



**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)
CERTIFIED FARMERS' MARKET ADVISORY COMMITTEE (CFMAC)**

**October 4, 2021
Teleconference
Meeting Minutes**

MEMBERS PRESENT

Ben Palazzolo – Vice
Chair
Cynthia Ojeda
Ed Williams
James Murez
Joyce Chan
Karen Wetzel Schott -
Chair
Kurt Floren
Lulu Meyer
Oscar De Leon
Phillip Rhodes
Portia Bramble
Suzi Grady
Tyler Thayer

MEMBERS ABSENT

Carla Rosin
Diana Martinez
Spencer Wingfield

INTERESTED PARTIES

Aldo Zuniga
Carrie Mitchell, Merced
County Ag
Commissioner
Carole Vegas
Cody Leeds
Dave Runsten,
Community Alliance with
Family Farmers
Isabel Medina, Fresh
Approach
Keri Brumfield
Mark Larson, Hillcrest
Farmers' Market
Rosio Almaguer,
Ecology Center
Sharron Lundin, Santa
Clara County Ag
Commissioner

CDFA

Brandi Alston
Dominic Hickman
Jennifer Leidolf
Marcee Yount
Michael Ackley-Grady
Rene Mendoza
Steve Patton
Thomas Osborn

ITEM 1: CALL TO ORDER-INTRODUCTIONS/ROLL CALL

The meeting was called to order by Marcee Yount at 10:01 a.m. Thomas Osborn called roll, self-introductions were made, and a quorum was established.

ITEM 2: ELECTION OF OFFICERS

Yount opened the floor to nominations for Chair.

MOTION: Joyce Chan nominated Karen Wetzel Schott for the office of Chair. James Murez seconded the motion. A vote by roll call was taken. The motion passed unanimously, with no abstentions.

Yount turned the floor over to the newly elected chair, and Chair Schott opened the floor to nominations for Vice-Chair.

MOTION: Karen Wetzel Schott nominated Joyce Chan for the office of Vice-Chair. James Murez seconded the motion. A vote by roll call was taken. The motion passed unanimously, with no abstentions.

ITEM 3: VACANCIES AND TERMS REPORT

Osborn provided the Vacancies and Terms report. Current vacancies include: four Certified Producer Members; six Certified Producer Alternates; and two Certified Farmers' Market Operator Alternates. Osborn also provided the names of members who will be eligible for reappointment as of January 22, 2022.

ITEM 4: PUBLIC COMMENTS

There were no public comments.

ITEM 5: REVIEW OF MARCH 1, 2021 MEETING MINUTES

Chair Schott asked for a Motion to approve the March 1, 2021 Meeting Minutes.

MOTION: Joyce Chan moved to approve the March 1, 2021 Meeting Minutes as presented. Tyler Thayer seconded the Motion. A vote by roll call was taken. The Motion passed, with Suzi Grady, Phillip Rhodes, and James Murez abstaining.

ITEM 6: FUND CONDITION UPDATE

Jennifer Leidolf provided the Fiscal Year (FY) Fund Condition update. Leidolf stated that as of June 30, 2021, the beginning fund balance was \$1,718,804. Total revenue was \$1,140,432, with available cash of \$2,859,236. Total expenditures were \$1,690,345, of which \$463,809 was incurred by the database development project during FY 20/21. Cash Adjustments were \$73,217, with ending balance of \$1,095,674. Leidolf noted that total revenue collected during FY 20/21 was lower than in previous years, due to the impact of the COVID-19 pandemic on Certified Farmers' Market (CFM) operations.

Tyler Thayer requested clarification as to the difference between Delinquent Fees and Penalties. Leidolf explained that Delinquent Fees are a fine levied when a CFM's quarterly remittance forms are submitted late, whereas Penalties are levied when enforcement actions, such as a Notice of Proposed Action (NOPA), are taken against a CFM or Certified Producer by the Direct Marketing Program.

