



## PACIFIC COAST FARMERS' MARKET ASSOCIATION

5060 Commercial Circle, Ste. A  
Concord, CA 94520

### PCFMA Rules and Regulations for 2018 Summary of Changes

Below is a brief summary of the changes to these Rules and Regulations that will be taking effect on January 1, 2018. In addition to these changes, other small changes were made to structure of our rules to make them easier to read and understand. Please note that reviewing this summary does not act as a substitute for reading these Rules and Regulations in their entirety. We strongly encourage you to review the complete Rules and Regulations before submitting your 2018 Application to Sell. By signing your application you state that you have read, understood and will comply with these Rules and Regulations.

- **Producer and Product Selection for Markets**

During the course of operating farmers' markets, PCFMA is often required to make decisions about the following:

- Which producers can sell in a particular market
- How much space a producer can use in the market
- The variety or amount of product a producer can sell
- Many factors are taken into account when these decisions are made, and are outlined in further detail in these Rules and Regulations.

- **New Product:**

Producers wishing to sell a new product in a market must submit a request in writing. Submission of a new primary or secondary producer certificate does not guarantee a permission to sell new products listed on that certificate.

- **Expectations of Participating Producers**

Further clarification has been provided regarding these requirements how they are enforced.

- What is considered inappropriate behavior at a farmers' market has been clarified.
- The appeal process regarding actions taken by PCFMA has been clarified.
- Producers with fees outstanding for 30 days or more may be suspended from markets until the fees are paid.
- Producers must maintain their back stock and trimmings so it does not overflow into the area immediately surrounding their stalls.
- Producers agree to allow PCFMA to send them important news via the email they supplied for their application.

- **Additional Restrictions:**  
PCFMA retains the ability to place unique restrictions on producers who have violated these Rules and Regulations, and the Standard Operating Procedure for a particular market may include additional restrictions beyond those listed in these Rules and Regulations
  
- **Required Documentation**
  - **Ranchers and Meat Sellers:**  
Ranchers must certify their animals were slaughtered in a USDA facility, and sellers of packaged meat products must certify that they were packaged in a licensed facility.
  - **Load Lists:**  
Load lists must be submitted within 45 minutes after a market closes, and if PCFMA is fined as a result of not receiving a load list because the producer did not provide it to PCFMA, the producer will have to reimburse PCFMA for the cost of the fine.
  - **Seller's Permits:**  
Producers selling taxable items (such as flowers, ready-to-eat food items, and candles) must provide a seller's permit for each of their markets, and must display a copy of that permit at their stall.
  
- **Value-Added Products**
  - **Farmers Selling Value-Added Products:**  
If a farmer wants to sell a value-added product that cannot be sold in the certified agricultural section of a market, such as a fruit pie, they'll need to request a space in the non-certified section. Upon receiving that space they will need to set up and pay for a separate stall.
  - **Selling Wine or Hard Cider:**  
These items can only be sold by a certified agricultural producer, and only if that producer grew the ingredients in the wine or cider.

**Seasonal Stall Fee Change**

- In 2018, winter rates for stall fees will end on April 1 and begin on December 1. This is a month later than in 2017.



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**Rules and Regulations  
for PCFMA's Farmers' Markets:  
2018**



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## I. INTENT AND IMPLEMENTATION

STATEMENT OF INTENT: Each PCFMA farmers' market is a diversified market offering certifiable agricultural products and non-certifiable agricultural products for sale to the general public within a Certified Farmers' Market (CFM), as well as non-agricultural products in an area adjacent to the CFM.

The CFM provides producers with the opportunity to sell their fresh, California-grown products directly to the consumers without the intervention of a middleman. Each CFM is operated in accordance with the California Food and Agriculture Code (Division 17, Chapter 10.5) and regulations established in the California Code of Regulations (Title 3, Division 3, Chapter 1, Subchapter 4, Article 6.5) pertaining to Direct Marketing.

*3 CCR § 1392.4 (a) Except as provided in subsection (f) below, a producer or certified producer may sell or offer to sell, at a certified farmers' market, a field retail stand, outlet, location or a farm stand, only agricultural products which he or she produced to consumers or to individuals, organizations, or entities that subsequently sell or distribute the products directly to end users.*

Each CFM is certified by the County Agricultural Commissioner as a direct marketing outlet for producers to sell their products directly to consumers without meeting the usual size, standard pack and container requirements for such products. However, all produce must meet minimum quality standards.

The non-certifiable agricultural products and non-agricultural products add variety and enhance the festive ambiance of the farmers' market. The state of California's Direct Marketing regulations require that producers of fresh fruit, nuts, vegetables, flowers, honey, eggs, nursery stock, and plants sell only those products that they have grown themselves. At PCFMA we apply that same producer-to-consumer philosophy applies for all non-agricultural products sold at PCFMA's farmers' markets. We accept applications and space in the area adjacent to the CFM only from food producers and artisans who are actively involved the creation of the products they sell.

