WELCOME to DIRECT MARKETING 101

May 16, 2016
County of San Diego
Department of Agriculture, Weights and Measures
DIRECT MARKETING 101

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DIRECT MARKETING 101

Certified Producer Compliance Requirements

Bonnie Wheeler
Agricultural/Standards Inspector
Topics Covered

- Benefits of Direct Marketing
- Market Inspection Procedures
- Producer Requirements
- Most Common Producer Violations
Benefits of Direct Marketing

- Provides an alternative method for growers to sell their products
- Skip the middle man
- Set your prices
- Don’t wait to get paid
- Brings farmers face-to-face with their customers
  - Loyalty
  - Feedback
Benefits of Direct Marketing

- Increases access to fresh, quality produce
  - Variety of products
  - Niche products
  - Reasonable prices
  - Promotes healthy communities
Benefits of Direct Marketing

- **Standardization Exemption**
  - Direct marketing allows the sale of fresh fruits, nuts and vegetables directly to the public, exempt from many “Standardization” requirements.
  - Direct marketing = Certified Farmers’ Markets (CFMs), farm stands, Community Supported Agriculture (CSAs), other regulated locations.

- **Standardization** = minimum standards regarding the...
  - Not exempt
    - Quality
    - Maturity
  - Exempt under Direct Marketing
    - Size
    - Standard containers
    - Standard Pack
    - Container labeling

...of produce distributed commercially in CA
Benefits of Direct Marketing

Standardization vs. Direct Marketing

- Standard containers and specific labeling required
- Container Requirements

- Products may be transported in any container
Benefits of Direct Marketing

**Standardization**

Product that doesn’t meet rigid requirements doesn’t reach market.

**Direct Marketing**

Un-sized, misshapen, blemished, uneven coloring = OK.

**Size, Pack & Appearance Requirements**

- Product that doesn’t meet rigid requirements
- Doesn’t reach market
Benefits of Direct Marketing

• Standardization Exemption
  • Applies when selling:
    • Direct to end users
    • To entities that re-sell or distribute direct to end users
      • e.g. restaurant, food bank
      • Memorandum required
  • Does not apply when selling:
    • For commercial re-sale
      • e.g. wholesale
      • Memorandum required
Benefits of Direct Marketing

- Memorandum
  - Producers are required to provide to buyer when selling:
    - Other than direct to consumer
    - >25 lbs of a single commodity
  - Memorandum acts as proof of ownership for the buyer, and must include:
    - Date of purchase
    - Identity of the producer
    - Address of producer
    - Identity and quantity of commodity(ies) purchased

3CCR §1392.4(k)
Market Inspection

• Inspector will review the following for compliance (*as applicable):
  • Products offered for sale
  • Certified Producer’s Certificate
  • “We Grow What We Sell”
  • Product Representations
  • Cross-references*
  • Closed container labeling*
  • Scales*
  • Organic products*

• Avocados*
• Eggs*
• Honey*
• Nursery stock*
• Processed Foods*
Products Offered For Sale

- Only agricultural products
- All products produced by you and listed on your certificate
  - Includes agricultural products behind your booth and in your vehicle
- Quality and maturity
- Inspector may take pictures, follow up at farm

3CCR §1392.4(c)
3CCR §1392.4(a)
FAC §18
Certified Producer’s Certificate

- Conspicuously posted and embossed
  - 3CCR §1392.4(d)

- Dates valid

- Authorized to sell in this county
  - 3CCR §1392.5(d)

- All products listed
  - 3CCR §1392.4(a)
“We Grow What We Sell”

- “Conspicuous” signage posted at booth, including:
  - Name of Farm
  - County(ies) where production occurs
  - “We Grow What We Sell” or statement to that effect
- No size requirement, but must be visible to consumer

FAC §47004(c)(1)
Product Representations

- Includes labeling, signs, placards, verbal statements, etc.
- Unlawful to represent agricultural products in a manner that is false, deceptive, or misleading, regarding:
  - Where the product was produced
  - Who produced the product
  - How the product was produced

