

CERTIFIED FARMERS' MARKET PROGRAM FREQUENTLY ASKED QUESTIONS

- 1. With the new regulation effective January 8, 2000, how much time will the County Agricultural Commissioner (County Ag. Comm.) allow certified producers to update their certificates (second certificates)?**

Two weeks after being notified by the certified farmers' market (CFM) manager or County Ag. Commissioner's personnel.

- 2. Does every partnership and farm lease agreement under Section 1392.9.1 and Section 1392.9.2 require notarized signatures on all agreements of all parties at time of certification and renewal?**

Yes, notarized signatures are required for all partnerships and farm lease agreements.

- 3. Are noncertifiable agricultural products such as olive oil, dried fruit, jams, etc. required on load sheets?**

No, only certified products listed on the certificate are required.

- 4. Who is responsible for ensuring producers have a valid certificate?**

The California Department of Food and Agriculture (CDFA), County Ag. Commissioners and CFM managers are responsible.

- 5. Who is responsible for ensuring a certified producer selling on behalf of another certified producer is selling a greater volume than the producer he/she is selling for?**

CDFA, County Agricultural Commissioners and CFM managers are responsible.

- 6. What are some examples of payments allowed for services of a producer selling for another producer?**

Sharing stall fees and fuel, etc. Commission sales or buying and re-selling are prohibited.

- 7. Are partnership agreements and lease agreements required to be written and notarized?**

Yes, a copy of a current written lease or proof of partnership agreement is required.

8. Does the veteran's exemption apply to the new \$0.60 CFM fee?

No, the new fee is assessed to CFMs only, not producers.

9. Is it required to obtain a nursery license for selling cut flowers at a CFM?

No, it is not required by CFM laws and regulations.

10. Can a certified producer sell produce grown by a university?

Yes, if utilizing a second certificate and the university has a certified producer's certificate.

11. Do CFM managers need to collect load lists daily?

Yes, and the records must be maintained for not less than eighteen months.

12. Can a market manager ask the producers what the retail price is on their products?

Yes, if provided in market rules or to determine compliance with second certificates or provisions for load list compliance.

13. When selling for another producer and that producer's product runs out halfway through the season, can another person fill in for that position?

Yes, but only if one other second certificate is available (only valid if amended by the County Ag. Commissioners).

14. What are financial and material resource inputs in a farm partnership?

Money, tractors, fertilizer, labor, seed, pesticides, etc.

15. Are the varieties of products such as potted herbs (oregano, basil, rosemary, etc.), kale, lettuce required on the load lists?

Yes, the identity of the products as listed on the certified producer's certificate are required.

16. What's the procedure to amend a certified producer's certificate?

Return all embossed copies of the certified producer's certificate to the issuing County Ag. Comm. for amendments.

- 17. If one parcel of property has five owners and each has a percentage of the property, what would be the requirements if one producer wants to apply for a certified producer's certificate?**

The certified producer shall specifically designate that portion of the property and the specific crops under their control.

- 18. What agricultural products must be certified by the County Ag. Commissioners if sold at a CFM?**

In addition to fresh fruits, nuts and vegetables, shell eggs, honey, nursery stock, and cut flowers must also be certified.

- 19. What is a "noncertifiable agricultural product" and what are some of the products which may be found in a CFM?**

Products which are considered as noncertifiable include processed products from certified agricultural products such as fruit and vegetable juices, shelled nuts, and jams and jellies. Other examples include catfish, trout, and oysters from controlled aquacultural operations, livestock and livestock products, and poultry and poultry products.

Though these products are not "certified," they must have been produced or derived from plants or animals raised or produced by the producer. These processed products may include, or have added to them, a limited number of ingredients or additives which act only as preservatives or are essential in the preparation of the product. Examples include pickles and cucumbers in a brine or vinegar solution for curing or pickling, natural smoking of meat or poultry for drying and preserving, flavorings such as smokehouse, hickory, or jalapeno added to shelled nuts which do not change the visual identity of the product, sulfites added to dried fruits and vegetables, and sugar, fruit juices, and pectin added to fruits to make jams and jellies.

- 20. Who is responsible for ensuring that sellers of noncertifiable agricultural products comply with the direct marketing regulations?**

County Ag. Commissioners, CDFR and CFM managers.

- 21. What is the "designated area" of a CFM and why is the sale of nonagricultural products prohibited in this area?**

The designated area is that the area described in the application as the location of the CFM. The applicant(s) must provide a map showing the proposed "layout" of the market. Nonagricultural products for sale are not allowed within this area.

The exclusion of nonagricultural products is intended to maintain the intent and integrity of a CFM, which is the direct sale of products produced solely by the producer.

22. Can nonagricultural products be sold within general proximity of the designated area of a CFM?

Yes, provided the point of sale of the nonagricultural products is separate and apart from the CFM's designated area. Suggestions to comply with this requirement include placing signs or posters to designate the areas, use of ropes or barriers to separate the areas, or by simply separating the areas by enough distance so that the public knows the areas are separate and apart.

23. What is CURFFL and the Sherman Food and Cosmetic Law, and when must producers selling at CFMs comply with their applicable requirements?

CURFFL, which is the acronym for California Uniform Retail Food Facilities Law, and the Sherman Law specify requirements for the sale of agricultural products at CFMs. The regulations address the sale of processed products which potentially create a health risk to the consumer. The applicable provisions of these two laws are already being enforced by state and county health agencies. They were included in the regulations to specify applicable requirements that must be met when selling products at CFMs or roadside stands at or near the production point.