IMPLEMENTATION: Each PCFMA farmers' market is managed, operated, and controlled by Pacific Coast Farmers' Market Association. In order to ensure the success of each PCFMA farmers' market as an efficient outlet for producers to sell their products directly to consumers, Pacific Coast Farmers' Market Association (PCFMA) has established these Rules and Regulations. This set of rules facilitates the effective operation, administration and management of the farmers' markets under the control of this organization in a manner consistent with the high standard of quality and mission of PCFMA.

The PCFMA mission is to empower California farmers to be enormously successful in Bay Area communities.

The PCFMA Board of Directors, the PCFMA Executive Director and the PCFMA Direct Marketing staff will have the final authority in interpreting and enforcing these Rules and Regulations. They will implement and enforce all Rules and Regulations pertaining to the operation of the farmers' markets under its control in a fair and equitable manner.

The Board of Directors reserves the right to make additions or deletions to these rules when deemed necessary. Written notice of these changes will be provided to each of PCFMA's producers. The most recent changes to these rules (excluding changes made to improve clarity or grammar) are underlined for easy reference (example).

## II. STATE REGULATIONS

PCFMA's farmers' markets are governed by the California Code, including portions of the Food and Agriculture Code and California Health and Safety Code, and by the Direct Marketing and other regulations under such Code provisions (collectively, "California Code").

Some portions of the California Code are reprinted within these Rules and Regulations. All such reprinted sections are represented in italics (*example*). All applicable sections of the California Code are included in these Rules and



Regulations by reference, even if not reprinted within these Rules and Regulations. For more information on California Code, please visit <http://leginfo.legislature.ca.gov/faces/codes.xhtml>. For more information on state regulations regarding Certified Farmers' Markets, please visit <https://govt.westlaw.com/calregs>.

Violations of these Rules and Regulations are subject to penalties as set out in Sections XII and XIII. In addition, PCFMA may disclose to governmental authorities information and observations obtained in the course of inspections and other market operations, as set out in Sections X and XVI.

### III. APPLICATION AND RESERVATION PROCESS

- A. A prospective producer must initiate and complete an Application-to-Sell, which includes:
  - 1) A 2018 Application form.
  - 2) Payment of the applicable Application Fee.
  - 3) Payment of all outstanding fees due to PCFMA.
- B. In order to be admitted as a PCFMA market participant, a producer must complete the Application-to-Sell form and supply the required forms to PCFMA. New agricultural producers must also pass an inspection by a PCFMA designated inspector, as provided in Section V.

### IV. REQUIRED DOCUMENTATION

- A. For Certified Agricultural Producers
  - 1) In compliance with Section III, all certified agricultural producers must submit to PCFMA a complete Application-to-Sell for the current year.
  - 2) In compliance with Section III, all certified agricultural producers must submit to PCFMA copies of current certified producer's certificates for all growing areas and all producers for which they intend to sell products in PCFMA's farmers' markets. This includes certified producer's certificates for all growing areas and products represented in the markets as second certificates.
    - i. A producer's selling privileges will be immediately suspended by PCFMA if the certified producer's certificate is revoked.
    - ii. Producers that are leasing or sharecropping land must provide PCFMA with a current copy of the lease or sharecropping agreement.
    - iii. PCFMA reserves the right to refuse any producer permission to sell any or all products from a certified producers certificate in any PCFMA farmers' market.
  - 3) In compliance with Section XVIII-R below of these Rules and Regulations, all certified agricultural producers must submit to PCFMA a current Certificate of Liability Insurance which names PCFMA as an additional insured and minimum coverage of \$1,000,000 per each occurrence and general aggregate. PCFMA will not accept copies of the policy or billing notices.
  - 4) In compliance with Section XVIII-U below of these Rules and Regulations, all certified agricultural producers selling certified organic products must submit to PCFMA their current organic registration from the California Department of Food & Agriculture Organic Program and a current organic certification from an independent third party USDA-accredited agency if the expected organic gross sales exceed \$5,000.