"Grown in Fallbrook"

We Grow What We Sell

NO SPRAYS

USDA ORGANIC

PESTICIDE FREE

§FAC 890
Cross-References

- One farmer may sell for up to two others
  - No commission sales/buying and selling between producers
- Keep records (3 years)
  - Date and amount of each product transferred and sold
- Cross-reference must be listed on each producer’s certificate

<table>
<thead>
<tr>
<th>Name(s) of the Producer(s) that this Certificate Holder may sell for:</th>
<th>Issuing County/Certificate No</th>
<th>Date Declared</th>
</tr>
</thead>
<tbody>
<tr>
<td>FARMER A</td>
<td>(37) 1234</td>
<td>1/1/2015</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name(s) of the Producer(s) Authorized to sell for this Certificate Holder:</th>
<th>Issuing County/Certificate No</th>
<th>Date Declared</th>
</tr>
</thead>
<tbody>
<tr>
<td>FARMER B</td>
<td>(37) 4321</td>
<td>1/1/2015</td>
</tr>
</tbody>
</table>
Cross-References

- Products separated by producer
- Primary producer has more product (@ beginning of market)
  - By weight or $ value
- Additional producers’ certificates posted/embossed/dates valid, county authorized
- We Grow What We Sell signage posted for each producer
  - In correspondence with their products
Closed Container Labeling

• Closed containers must be labeled with “IRQ”
  • Identity of the product
    • “Oranges”, “Blueberries”, “Almonds”, etc.
  • Responsibility statement
    • Name, address and zip code of farm
      • If address can be found in local directory, may list city and zip only
  • Quantity statement
    • By count, weight, or fluid ounces
• Includes bags, jars, clamshells, etc.
Closed Container Labeling

Examples of IRQ Violations

- Some open, some closed... still a violation
- Bags come labeled with identity and quantity (must be accurate)... what about responsibility?

FAC §47002(c)
Scales

- Scales used to weigh agricultural products in CFMs must be sealed by a Weights and Measures Inspector prior to being used.
  - Indicates they are type-approved, registered, and have been tested for accuracy
  - Protects consumers and vendors

3CCR §1392.4(e)
Organic Products

- Producers of organic products:
  - **Registered** with the State Organic Program
  - **Certified** if gross sales > $5,000/year
  - Current **registration** and **certification** posted when selling in a CFM
  - Conspicuously label organic products at their booth
  - Prevent commingling if also selling conventional products
  - Have all products sold as organic listed on their current organic registration

Only certified organic operations may display the USDA seal, a certifier’s seal, or refer to their products as “certified organic”
Avocados

- **Certification**
  - Required for all avocados produced commercially in CA
  - Legislation sponsored by avocado industry (1972)
  - Indicates compliance with quality and maturity standards
  - Certification = inspections, assessment fees, testing, and record keeping requirements

- **Avocado Exemption Permit**
  - Allows farmers to sell avocados in CFMs without having them certified
  - Exemption permit = free; contact Avocado Inspection Program

FAC §44971(b)  
FAC §44987
Avocados

- Permits must be obtained for each variety of avocados, each growing season.
  - Permits issued after variety is ‘released’, meaning all sizes are known to be mature
  - Permits typically expire in October
  - Prior to release – dry matter testing required; product can be sold with a certificate of maturity

**MATURITY RELEASE DATES**

<table>
<thead>
<tr>
<th>Variety</th>
<th>Size 40</th>
<th>Size 48</th>
<th>Size 60</th>
<th>Size 70 &amp; Smaller</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bacon</td>
<td>Oct 21</td>
<td>Nov 4</td>
<td>Nov 25</td>
<td>Dec 9</td>
</tr>
<tr>
<td>Fuerte</td>
<td>Oct 27</td>
<td>Nov 10</td>
<td>Dec 1</td>
<td>Dec 15</td>
</tr>
<tr>
<td>Hass</td>
<td>Nov 28</td>
<td>Dec 12</td>
<td>Jan 2</td>
<td>Jan 16</td>
</tr>
<tr>
<td>Zutano</td>
<td>Nov 16</td>
<td>Nov 30</td>
<td>Dec 21</td>
<td>Jan 4</td>
</tr>
</tbody>
</table>