Osborn explained that Cash Adjustments are comprised of a pro rata recovery of statewide administrative costs, as well as Senate Bill 84 pension repayment costs. Ben Palazzolo asked if the Direct Marketing Program is under an operational directive or mandate to maintain a minimum reserve fund balance. Yount responded that programs are directed to maintain sufficient reserve funds to cover six months to one year of operating costs.

ITEM 7: MARKET TRENDS/COVID-19 IMPACTS

Yount provided the Market Trends and COVID-19 Impacts update. Yount explained that the COVID-19 pandemic began in late March 2020, minimally impacting the first quarter of 2020, which spans from January through March. However, a significant decrease in CFM activity was observed in the second quarter of 2020, covering April through June 2020. An estimated 20% of CFMs were closed during this period, leading to a significant decrease in revenue collected by the Direct Marketing Program. Market activity began to slowly increase throughout the third and fourth quarters of 2020. An estimated 648 CFMs are currently operational in California, up from a low of around 500 during the height of the pandemic.

Yount also stated that the Direct Marketing Program had offered CFM operators a one-time waiver for late fees, as well as payment plans for remittance fees and any incurred penalties, due to the economic impact of the pandemic. Additional data will be provided at the CFMAC's March 2022 meeting.

ITEM 8: ENFORCEMENT UPDATES

Rene Mendoza provided the Enforcement updates. Mendoza began with an overview of 2021 Notices of Noncompliance (NNCs) since the 2021 regulation change. There were a total of 392 NNCs issued; 101 for failure to remit quarterly remittance forms and/or failure to remit quarterly remittance forms with required information; 55 for a Certified Producer selling products not listed on their Certified Producer's Certificate (CPC), 32 for a failure to ensure each certifiable agricultural product is listed on the Certified Producer's CPC, 28 for a failure to conspicuously post a valid CPC at point of sale; 20 for a failure to use an approved scale or sealed scale; 18 for a failure to post organic registration and/or documentation of organic certification when representing product as organic; 16 for a Certified Producer not having a valid CPC in possession when selling or transporting certifiable agricultural products; 15 for a Producer selling certifiable agricultural products at a CFM without obtaining a valid CPC; six for a Certified Producer selling certifiable agricultural products at a CFM that they did not produce; and 101 miscellaneous. Mendoza explained that the 101 miscellaneous violations were for minor violations against the Food and Agricultural Code and California Code of Regulations such as selling agricultural products combined with non-agricultural products and/or failure to post signage clearly and conspicuously.

Mendoza also provided a summary of 2020 NNCs, prior to the 2021 regulation change. There was a total of 361 NNCs issued, the majority of which were for a

failure to submit remittance with required information, or for a Certified Producer selling product not of their own production.

Mendoza also provided a summary of FY 20/21 NOPAs. After the 2021 regulation changes, there were a total of 11 NOPAs, all of which were issued to Certified Producers. Prior to the 2021 regulation changes, there were a total of 54 NOPAs issued; 53 were issued to Certified Producers, and one was issued to a CFM Operator.

A period of discussion ensued, pertaining to inspection and complaint response procedures for CDFA and County Agricultural Commissioner (CAC) staff. Some concerns were raised regarding investigators' response times to complaints. Steve Patton suggested that if CFM Operators or Certified Producers are experiencing long wait times for complaint responses, they should contact CDFA so that they can work with specific counties directly to address any challenges their staff are facing. Chair Schott also reminded those in attendance that anonymous complaint forms are available on the CDFA website.

Mark Larson, Hillcrest Farmers' Market manager, expressed concern that the current process for issuing Notices of Violation (NOVs) and NNCs is excessive and unfair to industry. Larson warned that some Certified Producers are being fined and potentially barred from participating in CFMs due to relatively small violations. Larson went on to encourage staff to implement new procedures that are less fine-based and punitive, rather providing Certified Producers and CFM Operators with more opportunity to correct deficiencies before a fine is levied. Larson suggested a three-strike system, as well as increased outreach and education as methods to relieve the regulatory and financial burden on the CFM industry.