- i. An agricultural producer who does not have proof of organic certification or organic registration may not use the term "organic" in its farm name or signage within a PCFMA farmers' market.
    - ii. An agricultural producer who has previously submitted to PCFMA proof of organic certification or organic registration must report to PCFMA within 10 days if said certification or registration should be canceled or withdrawn.
  - 5) If selling a processed agricultural product, producers must submit to PCFMA a complete and accurate copy of a current Cottage Food Operation permit or a health permit for the point of production of products sold within the farmers' market. This may be a permit issued by a county health department or a state of California processing permit.
    - i. If the health permit is not in the name of the business on the PCFMA Application-to-Sell, the producer must submit a letter from the permitted business giving the applying producer permission to use the facility.
    - ii. State law restricts the products that can be sold within the certified section of a CFM. Should an agricultural producer wish to sell processed agricultural products derived from the agricultural products they produce that the state does not allow to be sold in the certified section, the agricultural producer may request from PCFMA a stall in the adjacent area of the CFM. If granted the stall space, the producer will be charged the prevailing rate for a non-agricultural stall space occupied in the adjacent area.
    - iii. Agricultural producers selling meat products from animals they raised themselves must certify that the animals were slaughtered in a USDA certified facility.
    - iv. All sellers of packaged meats must certify that the items were packaged in a properly licensed food processing facility.
  - 6) If selling honey sticks in the certified agriculture section of the market, honey producers must provide a letter from the facility processing the producers' honey to create the honey sticks.
- B. For Non-Agricultural Producers
  - 1) If selling a processed food product, unless all preparation of the food is done at the farmers' market, all non-agricultural producers must submit to PCFMA a complete and accurate copy of a current health permit for the point of production of products sold within the farmers' market. This may be a permit issued by a county health department or a state of California processing permit. If the permit is not in the name of the business on the PCFMA Application-to-Sell, the producer must submit a letter from the permitted business giving the applying producer permission to use the facility.
  - 2) If selling a food product for which all preparation of the food is done at the farmers' market, all non-agricultural producers must submit to PCFMA a complete and accurate copy of a current county-issued health permit for the commissary in which food and equipment is stored outside of market hours.
  - 3) All non-agricultural producers selling food products in a PCFMA farmers' market in Alameda, San Mateo, or Solano County must submit a complete and accurate copy of a current Temporary Food Facility permit issued by the county's Environmental Health Department, unless the producer's sales are exclusively through a mobile food facility (stickered vehicle).



- 4) All non-agricultural producers selling food products in a PCFMA farmers' market in San Francisco County must submit a complete and accurate copy of a current Mobile Food Facility or Temporary Event permit application with payment, as appropriate. Said permits are issued by San Francisco County's Public Health Department through PCFMA. Mobile Food Facility or Temporary Event permits must be submitted a minimum of three weeks before the beginning of a quarter in which a producer wishes to participate.
  - 5) All non-agricultural producers who have been approved by PCFMA to sell food products in a PCFMA farmers' market in Santa Clara County must submit their Health Permit Application and Health Permit Fee to PCFMA when participating in a market for the first time.
  - 6) In compliance with Section XVIII-R of these Rules and Regulations, all non-agricultural producers must submit to PCFMA a current Certificate of Liability Insurance which names PCFMA as an additional insured with minimum coverage of \$1,000,000 per each occurrence and general aggregate. PCFMA will not accept copies of the policy or billing notices.
  - 7) In compliance with Section XVIII-U of these Rule and Regulations, all non-agricultural producers selling certified organic products must submit to PCFMA a current organic registration from the State of California.
    - i. A non-agricultural producer who does not have proof of organic certification or organic registration may not use the term "organic" in its business name or signage within a PCFMA farmers' market.
    - ii. A non-agricultural producer who has previously submitted to PCFMA proof of organic certification or organic registration must report to PCFMA within 10 days if said certification or registration should be canceled or withdrawn.
- C. All producers selling taxable items must provide to PCFMA a copy of a Seller's Permit for each farmers' market in which they are approved to sell, demonstrating that they are registered with the California State Board of Equalization.
- 1) Producers selling taxable items agree to bear full responsibility for the proper collection and reporting of sales taxes, and to protect and defend PCFMA and its farmers' markets in case of any dispute with the State Board of Equalization.
  - 2) Producers selling taxable items must display a copy of their Seller's Permit in any market where they are selling taxable goods. This permit must correspond to the market in which they are participating.

*REVENUE AND TAXATION CODE Chapter 2. Article 2. Section 6067. After compliance with Sections 6066 and 6701 by the applicant, and giving the applicant the notice required by Section 6066.5, the board shall grant and issue each applicant a separate permit for each place of business within the state. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued.*

Visit [www.taxes.ca.gov](http://www.taxes.ca.gov) for more information.

## V. ADMISSION OF A PRODUCER TO THE MARKET

A new applicant who wishes to sell certified agricultural products will not be granted full admission to PCFMA markets unless and until PCFMA completes an on-site farm inspection, PCFMA verifies to its satisfaction that the



producer sells only what it grows in accordance with its Certified Producer's Certificate, and the producer otherwise passes the inspection. Such an applicant, however, may be admitted on a provisional basis pending a satisfactory on-site inspection. PCFMA will contact the producer, as appropriate, to schedule an on-site inspection. The producer must consent to an inspection of its property within seven (7) days from the date of the initial request by a PCFMA designated inspector.

Admission to sell at any market is at the reasonable discretion of PCFMA. In making this determination, a manager may consider the following:

- A. Producer's history of compliance with state and local government regulations, with these Rules and Regulations, and with the market rules of other certified farmers' markets, as contemplated by Section XVII.
- B. Producer's history of market participation, including but not limited to record of consistent market attendance, record of on-time market arrival, completeness of paperwork provided to PCFMA, and history of positive and negative interactions with customers and PCFMA staff. When practical, significant weight, priority, and preference should be given to producers returning from previous seasons.
- C. The competitive availability and number of sellers of producer's product present within the market. If practical, monopolies and surfeits (gluts) should be avoided.
- D. Whether the present number of sellers of producer's product is adequately supplying consumer demand.
- E. The number of unreserved spaces and other limitations of the market including potential competition with neighboring businesses and operational agreements with property owners.