FAC §44971(b)
FAC §44987
Exemption permits for Hass issued after Jan. 16
Eggs

- Certified producers selling *chicken* eggs must:
  - Be registered as an Egg Handler  
    - FAC §27541
  - Ensure their eggs meet **quality** and **labeling** requirements

- **Quality**
  - Eggs must be clean and below tolerance for defects
    - Dirt, cracks, leakers, etc.
    - 3CCR §1353
  - **Size**
    - Small, Medium, Large, Extra Large, Jumbo
    - Determined by weight
    - 3CCR §1352  
    - 3CCR §1353.4
  - **Grade**: AA, A, B
    - Smaller air cell = higher grade

- Ok to label eggs as *smaller* and *lower* grade than they actually are, **not** the other way around
Eggs

Egg labeling

All containers or bulk displays of eggs must be labeled with the following:

- **Grade unabbreviated**
- **Identity**
- **Size unabbreviated**
- **Sell By Date** (≤30 days after pack)
- **Julian Date of Pack** (consecutive day of year)
- **Responsibility**
- **Quantity**
- **“Keep Refrigerated”** or similar statement

“California Shell Egg Food Safety Compliant” (may be abbreviated “CA SEFS Compliant”; Indicates compliance with new cage size requirements as of 2015)

FAC §27644
CCR §1354
Eggs

- Egg labeling
  - Eggs sold loose from flats must still be represented by a sign with all required information

[Image of egg cartons]

[Image of egg label]

LARGE~GRADE AA
EGGS
KEEP REFRIGERATED
Uncle Oliver’s Egg Farm
Half Moon Bay, CA 94720
Sell By: June 30, or 6-30
151
P 1234 or CA-1234 or 06-1234
CA SEFS Compliant

FAC §27644
CCR §1354
Eggs

- Eggs from other species of fowl:
  - Chicken egg quality and labeling requirements do not apply
  - Label with species (duck, quail, etc.)
  - IRQ if in closed container

6 Duck Eggs

ABC Farm
Oceanside, 92056
Honey

- **Honey labeling**
  - IRQ + US Grade (+color if in opaque container)

- **Apiary registration**
  - All beekeepers in California are required to register their hives with the County Agricultural Commissioner
  - 0-9 hives = free
  - >10 hives = $10/year
  - Receive pesticide application notifications, as well as the latest information on bees, research, and regulation changes.

FAC §29581/29611

FAC §29040

Honey
US Grade A
ABC Farms
1234 Main St.
Oceanside, CA
92056
8 oz.
Nursery Stock

• To be sold in CFM, must be planted/propagated by you

  “The practice of the agricultural arts for... plant products includes... responsibility for **all the actions** of planting, growing, fertilizing, irrigating, cultivating, pest control, and harvesting.”

• Selling nursery stock, including cut flowers, requires California License to Sell Nursery Stock

  • "Nursery stock" means any plant for planting, propagation, or ornamentation.

  • "Plant" includes any part of a plant, tree, plant product...

