



**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)  
CERTIFIED FARMERS' MARKET ADVISORY COMMITTEE (CFMAC)  
March 10, 2011 Meeting Minutes  
1220 N Street, Sacramento, CA 95814**

**MEMBERS PRESENT**

William Lewis  
Fred Ellrott  
Russell Hall  
Jennifer McColm  
Jacquelyne Byers  
Silvia Prevedelli  
Annika Knoppel  
Carol Arnold  
Karen Wetzel Schott  
Mary Lou Weiss  
Leah Smith  
Dale Whitney  
Kurt Floren  
Jeffrey Pylman  
Amelia Saltsman  
Diana Rodgers  
Deborah Yashar

**MEMBERS ABSENT**

Michael Broadhurst  
Pompea Smith  
Ben Feldman  
Mark Anderson

**CDFA**

Rick Jensen  
Steve Patton  
Natalie Krout-Greenburg  
Susan Shelton  
Sarah Cardoni  
Steve Lyle

**INTERESTED PARTIES**

Kate Campbell, Ag Alert  
Noelle Cremers, California Farm Bureau Federation  
John Silveira, CFM Ad Hoc Technical Planning Committee  
Doug Hayden, California Farmers' Markets Association  
Gail Hayden, California Farmers' Markets Association  
Lynn Bagley, Golden Gate Farmers Market Association  
Kelly Smith, Golden Gate Farmers Market Association  
David Karp, Los Angeles Times  
Gene Etheridge, CFM Ad Hoc Technical Planning Committee  
Joel Grover, NBC Los Angeles  
Mary Pfeiffer, CFM Ad Hoc Technical Planning Committee

**ITEM 1: ROLL CALL**

The meeting was called to order at 10:12 a.m. by Mr. Steve Patton.

- a. Introduction of Guests.

Roll was called, introductions were made, and a quorum was established.

- b. Welcome New Committee Members

New members were welcomed.

**ITEM 2: ELECTION OF OFFICERS**

**MOTION:** Ms. Mary Lou Weiss moved to nominate Mr. Fred Ellrott as Chairperson. Mr. William Lewis seconded. The motion passed unanimously.

**MOTION:** Ms. Karen Wetzel Schott moved to nominate Mr. Kurt Floren as Vice Chairperson. Mr. Lewis seconded. The motion passed unanimously.

**ITEM 3: APPROVAL OF SEPTEMBER 29, 2010 MEETING MINUTES**

**MOTION:** Mr. Lewis moved to approve the September 29, 2010 Meeting Minutes with the correction that Ms. Jennifer McColm was not in attendance. Ms. Wetzel Schott seconded. The motion passed unanimously.

**ITEM 4: APPROVAL OF AGENDA**

**MOTION:** Ms. Amelia Saltsman moved to approve the agenda. Ms. Wetzel Schott seconded. The motion passed unanimously.

**ITEM 5: CDFA REPORTS**

a. Committee Vacancies

Ms. Sarah Cardoni provided the Committee Vacancy Report. Vacancies include: eight alternate certified producers; one alternate certified farmers' market (CFM) manager; two alternate county agricultural commissioners; and two alternate major CFM representatives.

b. Budget Approval

Mr. Russell Hall inquired in regard to the large increase in budget authority for the *INTERDEPT CONS/PROF/OAH HEARINGS* line item, which was projected at \$12,880 for the fiscal year (FY) 2010/11 and shows \$180,000 proposed for FY 2011/12. Ms. Susan Shelton stated that the Inspection and Compliance Branch is in the process of creating new databases for several of its programs. This line item shows the funds that will be used for the new CFM Program database.

**MOTION:** Ms. Weiss moved to recommend the Secretary of the California Department of Food and Agriculture (CDFA) approve the FY 2011/12 proposed budget as submitted. Ms. Carol Arnold seconded. The motion passed unanimously.

c. Enforcement Process

Ms. Shelton provided the Enforcement Process Report and gave an overview of the CFM Enforcement Report and Cost Analysis for the FY 2010/11 Second Quarter Report. The report included information regarding visits to markets as well as site production visits. Follow-up site visits were conducted if issues were found during a market visit. Issues found were products not listed on the Certified Producers Certificate (CPC) as well as questionable products. In all cases, questionable products were verified at the site. Non-compliances were issued; however, there were no notices of proposed actions given.

d. Regulation Update

Mr. Patton provided the Regulation Update Report. He stated that a regulation package, which dealt with several minor changes mainly due to Assembly Bill (AB) 2168, was disapproved by the Office of Administrative Law (OAL). The original statutes

referenced that producers may only sell to consumers. However, AB 2168 changed language authorizing producers to sell to the public, those entities who may resell it, as well as end users. In addition, the proposed regulations address the definition and the allowance of seasonings and flavorings. Reasons for disapproval given by OAL were the lack of specificity for each individual regulation and the justification for each specific regulation. Furthermore, OAL felt that late comments should have been addressed. This package is in the process of being resubmitted to OAL.

e. Sunset Review

Mr. Rick Jensen provided the Sunset Review Report. Senate Bill (SB) 513, which is authored by Senator Cannella, is specifically designed to extend the sunset for the CFM Program.