Change of business ownership requires submission of a new application to PCFMA, which will be processed as a new admission. The transfer or change of ownership does not grant or guarantee the new owner the same admission or current stall space assignment as the previous owner.

Admission of a producer may be conditioned or limited by period of attendance time and type of product allowed.

## **VI. ADMISSION OF PRODUCTS TO THE MARKET**

As required under 3 CCR § 1392.2 (j) only fresh or processed fruits, nuts, vegetables, herbs, mushrooms, dairy, shell eggs, honey, pollen, unprocessed beeswax, propolis, royal jelly, flowers, grains, nursery stock, livestock meats, poultry meats, rabbit meats and fish, including shellfish that is produced under controlled conditions in waters located in California may be sold in the CFM. PCFMA reserves the right to further control or limit the admission of products to any PCFMA farmers' market.

Admission of any certifiable agricultural or non-certifiable agricultural product to the CFM or any non-agricultural product to an area adjacent to the CFM is at the reasonable discretion of PCFMA. If a producer wishes to sell a product in a farmers' market where they have not previously sold said product on a regular basis, they must indicate this on their Application-to-Sell. If a producer has already submitted their Application-to-Sell for the current season, the producer must submit a request in writing to PCFMA a minimum of 14 days before the first day on which they wish to sell the product in a PCFMA farmers' market. A producer must receive written permission from PCFMA before selling the additional product(s) in a PCFMA farmers' market.

In making any determination regarding admission of products to a PCFMA farmers' market, PCFMA shall consider the following:



- A. A producer's history of selling such product as evidenced on load lists within or adjacent to the market. When practical, significant weight and preference should be given to products sold by producer in previous seasons. Significant weight and preference shall be given to products on primary certificates.
- B. The present competitive availability (number of sellers) of producers product within or adjacent to the market. If practical, monopolies and surfeits (gluts) should be avoided.
- C. The type of relative quality of the product intended to be offered for sale by the producer. Field run produce is encouraged. Culls or lowest grade only sales are discouraged and may be prohibited.
- D. Admission of a product to be sold by a particular producer may be conditioned by period of sale, location of sale, variety, quality and other general or specific limitations including potential competition with neighboring businesses and operating agreements with property owners.
- E. Within the CFM, preference will be given, when possible, to products are grown within the community served by the farmers' market.
- F. Within the area adjacent to the CFM, significant weight and preference will be given to products that are prepared by the producer themselves and to non-agricultural producers who verify that the raw ingredients within their products are purchased directly from California farms.

#### VII. ASSIGNMENT OF SELLING SPACE

The producer's location, space size and other factors of assignment of selling space within a market is at the reasonable discretion of the Market Manager. Sellers may not exchange selling spaces between each other without the consent of the Market Manager. Sellers must accept the stall space assigned to them by the Market Manager. The space available to a producer is subject to change without notice. No producer is guaranteed any particular space in any PCFMA farmers' market.

In making any determination of the assigned space, the Market Manager shall consider the following:

- A. The maintenance of present and past consumer-producer relationships.
- B. The safety of producers, PCFMA staff and customers during the load-in and load-out times of the market.
- C. The optimum flow of customers throughout the market.
- D. Causing or maintaining an unsafe or unsanitary condition at the market.
- E. Unreasonable or outrageous conduct considered detrimental or prejudicial to the purposes and interest of the market and/or the Association.
- F. Failure to attend a previously reserved market space without adequate prior notification.
- G. The occurrence of any condition or limitation, which was placed on the admission of the producer or the producer's product to any market.

#### VIII. APPLICATION FEES

Producers that wish to participate in PCFMA Certified Markets during 2018 must complete and submit an accurate 2018 Application-to-Sell as described in accordance with Section III of these Rules and Regulations.



- A. The application fee a producer is required to pay upon submitting their Application-to-sell is described in the table shown below.

**APPLICATION FEE SCHEDULE**

<b>Application Processing Fee</b>	
Completed application submitted online by 01/09/2018 with all required documentation	\$150
Completed application submitted online after 01/09/2018 with all required documentation	\$200
<b>Second Certificate Processing Fee</b>	
Must be submitted with completed Application	\$100

- B. These fees are non-refundable and do not guarantee that PCFMA will be able to grant a producer a reservation for any PCFMA farmers' market.
- C. Acceptance of a Second Certificate Processing Fee by PCFMA does not authorize a producer to sell products from a second certificate in any PCFMA farmers' market. PCFMA reserves the right to refuse any producer permission to sell any or all products from a second certificate in any PCFMA farmers' market.
- D. A producer may only be authorized to sell product from a single second certificate at a time within a 12 month period.

