



## California Certified Farmers' Markets and Farm Stands

### A Closer Look at State Law

*California certified farmers' markets and farm stands can help bring fresh fruits and vegetables directly to the communities that need them most. This fact sheet explains how state law works to encourage this type of "direct marketing," which creates a win-win for farmers and consumers alike.*

It can be difficult—if not impossible—to find fresh, affordable healthy food in many urban and rural low-income communities. One way to make fresh produce more accessible is to encourage alternative retail outlets, such as farmers' markets and farm stands, where farmers can sell their produce directly to consumers.

Direct marketing, which includes farmers' markets, farm stands, and community supported agriculture (CSA) programs, creates a win-win for farmers and consumers: it provides an opportunity for growers to sell their produce, and supplies underserved consumers with quality fruits and vegetables at reasonable prices.

California promotes direct marketing through a flexible regulatory scheme that makes direct marketing a viable marketing system.<sup>1</sup> This fact sheet explains basic state law regulating California certified farmers' markets, as well as "farm stands."<sup>2</sup> Understanding how the regulations work can help communities pursue direct marketing options to increase access to healthy fresh produce.



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## California Certified Farmers' Markets

Briefly, a certified farmers' market is a market (1) operated by a local government agency, one or more certified producers, or a nonprofit organization; (2) certified by and operating in a location approved by the county agricultural commissioner; and (3) where farmers (or "producers") sell directly to consumers agricultural products or processed goods made from agricultural products that the farmers grow themselves ("direct marketing").<sup>3</sup> State law requires that the agricultural products meet certain health and safety standards; provided that those standards are met, produce sold at a California certified farmers' market is exempt from grade, size, labeling, packaging, and other such requirements for fruits, nuts, and vegetables.<sup>4</sup>

State law allows local communities to determine where within a community a certified farmers' market may operate (through zoning laws), but the county agricultural commissioner must approve the actual location and issue a certificate to permit the certified farmers' market to operate.<sup>5</sup> The county agricultural commissioner is responsible for enforcing the direct marketing regulations. The commissioner's approval ensures that only directly marketed agricultural products are sold at the certified market; other sales (for instance, crafts) must occur outside the market perimeter. Certified farmers' markets must also adopt written operating rules and procedures.<sup>6</sup>

## Health and Safety Regulations for Certified Farmers' Markets

Certified farmers' markets are "food facilities" as defined in the California Uniform Retail Food Facilities Law (CURFFL), but they are subject to specific health and safety standards rather than those that apply to other types of retail food facilities.<sup>7</sup> They must obtain a valid health permit to operate. The local environmental health agency (usually the county health department) is responsible for regulating the health and sanitation aspects of the markets.<sup>8</sup> Depending on the laws in the local community, certified farmers' markets may also need to obtain business or other licenses or land use approvals to operate.

## Why Operate a "Certified" Farmers' Market?

Communities may host non-certified farmers' markets, flea markets, craft fairs, and other kinds of markets that offer produce or food, depending on local ordinances and land use codes. But operating a certified farmers' market offers several benefits to producers and consumers. Produce is exempted from grade, size, labeling, and packaging requirements for fruits, nuts, and vegetables, allowing farmers to sell produce that may not qualify to be sold at other outlets. Requiring direct sales by producers to consumers also eliminates the "middleman," often lowering prices for consumers.



Briefly, certified farmers' markets must comply with the following sanitation requirements:

### Food Storage and Sampling<sup>9</sup>

- Food must be stored at least six inches off the floor or ground or as otherwise approved.
- Food preparation is prohibited, with the exception of food samples.<sup>10</sup>
- Food samples may be distributed only if: (1) samples are kept in approved, clean, and covered containers; (2) samples are distributed by the producer in a sanitary manner; (3) food intended for sampling is washed or cleaned by potable water so that it is safe for consumption; (4) potable water is available for hand washing and sanitizing as approved by the local enforcement agency, and the wastewater is disposed of in a facility connected to the public sewer system or in a manner otherwise approved by the local enforcement agency; (5) clean, disposable, plastic gloves are worn when cutting samples; (6) utensils and cutting surfaces are smooth, nonabsorbent, and easily cleanable, or single-use articles are used; and (7) potentially hazardous food samples are maintained at or below 45°F, and disposed of within two hours after cutting.

### Other Sanitation Requirements<sup>11</sup>

- Approved toilet and hand washing facilities must be available within 200 feet of the premises of the market or as approved by the enforcement officer.
- With the exception of service dogs, no live animals may be kept or allowed within 200 feet of any area where food is stored or held for sale.
- All garbage must be stored and disposed of in a manner approved by the enforcement officer.

