



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

September 12, 2022

Teleconference

Meeting Minutes

MEMBERS PRESENT

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

INTERESTED PARTIES

Doug Hayden, California Farmers'
Market Assoc.
Aldo Zuniga, San Mateo Co.
Laura Arellano, Imperial Co.
Omar Luna, San Joaquin Co.
Cree Morgan, San Francisco Co.
Monica Winters, San Diego Co.
Samantha Skelly, Glenn Co.
Beth Williams, Ecology Center

CDFA

Marcee Yount
Jennifer Leidolf
Rene Mendoza
Thomas Osborn
Sarah Cardoni
Marc Grijalva
Cyndi Reimer

MEMBERS ABSENT

Diana Martinez
Lulu Meyer

ITEM 1: CALL TO ORDER-INTRODUCTIONS/ROLL CALL

The meeting was called to order by Jennifer Leidolf at 10:02 a.m. Roll was called, a quorum was established, and self-introductions were made.

ITEM 2: ELECTION OF OFFICERS

Leidolf opened the floor to nominations for Chair.

MOTION: Tyler Thayer nominated Ben Palazzolo for the office of Chair. Oscar De Leon seconded the motion. A vote by roll call was taken. The motion passed unanimously, with no abstentions.

Leidolf opened the floor to nominations for Vice Chair.

MOTION: Portia Bramble nominated Oscar De Leon for the office of Vice Chair. Karen Wetzel Schott seconded the motion. A vote by roll call was taken. The motion passed unanimously, with no abstentions.

ITEM 3: PUBLIC COMMENTS

There were no public comments.

ITEM 4: VACANCIES AND TERMS REPORT

Leidolf provided the Vacancies and Terms Report. Current vacancies include: five certified producer members; five certified producer alternates; and three certified farmers' market (CFM) operator alternates. Leidolf also provided the names of members who will be eligible for reappointment as of January 22, 2023. Members were encouraged to reach out to their perspective industry associates for potential applicants to fill vacancies.

ITEM 5: REVIEW OF MARCH 7, 2022 MEETING MINUTES

Chair Palazzolo asked for a motion to approve the March 7, 2022 Meeting Minutes, as presented.

MOTION: Kurt Floren moved to approve the March 7, 2022 Meeting Minutes as presented. Oscar De Leon seconded the motion. A vote by roll call was taken. The motion passed unanimously, with no abstentions.

ITEM 6: FUND CONDITION

Thomas Osborn provided the Fiscal Year (FY) 2021/22 Fund Condition Update. As of June 30, 2022, the beginning fund balance was \$1,066,169. Total revenue was \$1,375,287, with available cash of \$2,441,456. Total expenditures were \$1,438,005. Cash Adjustments were \$142,054, with an ending balance of \$861,397.

Leidolf proposed updating the Food and Agricultural Code (FAC) language regarding fees to mirror other Compliance Unit programs within the Inspection and Compliance Branch that have a fee range set in statute. The current fee language reads \$2 per vendor per day. Leidolf recommended forming a subcommittee to determine the minimum and maximum fee levels and discuss the potential legislative change.

Marcee Yount provided the historical background to direct marketing fees. Previous recommendations by CDFA and the California Agricultural Commissioners and Sealers Association to adequately fund the program was a fee proposal of upwards of \$7 per stall. Yount further explained the benefits to having a fee range set in statute, which allows fees to be changed quickly in regulation and provides greater control for financial solvency. Any fee level change would be discussed and recommended by the CFMAC.

Karen Wetzel Schott stressed the importance of having the ability to increase funding quickly in the event it became necessary. Making changes through the legislative process is time intensive.

Phillip Rhodes expressed concern about raising fees for producers, especially without producer representation on the CFMAC. Producers are not seeing adequate enforcement with the current \$2 fee as violators are continually allowed to operate in

markets, even after complaints are made. These suspect producers grow in size and dominate markets, which creates inequities for small producers as they fight to enter markets.

Kurt Floren reasserted that County Agricultural Commissioners (CACs) and the CFMAC are about ensuring fair competition. Floren agreed that a subcommittee should be considered and suggested the penalty matrix be looked at as well, specifically penalties applicable for market operators. When looking at the reserve and what it takes to run the core program, money is not available for increased enforcement. This change would allow fees to easily be changed through the regulatory process and would include the CFMAC recommendation as well as public participation.

Doug Hayden, President of the California Farmers' Market Association, supports forming the subcommittee as it would foster more communication between the CFMAC and CDFA on the needs to operate and provide adequate enforcement.

MOTION: Ben Palazzolo moved to form the Legislative Subcommittee for the review of setting minimum and maximum fees and providing future recommendations about when to make those adjustments as needed. Tyler Thayer seconded the motion. A vote by roll call was taken. The motion passed unanimously, with James Murez abstaining.

Volunteers for the Legislative Subcommittee are: Doug Hayden; Kurt Floren; Ed Williams; Karen Wetzel Schott; Cynthia Ojeda; Ben Palazzolo; Tyler Thayer; and Portia Bramble.

The Legislative Subcommittee will meet January 30th or February 6th. A Doodle Poll will be conducted to gather member availability.