  FAC §47000.5(b)
  FAC §5005
  FAC §5007
Processed Foods

- Agricultural products that have been altered/prepared
  - Cooking, chopping, drying, juicing, etc.
- May be sold in a CFM as long as all ingredients produced by you and listed on your certificate*
  - *Exceptions: food coloring, preservatives, seasonings, flavorings
- Flavoring = “imparts flavor... without changing the consistency of or rendering unidentifiable the original product”

3CCR §1392.2(u)
Processed Foods

- Must be prepared in accordance with Health Department requirements
  - Certified kitchen
  - Cottage food permit (low risk foods)
  - Food handler card
- Documentation must be posted at the booth to verify
- Labeling
  - IRQ if closed container
  - Statement on or near product that all ingredients were produced on your farm
  - Processed Food Registration # of facility where processed

3CCR §1392.4(m)

FAC §47004(c)(2)
Most Common Producer Violations

2015

1. Certificate not posted/embossed/valid* (14 violations)
2. Product not listed on certificate* (12 violations)
3. Product in closed container without IRQ (11 violations)
4. Selling for another producer whose certificate is not posted/embossed/valid* (8 violations)
5. Scale not sealed (7 violations)

64 Total Violations issued to producers in 2015

*Also a violation against the CFM
Tips for Compliance

- Review your certificate often
- Keep documents together; know when they expire
- Use the Self-Inspection Checklist
- Attend Direct Marketing 101
- Train your employees
- Ask questions
- Call us!
DIRECT MARKETING 101

Market Operator and Producer Compliance Requirements

Ian Schmidt
Agricultural/Standards Inspector
Topics Covered

- Products Permissible in the Certified vs. Non-Certified Section
- Agricultural Products
- Agricultural Products Unable to be Certified
- Non-Agricultural Products
- Producer and Operator Shared Compliance Requirements
- Top 10 violations issued to CFMs 2015
- How to Avoid Violations
- Q & A
Certified vs. Non-Certified Section

Certified Section:
- Must be Agricultural Products Grown by a CP* in California
- Certifiable Products
- Certification is Not Applicable

Non-Certified Section:
- Non-Agricultural Products, Prepared Food, etc. and Some Agricultural Products are Permissible
- Unable to be Certified
- Certification is Not Applicable

*CP: California Producer
Agricultural Products (Non-Certifiable)

Processed agricultural products from raw agricultural products listed on the certificate, such as:

- Juice
- Jams & Jellies
- Salsas
- Pickles
- Oils
- Wine & Beer

CDFA determines processed products as a “limited number or ingredients or additives which act as a preservative or are essential in the preparation of the product”
Agricultural Products Permitted in Non-Certified Section

- FRUITS
- VEGETABLES
- FLOWERS
- NUTS
- HERBS
- MUSHROOMS*
- GRAINS
- DAIRY
- SHELL EGGS
- HONEY
- POLLEN
- ROYAL JELLY
- PROPOLIS
- UNPROCESSED BEES WAX

Non-Certified Section

FAC §47000.5(a)
Non-Agricultural Products are

- Services
- Arts
- Candles, crafts
- Bakery, pastas
- Candies
- Soaps, balms
- Cosmetics, perfumes
- Clothing, fabrics
- Compost, fertilizers
- Pottery, ceramics
- Foraged foods
- Types of wares
Non-Agricultural Products Includes

Agricultural products combined with non-agricultural products are not permitted for sale in the certified section

“Added Value”
Certified and Non-Certified Sections

Certified Section
- Fresh whole fruits, nuts, vegetables, cultivated mushrooms, herbs, and flowers
- Cheese
- Eggs
- Nursery Stock
- Processed Ag. Products
- Foraged Foods
- Compost/Fertilizer
- Services

Non-Certified Section
- Honey
- Livestock Meat
- Pasta
- Candles
- Crafts
- Cosmetics
- Clothing
- Bakery
- Added Value
Which section may these products be sold in?

Certified

Both

Non-Certified

Both

Certified

Non-Certified

FAC §47000.5(a)
Bonus Question, Where can livestock be sold?