## California Field Retail and Farm Stands

In 2008, to help promote California agriculture, enhance farmers' income, and build local economies, the California Legislature added two new categories of retail outlets: field retail stands and farm stands. A "field retail stand" is retail outlet located at or near the point of production (i.e., the farm), owned and operated by the producer, and established in accordance with local laws and land use codes.<sup>12</sup> A "farm stand" is a field retail stand that sells (1) California agricultural products the producer grows or makes, and (2) prepackaged food products that need no refrigeration from a source approved by health enforcement agencies, or bottled water or soft drinks.<sup>13</sup> The farm stand must limit the area in which prepackaged food products are stored and sold to no more than 50 square feet.<sup>14</sup> The "farm stand" designation promotes the sale of California produce, but allows the producer to also sell some prepackaged food items to increase sales.

## Health and Safety Regulations for Farm Stands

Farm stands are also "food facilities" as defined in CURFFL, but like certified farmers' markets, they are subject to only to certain health and safety requirements.<sup>15</sup> Briefly, farm stands must comply with the following sanitation requirements:

### Food Storage and Sampling

- Farm stand operators must store all prepackaged and processed foods in an approved vermin-proof area or container during operating hours and when the farm stand is closed.<sup>16</sup>
- Farm stands are subject to the same restrictions on food preparation and food samples as certified farmers' markets, described above.<sup>17</sup>

### Other Sanitation Requirements

- When farm stands offer food sampling, they must provide cleanly maintained, conveniently located toilet and hand washing facilities for operators and employees.<sup>18</sup>
- With the exception of service dogs, no live animals may be kept or allowed within 20 feet of any area where food is stored or held for sale.<sup>19</sup>
- All garbage must be stored and disposed of in an appropriate manner.<sup>20</sup>

For more information on increasing and protecting farmers' markets within a community, including model general plan and zoning language, visit <http://changelabsolutions.org/publications/land-use-farmers-markets>.

*The National Policy & Legal Analysis Network to Prevent Childhood Obesity (NPLAN) is a project of ChangeLab Solutions. ChangeLab Solutions is a nonprofit organization that provides legal information on matters relating to public health. The legal information in this document does not constitute legal advice or legal representation. For legal advice, readers should consult a lawyer in their state.*

*Support for this fact sheet was provided by grants from the Robert Wood Johnson Foundation and Kaiser Permanente South.*

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<sup>1</sup> Cal. Food & Agric. Code § 47000 (West 2010). (All citations hereafter are accurate as of August 2010.)

<sup>2</sup> The laws regulating certified farmers' markets are contained in California's Food and Agriculture Code, the Health and Safety Code, and the California Code of Regulations. There are additional laws regulating the process for becoming a certified farmers' market or certified producer and compliance requirements for both certified market operators and producers that exceed the scope of this fact sheet.

<sup>3</sup> Cal. Food & Agric. Code § 47004(b); 3 C.C.R. § 1392.2.

<sup>4</sup> Cal. Food & Agric. Code § 47004(b); 3 C.C.R. § 1392.4.

<sup>5</sup> Cal. Food & Agric. Code § 47004(b); 3 C.C.R. § 1392.6(d),(e).

<sup>6</sup> Cal. Food & Agric. Code § 47004; 3 C.C.R. § 1392.6.

<sup>7</sup> Cal. Health & Safety Code § 113789(b)(9). For special requirements permitting the storage and display of raw shell eggs without refrigeration, see Cal. Health & Safety Code § 114373.

<sup>8</sup> Cal. Health & Safety Code § 114381.

<sup>9</sup> Cal. Health & Safety Code § 114371(a),(b).

<sup>10</sup> A temporary food facility—where food may be prepared—may operate adjacent to and in conjunction with a certified farmers' market that is operating as a "community event," provided that the temporary food facility obtains a separate health permit and conforms to the health and sanitation requirements governing food facilities. Cal. Health & Safety Code § 114371(g). A community event is an event that is of a civic, political, public, or educational nature, including state and county fairs, city festivals, circuses, and other similar events as determined by the local enforcement agency. Cal. Health & Safety Code § 113755.

<sup>11</sup> Cal. Health & Safety Code § 14371.

<sup>12</sup> Cal. Food & Agr. Code § 47030.

<sup>13</sup> Cal. Food & Agr. Code § 47050; Cal. Health & Safety Code §§ 113778.2, 114375(c)(3).

<sup>14</sup> Cal. Health & Safety Code § 114375(c)(3).

<sup>15</sup> Cal. Health & Safety Code § 113789(b)(10).

<sup>16</sup> Cal. Health & Safety Code § 114375(f).

<sup>17</sup> Cal. Health & Safety Code § 114375(a).

<sup>18</sup> Cal. Health & Safety Code § 114375(b).

<sup>19</sup> Cal. Health & Safety Code § 114375(d).

<sup>20</sup> Cal. Health & Safety Code § 114375(e).