**IX. STALL FEES**

All producers must pay stall fees according to the current stall fee schedule set by the PCFMA Board of Directors. Stall fees are collected by the Market Manager and a receipt is issued each market day, unless otherwise detailed in the Standard Operating Procedures for a farmers' market.

- A. Stall fees are based on the number of 10-foot by 10-foot stall spaces used by a producer and will be charged according to the table listed within this section.
- B. Summer Stall fees are charged for all producers attending markets in the months of April through November.
- C. Winter Stall Fees are charged for all producers attending markets in the months of December through March.
- D. Tier 1 and Tier 2 markets are as published by PCFMA.
- E. Agricultural producers selling product from a second certificate must pay a fee of \$35 per market day without regard to the number of stalls occupied.



- F. In addition to stall fees, all producers must pay a \$2 fee to PCFMA required by the California Department of Food and Agriculture (CDFA). PCFMA will collect these fees each market day and pay them to CDFA quarterly.

**PRODUCER STALL FEE SCHEDULE**

<b>Artisans (Non-food Products)</b>		
	Tier 1 Farmers' Markets	Tier 2 Farmers' Markets
Summer Stall Fee	\$35.00	\$35.00
Winter Stall Fee	\$30.00	\$30.00
<b>Agricultural Producers</b>		
	Tier 1 Farmers' Markets	Tier 2 Farmers' Markets
Summer Stall Fee	\$40.00	\$48.00
Winter Stall Fee	\$30.00	\$38.00
<b>Non-Agricultural Producers (Pre-packaged Food Products)</b>		
	Tier 1 Farmers' Markets	Tier 2 Farmers' Markets
Summer Stall Fee	\$55.00	\$63.00
Winter Stall Fee	\$45.00	\$53.00
<b>Non-Agricultural Producers (On-site Food Processing)</b>		
	Tier 1 Farmers' Markets	Tier 2 Farmers' Markets
Summer Stall Fee	\$65.00	\$73.00
Winter Stall Fee	\$55.00	\$63.00

**X. INSPECTIONS**

- A. **Concept/Purpose.** PCFMA conducts records, stall, and on-site inspections to verify that producers are carrying out their activities in accordance with these Rules and Regulations, in line with PCFMA's commitment to compliance with the California Code, market integrity, consumer trust, and producer fairness.
- B. **Records.** Producers must provide to PCFMA, upon PCFMA's request, documents and records relating to current insurance coverages, permits and licenses, tax-exempt status, lease



agreements and other matters. Producers must cooperate with PCFMA market managers or designated inspectors in connection with these requests and any follow-up actions.

- C. **Stall Inspections.** PCFMA market managers or designated inspectors may, at any time during market hours, with or without notice, inspect stalls or other points of sale as well as vehicles used to transport products to market. Producers must cooperate with PCFMA in connection with these inspections.
- D. **On-Site Inspections.** PCFMA designated inspectors may inspect a producer's farm, storage facility, or other point of production; and any farm, storage facility, or other point of production listed on a cross-referenced certified producer's certificate represented in a market as a second certificate, as follows:
- 1) **Selection.** PCFMA may select a producer for an on-site inspection based on a number of factors, including, without limitation, observations during stall inspections, product growing seasons, periodic schedules, scheduled visits to other farms in the area, or information supplied by third parties.
  - 2) **Logistics.** During a stall inspection or by separate communication, a PCFMA designated inspector will advise the producer that PCFMA plans to conduct an on-site visit. PCFMA will seek to arrange a date and time for the visit agreeable to the producer, but reserves the right to conduct an inspection within twenty-four (24) hours of request by PCFMA.
  - 3) **Documents.** PCFMA will typically request that a producer have available at the visit its current Certified Producer Certificate, site maps of all production sites, lease agreements, copies of the producer's Pesticide Applicator Permits, if applicable, and a list of items the producer sells or proposes to sell. PCFMA may make additional requests of producers for documents or other information.
  - 4) **Producer Presence.** The producer's certificate holder listed on the certified producer's certificate, or an authorized individual knowledgeable about the site and authorized by the certificate holder to make decisions on behalf of the producer, must be present at on-site inspections.
  - 5) **Inspection Process.** The inspector(s) will generally walk the farm or facility, interview the certificate holder or authorized representative, and collect evidence in audio, video, photographic, or written form, as appropriate, including recording interview conversations. PCFMA consultants and other collaborators may accompany PCFMA staff during on-site visits.
  - 6) **Report.** PCFMA will seek to advise a producer, within fourteen days after an inspection, whether or not the producer passed the inspection.
- E. **Consequences.** Producers who PCFMA cannot conclude to its satisfaction are growing all the products they sell or intend to sell at PCFMA markets, or who fail to cooperate with PCFMA or its designated inspectors in connection with records requests, stall inspections, or on-site inspections, or who otherwise fail a PCFMA inspection, may be subject to fines, suspension, or expulsion at the discretion of PCFMA, as set out in Section XIII.
- F. **Conduct.** If a producer, or any of its employees, contractors, family members, or other persons associated with the producer, attempt to coerce, manipulate, harass, abuse, bribe, threaten, or blackmail a PCFMA manager or designated inspector in connection with records requests, stall



inspections, or on-site inspections, the producer may be subject to fines, suspension, or expulsion at the discretion of PCFMA, as set out in Section XIII.