Ms. Leah Smith asked whether SB 513 was just to extend the sunset or if there was a plan to change the legislative language. Mr. Jensen stated that the bill is filed as a sunset extension.

**ITEM 6: TECHNICAL PLANNING COMMITTEE REPORT**

Mr. John Silveira provided the Technical Planning Committee (TPC) Report. The Technical Planning Committee was tasked with responding to themes and significant issues brought up at the four statewide listening sessions and public comment received in order to develop solutions to current issues at CFMs. Mr. Silveira stated that the general consensus throughout each listening session was that CDFA should enhance enforcement by building on specific compliance activities. He stated that the assumptions and constraints are that the scope of the program may develop beyond what was commented on during the listening sessions. Furthermore, some comments made during the listening sessions may not be significantly addressed in the CFM TPC Requirements and Design Document, but will be incorporated based on the development of the criteria that include: enforcement; inspections; education; communication; technology; and funding.

Mr. Dale Whitney inquired in regard to the CFM TPC Requirements and Design Document in the new requirements proposal for enforcement model, why market operators would assume responsibility of fines assessed. Mr. Silveira stated that the intent of the TPC was to build a consensus regarding market operator accountability and responsibilities. In addition, it was a reflection of the listening sessions where industry felt that market managers need to assume more responsibility of their markets.

Mr. Hall asked for clarification of the definition of a market operator, more specifically in the case when the CFM is city operated. Mr. Silveira stated that the TPC used the term market operator because it is a well-known term within the industry; however, discussion has occurred as to whether the term market operator should be changed to the term certificate holder. Mr. Silveira stated that in the event that a city was the certificate holder, the city would ultimately be responsible and fines would be assessed accordingly.

Mr. Kurt Floren stated that the TPC came to the conclusion that there is a difference in how current regulations address and specify terms and what the practice has been. The Food and Agriculture Code (FAC) states that an operator may apply to the County Agriculture Commissioner (CAC) for a certificate. Moreover, it states that the certificate is issued to the operator of the CFM. The balance of the FAC refers to the operator's responsibilities for assuring that participants are in compliance. These tie into the notion of having a certification program for market managers to explain their responsibilities.

Mr. Whitney asked if CDFA has previously fined a municipal entity. Mr. Patton stated that fines are written both to the operator present at the market and to the certificate holder. Typically the notice of non-compliance is given to both; whoever pays the fine is not tracked. Mr. Whitney then questioned if the market operator and the certificate holder were indeed the same thing. Mr. Patton stated that a number of markets have people who run the day-to-day operations that are either called a market manager or a market operator. There is a mingling of the terms and to change the term to certificate holder would clear the ambiguity.

Mr. Silveira proceeded to explain the *Requirements – Inspections* section of the CFM TPC Requirements and Design Document. The TPC was driven by the comments received during the listening sessions that there needed to be more activity from enforcement agencies. Several models need to be created in order to create the tools that will allow market managers and agency cohesion. This proposal will move forward with a large technology piece that will allow industry to access program actions and forms via the Internet. In addition, county and state enforcement responsibilities are broken out and clearly defined.

Mr. Whitney asked for clarification on the sentence "this does not preclude a market operator from being a market manager." He asked particularly if this was an instance where a farmer was both the market operator and the market manager. Mr. Silveira stated that the TPC did not want to preclude a market operator from also being a market manager; that one person could be both.

Mr. Whitney expressed concern over the grace period for new markets that are established and where it states that a trained market manager must be onsite. He asked what the time frame would be to attain a trained market manager for newly opened CFMs. Mr. Silveira stated that this procedure has not been established at this time and would be appropriate to develop at the committee level.

Ms. Weiss asked for clarification on the sentence "there will be a verification process with flexibility, which means that the first verification does not require an onsite inspection." She questioned how much time would lapse before an onsite inspection was given to an operation. Mr. Silveira stated that current mandates require that the CAC conduct an onsite inspection upon issuance of a CPC. Untying the CAC from having to conduct onsite inspections for certain crops, such as tree crops that remain unchanged for long periods of time, would allow for more vital onsite inspections to be conducted, such as inspections for row crops that often quickly change.