ITEM 7: PROGRAM UPDATE

i. Compliance Report

Leidolf provided the Compliance Report. For FY 2021/22, 854 Notice of Noncompliances were issued; of which 467 were issued to certified producers and 387 were issued to market operators or market managers. The most common violation was delinquent quarterly forms and fees. A total of 71 Notices of Proposed Actions were issued, with four having penalty and suspension proposed. The most common violation was selling products not of own production.

ii. Participation Report

Leidolf provided the Participation Report. In 2021, quarterly remittance participation for markets reporting by quarter were: 643 for Quarter 1; 692 for Quarter 2; 672 for Quarter 3; and 632 for Quarter 4. Revenue collected by quarter was: \$268,592 for Quarter 1; \$352,198 for Quarter 2; \$389,379 for Quarter 3; and \$305,917 for Quarter 4.

ITEM 8: REGULATIONS SUBCOMMITTEE UPDATE

Leidolf shared a legal referral response by the CDFA Legal Office regarding products made by certified producers that are defined as nonagricultural products, such as bakery items, candles, and cosmetics. The response was that a product may be disqualified if the Program finds that it falls within the nonagricultural products category.

Tyler Thayer, Regulations Subcommittee Chair, provided an update on the subcommittee's progress. The subcommittee met on March 21, 2022, and discussed noncertifiable agricultural products in the certified section by a certified producer and how CDFA, CACs, and market operators can achieve uniform regulatory interpretation and enforcement. Producers are trying to make it work by diversifying their products to increase profits, and in the spirit of direct marketing, it should be encouraged.

Thayer shared motions that were made by the subcommittee. One motion recommended a legal referral to be sent to the CDFA Legal Office to determine the ability of a certified producer to sell their processed product at a CFM. Another was a recommendation to the CFMAC that they recommend CFDA allow wreaths to be sold in the certified section of a CFM, as long as they are constructed entirely from certified agricultural tree, vine, or plant products.

Chair Palazzolo asked if the subcommittee would like to make a formal recommendation to the CFMAC at this time. Thayer responded that the subcommittee would like to meet again for further discussions before making a recommendation to the CFMAC.

ITEM 9: DAIRY AND MEAT PRODUCTS IN THE AGRICULTURAL SECTION OF CFMs

i. Compliance Enforcement

Leidolf shared a legal referral response by the CDFA Legal Office regarding enforcement of noncertifiable agricultural products at CFMs and whether CDFA or CACs have the authority to inspect product and take action for violations. The response was that because the FAC references agricultural products and does not differentiate between certifiable and noncertifiable, CDFA and CACs have the authority to investigate and take enforcement action against producers selling both certifiable and noncertifiable agricultural products.

Cynthia Ojeda asked what the next steps were in terms of enforcement. Ed Williams responded that civil penalties are already outlined in the penalty matrix and violations are enforceable; however, investigating products to determine whether it was produced by the producer is difficult. Yount added that this will be an interagency effort and that CDFA staff are experienced with working with other agencies to provide more in-depth cross agency investigations.

ii. Bones and Bone Broth

Portia Bramble brought forward the discussion of bones and bone broth being interpreted as nonagricultural products. Livestock producers strongly disagree with this interpretation and request that the CFMAC review the topic of bones and bone broth being considered as noncertifiable agricultural products. Producers feel that this is an important marketing opportunity which significantly enhances the ability for livestock producers to earn income through participation in CFMs.

Floren voiced that from an enforcement perspective, sourcing processed products from livestock such as milk, cheese, or bone broth is difficult. Bramble expressed that in the Northern California counties such as Humboldt, Sonoma, and Mendocino, traceability can be demonstrated, and that scale needs to be considered.

Yount clarified that the definition of agricultural products in the California Code of Regulations specifies livestock meats and was written as such to exclude biproducts as they are difficult to enforce and are heavily regulated by other agencies. Yount added that regulatory changes to include livestock biproducts such as bones and bone broth can be explored with the caveat that it will take time given its complexity.

ITEM 10: AB 2691 CANNABIS: TEMPORARY EVENT CULTIVATOR RETAIL LICENSE

Yount reported that AB 2691 Cannabis: Temporary Event Cultivator Retail License, died due to inactive file by author Assembly Member Jim Wood. This bill proposed the allowance of licensed cannabis growers to sell their product at certain events. AB 2691 garnered a lot of media attention and many speculated that it would allow for the sale of cannabis at CFMs; however, allowance of cannabis to be sold at CFMs was not included in the bill.

ITEM 11: AUTHORIZED COUNTIES LIST

Chair Palazzolo discussed authorized counties listed on the Certified Producer's Certificate (CPC) and proposed creating a mechanism for the allowance to sell in counties not listed on CPC in the event of an emergency, such as weather or other environmental related challenges that cause the regionwide closure of markets. Leidolf responded that there is no limit on the number of counties that can be listed on a CPC.

ITEM 12: DATABASE UPDATE

Leidolf provided the Database Update by first demonstrating the functionalities of the database with Phase 1 capabilities having been completed. The database will launch next year; however, a specific date has not been set at this time as certain features are still being finalized. The next step will be Phase 2 and will include quarterly remittance. Cost saving measures are being identified and include utilizing CDFA Information Technology staff instead of contractors. Discussion ensued regarding the capabilities of the database and members provided their suggestions for consideration.

ITEM 13: NEXT MEETING/AGENDA ITEMS

It was requested that the next meeting agenda include the representation of farmers on the CFMAC, pesticide testing funding, and subcommittee updates. The next meeting will be held March 20, 2023, and will be held via Zoom.

ITEM 14: ADJOURNMENT

The meeting was adjourned at 1:42 p.m. by Chair Palazzolo.

Respectfully submitted by:

Jennifer Leidolf, Program Supervisor
Direct Marketing Program