- G. **Consent.** Each producer expressly consents to all aspects of PCFMA's inspection program, as set out in Section XVII.
- H. **Disclosure.** Each producer consents to PCFMA's disclosure of information and observations obtained in the course of inspections to governmental authorities, other certified farmers' markets, PCFMA market participants, consumers, and other third parties, as set out in Section XVI.
- I. **Other Aspects of Inspections.** The presence of PCFMA market managers, designated inspectors, or other PCFMA staff at a farm, facility, or stall, and any statements they may make to a producer in the course of such visits, will not limit or affect in any way the producer's obligation to comply with these Rules and Regulations, the California Code, and others applicable laws. This Section X does not impose any duty on PCFMA to inspect any farm, facility, stall, or document or assume any liability of any kind arising from inspecting or not inspecting any farm, facility, stall, or document. An inspection by PCFMA is targeted in nature and does not entail a statement or assurance regarding employment or food safety practices, environmental compliance, or other matters.

## XI. WINE AND BEER SALES AND SAMPLING

- A. Wine and beer sales are allowed only in designated PCFMA farmers' markets. Wine and beer sampling may not be allowed in all PCFMA farmers' markets at which wine and beer sales are allowed. Contact PCFMA for a list of PCFMA farmers' markets that allow wine and beer sales and sampling.
- B. State law, among other restrictions, allows sales and sampling of wine and cider only by winemakers who grew the agricultural products from which the wine or cider was produced. State law does not allow cider sales and sampling by beer manufacturers.
- C. PCFMA only allows beer sales in its CFMs from licensed beer manufacturers who can demonstrate that some portion of the harvested ingredients in the beer sold in the CFM were grown in California.
- D. Any producer wishing to sell or sample wine or beer, in addition to meeting all legal requirements, must provide proof of liquor liability that lists PCFMA as additionally insured.
- E. Wine and Wine Sampling:

1) Wine and Wine sampling is governed by the California Business and Professions Code:

*23399.4. (a) A licensed winegrower may apply to the department for a certified farmers' market sales permit. A certified farmers' market sales permit shall authorize the licensee, a member of the licensee's family, or an employee of the licensee to sell wine at a certified farmers' market at any place in the state approved by the department. The licensee may only sell wine that is produced entirely from grapes or other agricultural products grown by the winegrower and that is bottled by the winegrower. In addition, the permit will allow an instructional tasting event by the licensee on the subject of wine at a certified farmers' market. The permit may be issued for up to 12 months but shall not be valid for more than one day a week at any single specified certified farmers' market location. A winegrower may hold more than one certified farmers' market sales permit.*



*The department shall notify the city, county, or city and county and applicable law enforcement agency where the certified farmers' market is to be held of the issuance of the permit. A "certified farmers' market" means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code, and the regulations adopted pursuant thereto.*

*(b) (1) An instructional tasting event is subject to the authorization and managerial control of the operator of the certified farmers' market. The licensee, a member of the licensee's family, or an employee of the licensee may conduct an instructional tasting event for consumers on the subject of wine at a certified farmers' market.*

*(2) (A) At all times during an instructional tasting event, the instructional tasting event area shall be separated from the remainder of the market by a wall, rope, cable, cord, chain, fence, or other permanent or temporary barrier. Only one licensee may conduct an instructional tasting event during the operational hours of any one certified farmers' market.*

*(B) The licensee shall not permit any consumer to leave the instructional tasting area with an open container of wine.*

*(c) The licensee shall not pour more than three ounces of wine per person per day.*

*(d) The licensed winemaker eligible for the certified farmers' market sales permit shall not sell more than 5,000 gallons of wine annually pursuant to all certified farmers' market sales permits held by any single winemaker. The licensed winemaker shall report total certified farmers' market wine sales to the department on an annual basis. The report may be included within the annual report of production submitted to the department, or pursuant to any regulation as may be prescribed by the department.*

*(e) Except as otherwise provided in this division or by the rules of the department, no premium, gift, free goods, or other thing of value shall be given away by the licensee, a member of the licensee's family, or an employee of the licensee in connection with an instructional tasting event conducted pursuant to this section that includes tastings of wine.*

#### F. Beer Sales and Sampling

1) Beer sales are governed by the California Business and Professions Code:

23399.45. (a) For the purposes of this section:

*(1) "Certified farmers' market" means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code.*

*(2) "Community event" means an event as defined by Section 113755 of the Health and Safety Code.*