Mr. Patton iterated that it does not mean that the CAC could not conduct an onsite inspection upon certification; it means that it is based on CAC's discretion due to their local knowledge to conduct onsite inspections depending on the commodity, the county, and the timing of harvest for commodities.

Mr. Hall questioned Mr. Floren, CAC Representative Member, why he had opposed this part of the proposed regulation changes. Mr. Floren stated that he saw value in the initial inspection before the issuance of the CPC.

Ms. Shelton stated that the CFM TPC Requirements and Design Document is a general plan and that specific details still need to be structured. This would be an ongoing collective process with CDFA and the CFMAC. The general model does not preclude the CFM Program to later set specific parameters in any of the specified areas.

Mr. Silveira discussed the *Requirements – Communication* section of the CFM TPC Requirements and Design Document. He stated that this communication model will define the complaint process and provide outreach and education of the process to industry. Subsequently, he discussed the *Requirement – Technology* portion stating that if there were no questions, he would move forward to the next section. There were no questions.

Ms. Shelton noted an error in the CFM TPC Requirements and Design Document on page eight. *Appendix A-3 through A-7* should state *Appendix A-2 through A-7*.

Mr. Silveira discussed the *Requirements – Funding* section of the CFM TPC Requirements and Design Document. He stated that the model requires the significant increase in assessments to allocate four fulltime CDFA staff that will be exclusively committed to the CFM Program. This was reached due to the public comments received during the listening sessions where industry voiced their desire for a better state enforcement program. Estimates were prepared by CDFA to allow for four permanent fulltime staff. The \$4.00 stall fee was proposed in order to fund state staff, county contracts, and associated program costs at the level requested by the TPC.

Mr. Lewis questioned why the Appendix A-7 CDFA Funding attachment reported revenue generated by fines that are collected. Ms. Shelton stated that because the role of CDFA for enforcement has been diminutive, that at this point this would be more of a county matter.

Mr. Jensen stated that CDFA is not making the proposal; the TPC is making the proposal. CDFA's role has been to facilitate the process and to provide a dollar figure for projected costs incurred by CDFA for their proposed expanded role. In addition, in regard to penalties and fines, the counties have extensive history in levying various penalties and fines and typically there is far greater dollars that go toward an investigation than comes back in terms of fines received.

Ms. Smith stated that during the TPC Requirements – Funding vote, she abstained from the vote on the basis that the budget, although identifies positions and general categories where funding would go, did not state what amount of enforcement CDFA would provide to the industry.

Mr. Hall questioned if the raising of the fees was feasible given the state of the current political atmosphere. Mr. Silveira stated that it will be up to the industry to advocate. The TPC identified the concerns that were stated by industry at the listening sessions and has worked with CDFA to attain the costs associated for industry's desired CFM Program. There are many advocates for increased enforcement and inspections that would result in greater integrity throughout the industry.

Mr. Jensen stated that the CFM Program is an industry funded program. CDFA's role is to provide an opportunity to facilitate the process so that the industry can find the appropriate solutions for the industry. CDFA will continue to provide technical information when requested.

Mr. Floren stated that in regard to the \$4.00 figure, every person in the field has a cost associated with them. There is no spare money or spare time. The TPC looked at an acceptable level of enforcement; there was a general agreement that there needed to be CDFA personnel that have the ability to cross jurisdictional lines in order to help facilitate interjurisdictional investigations. CAC's are limited to their county and only state personnel can cross jurisdictional lines.

*A lunch break was taken from 11:58 a.m. to 1:20 p.m.*

Mr. Silveira recommended to the CMFAC to accept the plan in concept. It is apparent that the dollar figure associated with the proposed enforcement program needs to be palatable and that there have been voiced concerns among industry that this proposed \$4.00 stall fee is not.

Mr. Ellrott stated that CFMAC does not have the authority to change the stall fee to \$4.00 and that it had to be changed via legislation. The CFMAC is merely making a recommendation on how to move forward in order to get the industry back on the right track with consumers.

**MOTION:** Ms. Saltsman moved to accept the CFM TPC Requirements and Design Document as a conceptual guideline. Mr. Lewis seconded the motion.

Mr. Floren explained the legislative process. He stated that SB 513 was a sunset extension of the CFM Program and that the legislation will stay the same if no amendments are made to the current bill. That includes the \$0.60 cap for fees, the cap of \$60 an hour to counties, the two required onsite inspections, and the fees that can be collected. This is the opportunity to introduce additional changes to the legislation.

Ms. Saltsman asked what the time frame would be if the CFMAC were to move forward with accepting the CFM TPC Requirements and Design Document as a guideline. Mr.

