

The following is a summary of the regulations governing Direct Marketing including changes that became effective February 4, 2002. Please contact this office for clarification or for a copy of the Regulations.

The intent of this article is to facilitate the sale of agricultural products from producers and certified producers within the state directly to consumers while maintaining sufficient regulatory control to ensure that the agricultural products are of acceptable quality and that the selling activities are conducted honestly and fairly.

1. Certified Producers, their immediate family members or their employee(s) may sell **only** their own agricultural products directly to consumers at a certified farmers' market (CCR 1392.4 a).
2. All agricultural products when offered for sale at a certified farmers' market shall comply with all applicable provisions governing maturity and quality, state and federal marketing orders, state laws and regulations enforced by any state agency, or any other local health and safety laws, regulations, or ordinances. (CCR 1392.1 e & g).
3. The sale of non-agricultural products shall not be permitted in the area designated as a certified farmers' market (CCR 1392.4 c).
4. The certified producer's embossed certificate shall accompany the certified agricultural products during transportation and shall be conspicuously posted at the point of sale (CCR 1392.4 d).
5. When any agricultural product is sold by weight, only an approved scale that has been tested for accuracy and sealed by the County Division of Weights and Measures may be used (CCR 1392.4 e).
6. All prepackaged closed consumer containers of agricultural products shall be labeled with the name, address and zip code of the producer and a declaration of identity and net quantity of the commodity in the package (FAC 47002 C).
7. Any producer shall provide, upon request by an enforcing officer or market manager, certificates, documentation, information, or any other identification that may be reasonable to show that the conditions of this article are being met (CCR 1392.5 c).
8. The county agricultural commissioner shall issue an embossed copy of the original certificate to the certified producer, which will serve as the valid certified producer's certificate. The issuing county will send copies of the certificate to each destination county listed on the certificate (CCR 1392.5 e & f).

9. A certified producer's certificate shall be valid for not more than 12 months from date of issue (CCR 1392.7 c).
10. The county agricultural commissioner may charge a fee for issuing, modifying, verifying, or renewing any certificate including embossing photocopies, as set by the board of supervisors of that county (CCR 1392.8)
11. The county agricultural commissioner may, at any time, initiate a notice and hearing process to determine whether a violation of these provisions has occurred. Upon determination that a violation has been made, the agricultural commissioner may suspend and/or refuse to issue a certificate or suspend the privilege of participation of any person whose action resulted in the violation for a period of up to 18 months (CCR 1392.10 a & c) and/or levy a fine as allowed in FAC Code 47025.
12. The market rules which are used to govern the operation of a certified farmers' market may be more stringent than established state regulations, provided they do not violate or conflict with any state law or regulation governing their activities (CCR 1392.2 p).
13. Agricultural products, which are certifiable under the jurisdiction of the county agricultural commissioner relative to inspection verification of compliance with the provisions of this article, include fresh fruits, nuts, vegetables, shell eggs, honey, flowers and nursery stock (CCR 1392.2 l).

IF YOU SELL FOR ANOTHER PRODUCER OR YOU HAVE ANOTHER PRODUCER SELL FOR YOU, REQUEST THE REGULATIONS CONTAINED ON PAGE 3

IF YOU ARE INVOLVED IN A PARTNERSHIP, REQUEST THE REGULATIONS CONTAINED ON PAGE 4.

IF YOU ARE INVOLVED IN A FARM LEASE, REQUEST THE REGULATIONS CONTAINED ON PAGE 5.

14. A certified farmers' market may allow, or prohibit, a certified producer or his/her immediate family member or employee to sell at that market certified agricultural products on behalf of **two other certified producers**, including but not limited to separate entities, such as partnerships, in which the certified producer has an interest as an individual member. If such practice is allowed the following provisions shall be met by the certified producer and shall be specified in the certified farmers' market's rules and regulations:

- (1) A certified producer shall not represent, nor be represented by more than two other certified producers in a 12-month period.

- (2) Each certified producer's certified agricultural products to be sold or offered for sale shall be separated and identifiable by each certified producer's valid certificate at the point of sale.

- (3) The name of the certified producer for whom another certified producer is selling shall appear on the certificate of the person for whom the certified producer is selling.

- (4) The name of the certified producer who is selling the products of another certified producer shall appear on the certificate of the person for whom the certified producer is selling.

(5) The certified producer selling for another certified producer shall be selling or offering for sale certified agricultural products which the certified producer has produced and which are greater than the amount by volume offered for sale for the other certified producer. For purposes of this section, the volume shall be measured by the weight or dollar value of the products at the time and point of sale. The volume requirement shall apply only at the beginning of each day of sale.