*(b) (1) A licensed beer manufacturer may apply to the department for a certified farmers' market beer sales permit. Subject to the requirements of Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code, and to the discretion and managerial control of a certified farmers' market or community event operator, respectively, a certified farmers' market beer sales permit shall authorize the licensee, a member of the licensee's family who is 21 years of age or older, or an employee of the licensee to sell packaged beer that has been manufactured by a beer manufacturer applying for the permit at a certified farmers' market, including any permitted community event area adjacent to, and operated in conjunction with, a certified*



*farmers' market, located within the county or an adjacent county of the physical location of the licensed beer manufacturer.*

*(2) (A) A certified farmers' market beer sales permit shall also authorize an instructional tasting event on the subject of beer at a certified farmers' market, including any permitted community event area adjacent to, and operated in conjunction with, a certified farmers' market, located within the county or an adjacent county of the physical location of the licensed beer manufacturer.*

*(B) An instructional tasting event is subject to the authorization and managerial control of the applicable operator of the certified farmers' market or community event. The licensee, a member of the licensee's family who is 21 years of age or older, or an employee of the licensee may conduct the instructional tasting event.*

*(C) At all times during an instructional tasting event, the instructional tasting event area shall be separated from the remainder of the market or community event by a wall, rope, cable, cord, chain, fence, or other permanent or temporary barrier.*

*(D) Only one licensed beer manufacturer may conduct an instructional tasting event during the operational hours of any one certified farmers' market or community event. The licensee shall not pour more than eight ounces of beer per person per day.*

*(E) The licensee shall not permit any consumer to leave the instructional tasting area with an open container of beer. (c) Sales under the certified farmers' market beer sales permit shall only occur at a certified farmers' market or within a permitted community event area adjacent to, and operated in conjunction with, the certified farmers' market that is located within the same county or adjacent county of the location of the licensed beer manufacturer's manufacturing facility. The permit may be issued for up to 12 months but shall not be valid for more than one day a week at any single specified certified farmers' market or community event location. A beer manufacturer may hold more than one permit. The department shall notify the city, county, or city and county and the applicable law enforcement agency where the certified farmers' market or permitted community event is to be held of the issuance of the permit.*

*(d) The licensed beer manufacturer eligible for the certified farmers' market beer sales permit shall not sell more than 5,000 gallons of beer annually pursuant to all certified farmers' market beer sales permits held by any single beer manufacturer. The licensed beer manufacturer shall maintain records of annual beer sales made pursuant to all certified farmers' market beer sales permits issued.*

## **XII. PENALTIES FOR VIOLATIONS**

Violations of these rules or policies may result in a fine, penalty or other disciplinary action. The severity of any penalty or discipline imposed will be directly related to the gravity or repetition of the violation. Different violations by a single producer and/or violations by a single producer in more than one PCFMA farmers' market will both be considered by PCFMA as repeated violations and may subject the producer to more severe penalties.

The following disciplinary steps are issued by PCFMA. Severity of penalties will be dependent upon the nature and intent of the offense and may not necessarily follow in the order below:

- A. Schedule of Penalties
  - 1) An oral warning
  - 2) A written notice of violation



- 3) A written notice of violation with a fine not to exceed \$50.00
  - 4) A written notice of violation with a fine determined by violation
  - 5) Market suspension of up to eighteen months
  - 6) Expulsion from the PCFMA farmers' market at which the violation occurred
  - 7) Expulsion from all PCFMA farmers' markets
- B. PCFMA reserves the right to place restrictions upon a producer who has been found in violation of these Rules and Regulations as a condition of participating in any or all PCFMA farmers' markets. These additional restrictions shall be in writing and signed by the producer and may be more stringent than the requirements outlined in these Rules and Regulations and these restrictions may persist beyond the current market season or in perpetuity at the discretion of PCFMA.
- C. If a producer is selling in more than one PCFMA farmers' market it is the responsibility of the producer, upon receipt of an oral warning or a written notice of violation, to ensure that the producers' operations in all PCFMA farmers' markets are in compliance with these Rules and Regulations.
- D. A producer is responsible for the actions of the producer's representatives, employees or agents.
- E. If possible and reasonable under the circumstances, a Market Manager must attempt to give adequate warning and notice of consequential action prior to the actual action of removal or other disciplinary action.
- F. Any producer removed or disciplined by the action of PCFMA shall have the right of written appeal and review as described in Section XIV and Section XV of these Rules and Regulations.
- G. A producer that is cited by the Department of Agriculture or the Environmental Health Department and/or causes a re-inspection will be responsible for the re-inspection fees. A producer whose violation results in a penalty or fine against PCFMA or one of PCFMA's markets will be responsible for reimbursement of the penalty or fine.
- H. Any producer who has fees outstanding to PCFMA for more than 30 days shall be subject to immediate suspension until fees are paid.