Nowhere
Producer and Market Shared Responsibilities

- Certified Producer Certificate (CPC) not posted
- Product offered for sale not listed on CPC
- Cross references missing from certificates or products not separated
- Not of own production
- Selling uncertified/non-agricultural products in the certified Section
- Non-authorized person selling for a producer
Top Violations Issued to CFMs

1. Certified Producer Certificate (CPC) not posted*
2. Product for sale not listed on CPC*
3. Certified Farmers’ Market (CFM) certificate not valid
4. Cross reference product not identified/separated*
   (tie) 5. Uncertified/non-ag product sold in certified area*
   (tie) 6. Load Sheets incomplete
   (tie) 6. Person selling for producer not authorized*
How to Avoid Violations

- Follow-Check List Found in Application Packet
- Discard Expired CPCs
- Growing a New Commodity? Get an Amendment
- Ensure Scales are Sealed by the County
- Separate Cross-Reference Products
- Attend the DM 101 Outreach Events Annually
- Ask us Questions
Topics Covered

• Uncertified Produce
• Defining Certified and Non-Certified Sections
• Market Operator Compliance Requirements
• How to Avoid Violations
• Q & A
Prohibited Activity anywhere at a Certified Farmers’ Market

Selling or distributing **uncertified** fresh whole:

- Fruits
- Nuts
- Vegetables
- Cut flowers
- Herbs
- Cultivated Mushrooms

FAC §47004(e)
Distinction Certified vs Non-Certified Area

Non-Certified Area

Certified Area

Sign is Required

Non-Certified Area

Certified Area
Certified vs Non-Certified Area

- Clear separation between the certified section and non-certified section with unambiguous signage

- Non-agricultural products:
  - cannot share the booth
  - cannot share the same table
  - cannot be represented by the same banner

- Market map must show that the booth with the non-agricultural products is correctly placed in the non-certified area

FAC §47004(b) 3CCR §1392.6(b)
Certified vs. Non-Certified Area
Example of Booth with Cross-References

- Cross Reference Product Needs to be separated
- CPCs Contain the Cross-References
- Sign Needs
  - “We grow What We Sell”
  - Name of Producer
  - County

3CCR §1392.9(a)(6)

Lindenmeier
Cloverleaf County
FARM
We Grow What We Sell

We Grow What We Sell

FARM FOR LIFE
Cloverleaf County

3CCR §1392.9(a)(6)
Market Operator Compliance Requirements: Valid Certificate

A current, valid certified farmers' market certificate shall be available at any time during market operating hours.

3CCR §1392.9(c)
Market Operator Compliance Requirements: Load List

(1) Complete Load Lists include:

- Name of the certified producer
- Identity of each product sold as it appears on the certified producer's certificate
- Quantity of each product sold including all processed agricultural products
- Name and date of the market

(2) Keep the load lists for eighteen months.
Avoiding Violations

- Use the Self-Inspection Checklist
- Learn the Direct Marketing Laws & Regulations and Self-Enforce Your Market
- Ask Questions and Seek Information
- Be Familiar with your Producers
- Person in Charge of Compliance
CONTACT INFORMATION

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)

Certified Farmers’ Market Program
1220 N Street, Sacramento, CA 95814
Phone: (916) 900-5030
Email: cfm@cdfa.ca.gov
For more information, forms and links to law and regulations visit website - http://www.cdfa.ca.gov

COUNTY OF SAN DIEGO DEPARTMENT OF AGRICULTURE, WEIGHTS & MEASURES

9325 Hazard Way, Ste. 100, San Diego, CA 92123

Certified Producers, Certified Farmers’ Markets, Organic, Avocado, Eggs:
Agricultural Standards Program
Phone: (858) 614-7786
Email: AgStandards.AWM@sdcounty.ca.gov
For printable application packets visit website: http://www.sandiegocounty.gov

Pesticide Use:
Pesticide Regulation Program
Phone: (858) 694-8980
Email: PRP.AWM@sdcounty.ca.gov

Scales:
Weights & Measures Program
Phone: (858) 694-2778
Email: se.awm@sdcounty.ca.gov

Nursery Stock:
Plant Health & Pest Prevention Program
Phone: (760) 752-4700
Email: PHPP.AWM@sdcounty.ca.gov
Located in our San Marcos office at 151 E. Carmel St., San Marcos, CA 92078