Ed Williams and Kurt Floren added that there is a distinction between an NOV and a NOPA, with an NOV being designed to provide notification so that an issue can be resolved over time. NOPAs, by contract, are generally reserved for more serious or repeat violations. Floren expressed that the Direct Marketing Program's database, which is currently under development, will be able to provide additional real-time information that will assist CDFA and CAC staff in providing enforcement.

ITEM 9: PESTICIDE PILOT PROJECT DATA REPORT

Leidolf provided the Pesticide Pilot Project Data Report. Leidolf explained that the CFMAC had previously approved \$32,000 to be spent in FY 20/21 on a pesticide screening pilot project of up to 50 samples. As of October 1, 2021, 36 tests had been conducted. Of the 36 tests conducted, there were 22 positive results, indicating an application of pesticides to the crop. Investigations were conducted based on these positive results, leading to five enforcement actions being taken. \$18,200, or 56% of the \$32,000 total pilot project budget, has been spent to-date.

Williams stated that the high number of positive results and subsequent enforcement actions demonstrate the value of this testing as an enforcement tool. Investigators were able to discern between growers that had legitimate pesticide application as

opposed to those who did not. Williams added that increased pesticide testing could also have a deterrent effect and reduce fraud.

It was discussed as to whether a line item to increase subsequent Pilot Project funding should be included on the Direct Marketing Program's FY 22/23 proposed budget.

Suzi Grady expressed concern that Certified Producers reusing packing containers from other producers may lead to pesticide residue cross-contamination. Grady also requested that the CFMAC explore ways in which the pilot project can be made more equitable for small farmers.

Patton stated that there is still additional data from the current pilot project which has yet to be received by the Direct Marketing Program. Patton explained that depending on the will of the committee, additional funding for the Pilot Project can be included in the FY 22/23 proposed budget. The CFMAC can also meet again before the Spring budget meeting if there is additional discussion requested on this topic.

ITEM 10: DATABASE UPDATE

Yount provided the Database update. Yount explained that at their March 2020 budget meeting, the CFMAC had earlier approved \$500,000 to be spent on completion of the Direct Marketing Program's database project. This funding amount was based on a cost estimate provided by the CDFA Office of Information and Technology Services (OITS). As part of this estimate, OITS had anticipated completion of the minimum viable product version of the database by June 2021. This original delivery date has since not been met.

The database minimum viable product (MVP) will be composed of three different modules: the Quarterly Remittance Fee (QRF) module; the County module, which will have the capability to issue CPCs, CFM certificates, and commodity lists; and the CDFA module, which will include additional enforcement components. OITS has advised that the QRF module is currently in the testing stage, with the project as a whole standing at an estimated 66% complete.

Yount explained that development has been delayed by a high number of staff departures in OITS, including the departures of software development staff and project managers assigned to the database development project. OITS has found it necessary to increase the project's cost estimate by an additional \$500,000, for a total project cost of \$1,000,000. Yount advised that the CFMAC would need to put forth a motion, approving additional funding for the remaining database development work. Yount then opened the floor to discussion.

Patton voiced concern that should additional funding to resume work not be approved, the database development project will shift down on CDFA IT's project priority list. Patton acknowledged that this request for additional funding comes at a difficult time, particularly given the diminished revenue received by the Direct Marketing Program during the COVID-19 pandemic.

Williams asked if there is any currently available software that CDFA could utilize, rather than developing the project in-house. Yount responded that given the complexity of the project and the unique needs of the CFM industry and regulators, it was determined that no currently available products met these needs. Patton also explained the California state governmental procedures that add complexity to purchasing existing software, such as competitive bidding requirements and review by the California Department of Technology.

A number of members expressed frustration regarding the project cost, lack of transparency, and lack of progress. Oscar De Leon requested that CDFA OITS staff provide additional information to the CFMAC, including an expense breakdown justifying the amount of funding requested, and detailing how additional money would be spent. De Leon also suggested that the Direct Marketing Program explore opportunities for grant awards, which could help offset costs.