Jensen stated that the CFMAC accepting the CFM TPC Requirements and Design Document would be a piece of the record, for any author of such legislation, that the formal industry advisory committee acknowledges that modifications to the CFM Program are necessary.

Ms. Saltsman stated that the acceptance of the CFM TPC Requirements and Design Document would not preclude further discussion on the individual merits of the components. The CFMAC should accept the report as a conceptual guideline for the CFMAC to do further work.

**MOTION:** Mr. Whitney moved to table the current discussion and current motion on the floor. Ms. McColm seconded the motion. The motion tied. Mr. Ellrott, Chairman, broke the tie and the motion did not pass.

Ms. Smith recommended an amendment to the current motion to include a cap of \$4.00 for the stall fee. Ms. Saltsman accepted the recommendation.

**MOTION:** Ms. Saltsman moved to accept the CFM TPC Requirements and Design Document as a conceptual guideline with the cap of \$4.00 for the funding section. Mr. Lewis seconded the motion. Mr. Hall and Ms. McColm opposed. Mr. Whitney abstained. The motion passed by majority vote.

#### **ITEM 7: SUBCOMMITTEE REPORT**

Ms. Saltsman provided the Subcommittee Report. This subcommittee is tasked with re-defining nonprofit organizations. She stated that the work of the subcommittee generated worries and misconceptions among the industry. She clarified that the direction of the subcommittee is not to make the change that there can only be tax exempt nonprofit organizations operating CFMs in the nonprofit sector. The genesis for the exploration, much like the TPC, was to improve and raise the integrity of the industry. Ms. Saltsman stated that the subcommittee was formed 14 months ago in order to look at the application forms used for opening markets, certified producers, and nonprofits as a possible place to create a sense of scrutiny, oversight, a sense of seriousness, and to create a potential for actual verification. The industry has grown exponentially with over 700 operating CFMs with the expectation for further growth and there has been talk of the possible dilution of an understanding of the intent of direct marketing by upcoming potential market operators. Ms. Saltsman stated that the subcommittee desires to continue the work in exploring nonprofits and asked the CFMAC for the opportunity to continue the research in order to clarify the definition of a nonprofit.

Ms. Smith stated that there was a desire to have verification of nonprofit activities. Currently, there is no extensive review process when nonprofits submit their articles of incorporation and incorporate with the State. Thus, the nonprofit statement is a self-made claim. The subcommittee felt that there should be verification for the nonprofit statement so that abuses could not take place.

Mr. Ellrott, Chairman, granted the subcommittee the extension to conduct further research in the area of nonprofits.

#### **ITEM 8: COMMITTEE POLICY II 2.8**

Mr. Patton provided the Committee Policy II 2.8 Report. This CFMAC policy states that if a member were to be absent for three meetings unexcused, the CFMAC has the right to recommend the removal of that member. Currently all members are in compliance with this policy.

#### **ITEM 9: CHAIRMAN'S REPORT**

This item could not be discussed due to the fact that the chairman was nominated during this meeting and could not have prepared a report.

#### **ITEM 10: NEW BUSINESS**

Mr. Patton presented resolutions for Mr. Gene Etheridge and Mr. Silveira, previous members of the CFMAC who have termed out.

Ms. Weiss asked for a clarification on producers who have been removed from markets. She specifically questioned if the suspension state a specific amount of time in which they are not to participate in CFMs. Mr. Patton stated that there are two types of suspensions. The first type is a suspension of the CPC from the market. The other type is a suspension from participation at the CFM and the period of time is referenced on the suspension.

#### **ITEM 11: MEMBER ROUNDTABLE DISCUSSION**

Mr. Ellrott opened the Member Roundtable Discussion.

Ms. Wetzel Schott welcomed new members and stated that as new members, the CFMAC looks to them to carry on the messages that transpire from CFMAC meetings to their industry members.

Ms. Weiss thanked the subcommittee for their hard work in their research of nonprofits. Subsequently, she stated that the grant for certification of market managers has passed the second stage.

Ms. Smith stated that she appreciated Mr. Etheridge's service on the CFMAC.

Ms. Jacquelyne Byers thanked the TPC for their hard work on the CFM TPC Requirements and Design Document.

Ms. Saltsman thanked Ms. Weiss for her hard work in getting the market manager certification program moving forward. The program will be an important component of market integrity.

**ITEM 12: NEXT MEETING/AGENDA ITEMS**

The next meeting will be held in September.

**MOTION:** Ms. Wetzel Schott motioned to adjourn the meeting. Ms. Byers seconded the motion. The meeting was adjourned at 2:56 p.m.

Respectfully submitted by:



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Susan Shelton, Supervising Special Investigator  
Certified Farmers' Market Program  
Inspection and Compliance Branch  
Inspection Services