24. Are there other agricultural products besides fresh fruits, nuts, and vegetables exempt from applicable size, pack, container and marking laws and regulations?

No, all other products must comply with all applicable rules and regulations.

25. What requirements must a producer meet to sell nursery stock at a CFM?

The applicant's nursery stock production must be verified by the County Ag. Comm. The applicant requesting certification for nursery stock must provide the County Ag. Comm. with a detailed list of the genus, or genus species, or the common name and variety of each type of tree, vine, plant, or shrub.

26. What requirements must a producer meet to sell honey and/or shell eggs at a CFM?

The applicant's production must be verified by the County Ag. Comm. prior to being certified. The on-site visit will verify ownership of the birds or hives.

Beekeepers are only certified in their primary county of operation. Since they must "register" in each county where the hives will be placed, the County Ag. Comm. can verify locations outside their county by contacting the other County Ag.

Commissioners. The certificate will show the number of hives and the projected amount (pounds) of honey to be produced and marketed. Since the regulations apply only to California producers, only honey which was derived from bees and hives within the boundaries of California may be sold at CFMs.

All egg producers are required to register with CDFA and comply with all applicable laws and regulations. The certificate will show the number of birds and projected volume of eggs (cartons or dozens) to be packed.

27. What is considered “at or near the point of production” when a producer is direct marketing products?

A point or location which normally does not extend beyond the first paved county or primary road.

28. What are the differences between a certified producer and a producer?

A certified producer is an individual or entity whose “farming activities” have been verified by the County Ag. Comm. Inspection of the production location(s) is necessary to verify that the producer has practiced the agricultural arts and produced the fresh fruits, nuts, and vegetables, shell eggs, honey, nursery stock, and cut flowers.

At a CFM, only a certified producer may sell the certified agricultural products listed above. They may also sell other agricultural products they have produced.

A producer selling at or near the point of production is permitted to sell all agricultural products which they produced.

29. What conditions must be met for a certified producer to sell for other certified producers at a CFM?

This selling activity is allowed only when specified in the CFM’s rules and regulations. If not specified, a certified producer or their agent may only sell those agricultural products which they have produced.

The certified producer selling for no more than two other certified producers must also be selling agricultural products which they have produced. All products must be separated and identifiable by each embossed certified producer’s certificate. All names must be added to certified producers’ certificates by a County Ag. Commissioner.

30. What is the procedure for issuing a certified producer's certificate?

Upon determining that the producer meets the requirements, the County Ag. Comm. will issue one original certified producer's certificate, which will be maintained in the Commissioner's office. The County Ag. Comm. will issue the requested number of photocopies which shall be embossed.

If a certified producer wishes to amend a certificate, all embossed copies originally issued must be returned to the County Ag. Comm. The necessary changes can then be made to the original on file and new embossed copies are issued to the producer.

31. What types of regulations may a market adopt which are more stringent than the established state rules and regulations?

The market's rules and regulations may specify restrictions or requirements pertaining to the type and number of producers and certified producers, and the type and number of certified and noncertifiable agricultural products to establish and maintain a "good" balance of agricultural products. For example, a market may specify that a maximum of 20% of the sellers in the market may sell tomatoes. Another example is a certified producer selling for another certified producer. The market rules could specify that a certified producer may only sell for one other certified producer during the year.

32. What criteria should the County Ag. Comm. apply when issuing a certificate which is valid for less than 12 months?

Certificates should be issued only after planting. The effective period should coincide with the general growing and harvest season. For example, a producer growing melons and assorted vegetables might be issued a seasonal certificate with an effective date of April (after planting) and expiration date in September (when harvesting is normally completed).

33. What activities may the County Ag. Comm. charge when issuing certificates?

A fee may be charged for costs relating to issuing the original certificate, renewing an expired certificate, or amending a current certificate. A fee may also be charged for each embossed copy of the certificate issued to the certified producer.

34. Which County Ag. Comm. initiates the notice and hearing process to consider certificate revocation, the issuing county or the destination county where the alleged violation(s) occurred?

The regulations specify that any County Ag. Comm. may initiate the process after alleged violation(s) have occurred. Regardless of who initiates the process,

findings which result in the certificate being revoked are applied on a statewide basis for the period of time determined by the County Ag. Comm.

35. How do the regulations affect participants whose actions result in the revocation of a certificate?

Individuals who act for and represent certified producers are subject to enforcement action should their actions result in violations of the regulations. For example, an employee who fraudulently misrepresents the certified producer may be subject to revocation of their participation rights in all direct marketing activities. If such findings are determined by the County Ag. Comm., they may specify the time period in which the employee cannot participate in any phase of direct marketing. However, certified producers are liable for the actions of their agents. Actions by their agents may result in the revocation of the certified producer's certificates as well.

This provision also applies to certified producers who have had their certificate revoked, either as a result of the circumstances noted above, or when violations have been issued directly to the certified producer. If the certificate is revoked, the certified producer may also not be allowed to participate in any phase of direct marketing, including becoming an employee for another certified producer or as a family member for another certified producer.

36. How long may the County Ag. Comm. revoke a certificate after violations have been determined?

The County Ag. Comm. has discretion in determining the revocation period of the certificate. The maximum period is 18 months.

37. Can commercial enterprises such as restaurants purchase agricultural products at CFMs?

Yes, the regulations allow these types of transactions. However, fresh fruits, nuts, and vegetables may only be sold to "nonconsumers" when complying with all applicable regulations, including standard pack, standard containers, and labeling requirements.

