt regulations to encourage the direct sale by farmers to the public of all types of California agricultural products. These regulations may include provisions to ensure and maintain quality and wholesomeness of the products, and to ensure that the selling activities are conducted without fraud, deceptions, or misrepresentation.

## **NECESSITY**

The proposed amendment is a result of AB 1871 being signed into law effective January 1, 2015.

## **TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS**

## **ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

### Purpose

The purpose of the proposed regulation is to create additional funding for enforcement activities.

### The Creation or Elimination of Jobs Within the State of California

The proposed regulation will create jobs at the state level and provide funding at the county level.

### The Creation of New Businesses or the Elimination of Existing Businesses Within the State of California

This proposed regulation change is due to AB 1871 being signed into law. There will be no changes to current business practices in farmers' markets. Therefore, CDFA has determined that this regulatory proposal will not have a significant impact on the creation of new businesses or the elimination of existing businesses in the State of California.

### The Expansion of Businesses Currently doing Business Within the State of California

The proposed regulation only changes the fee imposed to market operators. Therefore, the Department has determined that this regulatory proposal will not have an impact on the expansion of existing businesses in the State of California.

Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

The proposed regulation will benefit certified producers and CFMs statewide through additional enforcement activities. The benefits of this additional enforcement include increased consumer confidence, an equitable marketplace among producers, collaboration among state and county partners, level producer competitiveness and profitability; and, enhanced education and outreach efforts. Therefore, the proposed rulemaking will indirectly impact the general public and protection of public health and safety.

**EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS**

The Department has determined that this proposed change to the regulations would not have a significant adverse economic impact directly affecting businesses including the ability of California business to compete with businesses in other states.

**REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES**

The Department has not identified any reasonable alternatives to the proposed action and no adverse impacts to small businesses are expected as a result of this proposed action.