Joyce Chan expressed concerns regarding ongoing maintenance costs and requested that the Committee receive more communication from CDFA on database progress moving forward. Chan suggested that the CFMAC meet with CDFA OITS and Direct Marketing Program staff in advance of the March 2022 budget meeting. Chan also stated that additional information regarding the financial status of the Direct Marketing Program will be available in March 2022, which could impact the decision on whether to allocate additional money for database development.

James Murez, Database Subcommittee Chair, provided an overview of the database software that he had previously developed. Murez also requested a detailed presentation from OITS staff regarding what specific components of the database have been completed to-date. Murez went on to question why, if \$500,000 had funded development of 66% of the project, would another \$500,000 be needed to complete the final 33%. Murez also stated that a guarantee of a product delivery date is needed should any additional funding be agreed upon. Kurt Floren concurred that additional funding must be contingent upon a concrete MVP delivery date.

Patton requested that Murez provide a demonstration of his existing database software during this meeting. Patton suggested that CDFA Grants and Contracts Unit staff attend, to provide insight on state processes for contracting with private industry. Floren advised CDFA and the CFMAC to be aware of potential ongoing costs associated with licensing fees for privately built software. Floren requested clarification from CDFA OITS staff regarding what, if any, ongoing licensing or maintenance fees would be incurred by the Direct Marketing Program.

Ben Palazzolo and Murez requested that CDFA share information pertaining to the hourly rate charged by contractors and OITS staff assigned to work on this project. Palazzolo also requested that the Direct Marketing Program also provide a breakdown of their total expenditures for FY 20/21.

ITEM 11: DAIRY AND MEAT PRODUCTS IN THE AGRICULTURAL SECTION OF CERTIFIED FARMERS' MARKETS

Cynthia Ojeda expressed concern that large farms are distributing significant amounts of dairy and meat products to CFMs, without adequate tracking measures in place. Yount suggested that she and Ojeda communicate further on this topic following the meeting.

ITEM 12: VENDOR ENGAGEMENT

Discussion of this agenda item was included under Item 13.

ITEM 13: OUTREACH SUBCOMMITTEE

Grady discussed the CDFA 2020 Report to the California Legislature on the Farmer Equity Act, which was published in June 2020. Grady asked the Committee to consider how the report's findings regarding disadvantaged farmers and ranchers in California can be addressed. Grady suggested that a Subcommittee be set up to focus on improving outreach and stakeholder engagement, particularly for disadvantaged farmers.

ITEM 14: MARKET MANAGER MANUAL UPDATES

Palazzolo provided the Market Manager Manual Updates. Palazzolo stated that work has been ongoing to integrate the newly passed Direct Marketing Program regulations into the Market Manager Manual.

ITEM 15: BLACK FIG FLY PEST ALERT

Yount stated that the invasive Black Fig Fly (BFF) has recently been discovered in southern California, and that a pest alert has been issued. Floren informed those in attendance that while no formal quarantine has been established, the United States Department of Agriculture (USDA) is currently conducting risk assessment to determine such an order may be necessary. Williams requested that if any fruit suspected of being infested with BFF is found outside of southern California, that those individuals notify CDFA and USDA as soon as possible.

ITEM 16: NEXT MEETING/AGENDA ITEMS

Chair Schott and Murez requested that the Database Subcommittee meet prior to the next full CFMAC meeting. Grady, Chan, and De Leon suggested that the Subcommittee meet to discuss and decide upon specific questions to ask CDFA OITS staff at the next full CFMAC meeting.

Grady requested that further discussion of an Outreach Subcommittee be included on the next meeting agenda.

Murez requested that discussion of hybrid virtual/in-person advisory committee meetings be included on the next agenda.

Ojeda requested that reinstatement of pesticide residue funding be included on the next agenda.

Osborn will conduct a Doodle Poll amongst the members to determine the dates of the next Database Subcommittee and CFMAC meetings.

ITEM 17: ADJOURNMENT

The meeting was adjourned at 1:03 p.m. by Chair Schott.

Respectfully submitted by:



for
Jennifer Leidolf, Program Supervisor
Direct Marketing Program
Inspection and Compliance Branch
Inspection Services