(6) The producer applying for certification shall obtain and submit to the agricultural commissioner, prior to certification, written authority from said other certified producers to sell on their behalf.

(7) Commission sales and buying and selling between certified producer is prohibited. Any payment made for the service of one certified producer selling for another certified producer shall not be related to the volume or value of the products sold.

(8) A certified farmers' market may prohibit or otherwise make sales permitted under this subsection more restrictive, provided that such prohibition or restriction is contained in the market's rules and regulations.

(9) A certified producer who sells certified agricultural products on behalf of another certified producer or whose products are sold by another certified producer at a certified farmers' market shall keep for a period of not less than three years, the following records relating to such products:

- (i) Date and amount of products transferred by variety.
- (ii) Date and amount of products sold by variety.
- (iii) Names of both certified producers involved. (CCR 1392.4 f).

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IF YOU ARE INVOLVED IN A FARM LEASE, REQUEST THE REGULATIONS CONTAINED ON PAGE 5.

15. (a) Every person or entity that enters into a **partnership** as defined in Section 1392.2(S), sharecropping, or similar contractual agreement with another person(s) or entity that applies for a certified producer's certificate under such agreement shall provide the issuing agricultural commissioner, at the time of application, with proof of partnership as defined in the United States and California Tax Codes, or the Partnership's Federal Tax Identification number and a copy of their current written agreement which shall contain the following:

1. A clear and concise accurate description of the property to be farmed. The description shall include the present use of the property, the dimensions, and the location of the property; and
2. Partners shall demonstrate equitable risk by submitting a description of each party's financial and material resource input, which shall include the degree of involvement each party has in agricultural production; and
3. The date of the agreement and the signatures of all parties involved; and
4. A guarantee of the signatures on the agreement by a notary public executed at the time of signing by all signatures on the agreement of all parties executing the agreement.

5. The property or properties to be farmed by the partnerships or similar contractual Agreement are under the exclusive control of the partnership as a separate Entity from its individual members.

(b) Notwithstanding the above, an enforcing officer representing the Department or agricultural commissioner may request such additional documentation as is reasonably necessary to show that the conditions of this article are being met.

(c) To qualify for a certified producer's certificate, all parties listed on the certificate shall:

1. Have entered into the agreement prior to planting of annual and biannual crops; and
2. Have entered into the agreement prior to or within 30 days after preparing perennial field crops for the subsequent cropping pattern (e.g., prior to the fern state of asparagus or prior to cut back of artichokes); and
3. Have entered into the agreement prior to bloom of tree and vine crops; and
4. Be engaged in agricultural production upon the land which is the subject of the agreement.

(d) Any change in the terms of this agreement shall invalidate a certified producer's certificate issued under such terms. Any such change shall be reported immediately and all embossed copies of certificates issued to the partnership shall be surrendered to the issuing agricultural commissioner. (CCR 1392.9.1)

IF YOU ARE INVOLVED IN A FARM LEASE, REQUEST THE REGULATIONS CONTAINED ON PAGE 5.

16. (a) Every person or entity who enters into a **farm lease** with another person(s) or entity and who applies for a certified producer's certificate under such agreement shall provide the issuing agricultural commissioner, at the time of application, with a copy of the current written lease agreement which shall contain the following:

- (1) A clear and concise accurate description of the leased property. The description shall include present use of the property, the dimensions of the leased property and the location; and
- (2) the purchase price (cost) of the lease; and
- (3) The date of the agreement and the signatures of all parties involved; and
- (4) A guarantee of the signatures on the agreement by a notary public executed at the time of signing by all parties. The notarized signatures on the agreement of all executing the agreement.

(b) Notwithstanding the above, an enforcing officer representing the Department or agricultural commissioner may request such additional documentation as is reasonably necessary to show that the conditions of this article are being met.

- (c) To qualify for a certified producer's certificate, the person applying for the certificate shall:
- (1) Assume all financial risks associated with producing agricultural products; and
 - (2) Enter into the agreement prior to planting of annual and biannual crops; and
 - (3) Enter into the agreement prior to or within 30 days after preparing perennial field crops for the subsequent cropping pattern (e.g., prior to the fern stage of asparagus or prior to cut back of artichokes), and
 - (4) Enter into the agreement prior to bloom of tree and vine crops; and
 - (5) Perform agricultural production upon the land which is the subject of the agreement.
- (d) Any change in the terms of this agreement shall invalidate a certified producer's certificate issued under such terms. Any such changes shall be reported immediately and all embossed copies of certificates issued to the partnership shall be surrendered to the issuing agricultural commissioner (CCR 1392.9.2).