### **XIII. PENALTIES FOR INSPECTION VIOLATIONS**

- A. Definitions.
- 1) For the purposes of these Rules and Regulations, "reselling" means a certified agricultural producer selling agricultural products not of its own production, other than as permitted under a second certificate in accordance with these Rules and Regulations.
  - 2) For the purposes of these Rules and Regulations, "product misrepresentations" include false, deceptive, or misleading statements, representations or assertions about a production site, the identity of the producer, or the manner or method of production.
  - 3) For the purposes of these Rules and Regulations, "noncompliance with inspections" means a producer's failure to cooperate with PCFMA or its designated inspectors in connection with records requests, stall inspections, or farm inspections, including, without limitation, a failure of the certificate holder or authorized representative to be present for a scheduled on-site inspection.



- 4) For the purposes of these Rules and Regulations, "inappropriate conduct during inspections" means any attempts to coerce, manipulate, harass, bribe, threaten, or blackmail a PCFMA designated inspector in connection with records requests, stall inspections, or farm inspections.
- B. Penalties. PCFMA considers reselling, product misrepresentations, noncompliance with inspections, and inappropriate conduct during inspections (collectively "inspection violations") to be serious violations of these Rules and Regulations. PCFMA may in its sole discretion fine, suspend, or expel producers for inspection violations, with the consequences set out below:
- 1) Suspended producers may not sell on their own behalf or on behalf of any other producer during the suspension period at any market operated by PCFMA.
  - 2) Suspended producers may be subject to a one-year probationary period. During this period, producers must bear the full cost of up to three (3) inspections and of any lab work PCFMA deems necessary at any locations products are produced, processed, or held.
  - 3) All fines must be paid in full before a producer may participate in any markets.
  - 4) Previous market reservations may be unavailable after a producer's suspension is lifted.
  - 5) A producer previously fined or suspended by PCFMA or another certified farmers' market for any inspection violation that commits the same offense or another serious violation under these Rules and Regulations may be expelled from all PCFMA markets.
  - 6) In the event that the California Department of Agriculture or other governmental entity suspends or revokes a producer's certified producer's certificate or other necessary permit or license, PCFMA will follow the same reentry procedures listed above.

#### **XIV. APPEAL OF PCFMA DECISIONS AND VIOLATIONS**

Except as provided in Section XV, any producer who believes that he or she has been aggrieved by an action of PCFMA or who disputes a Notice of Violation and its subsequent penalty has the right to appeal through the following process:

- A. Order of Appeals
- 1) Any producer aggrieved by a Market Manager's decision may appeal to the Regional Manager responsible for the farmers' market in question within fourteen (14) days.
  - 2) A producer may appeal a decision made by a Regional Manager in writing for review by the Director of Direct Marketing within fourteen (14) days. The Director of Direct Marketing may refuse to review, agree to review, and may uphold, modify, or negate a Regional Manager's decision.
  - 3) A decision by the Director of Direct Marketing can be appealed in writing to the Executive Director of Pacific Coast Farmers' Market Association within fourteen (14) days. The Executive Director of PCFMA may refuse to review, agree to review, and may uphold, modify, or negate a decision made by any other member of the PCFMA staff.
  - 4) A decision by the Executive Director of PCFMA can be appealed to the PCFMA Board of Directors within fourteen (14) days. The Board will review the appeal at the next regular scheduled meeting of the Board of Directors. The Board of Directors may refuse to review,



agree to review, and may uphold, modify, or negate a decision of the PCFMA staff. A decision by the Board of Directors will be final.

In any appeal, the producer must explain the basis for the appeal, the relief requested, and any proposed undertakings or commitments by the producer relating to the problems that gave rise to the disciplinary action.

Any penalty assessed by PCFMA – including fines, suspensions and expulsions – shall remain in full force and effect during the appeal process.

If a producer challenges PCFMA in a court of law and the court finds in favor of PCFMA, said producer agrees to pay all costs associated with the legal action.

#### **XV. APPEAL OF INSPECTION VIOLATIONS**

A producer may appeal a fine, suspension, or expulsion for an inspection violation by submitting a written petition to the PCFMA Board within fourteen (14) days after PCFMA issues notice of the disciplinary action to the producer. In that petition, the producer must explain the basis for the appeal, the relief requested, and any proposed undertakings or commitments by the producer relating to the problems that gave rise to the disciplinary action. The PCFMA Board has exclusive discretion to uphold, reverse, or modify fines, suspension, and expulsions for inspection violations. The PCFMA Board of Directors will seek to render a decision at its next regular scheduled meeting. The Board's decision will be final and binding. Any penalty assessed by PCFMA – including fines, suspensions and expulsions – shall remain in full force and effect during the appeal process.

#### **XVI. DISCLOSURE OF INSPECTION VIOLATIONS**

- A. **Concept/Purpose.** PCFMA and other certified farmers' markets have a common interest in ensuring producer and market operator compliance with the California Code, preserving the integrity of the farmers' market sector, maintaining consumer confidence in farmers' markets, and providing a level playing field for all producers. Producers selling only what they grow is central to these concerns.
- B. **Definitions.** For purposes of these Rules and Regulations, "inspection materials" means information and observations obtained in the course of records, stall, and on-site inspections including, without limitation, audio recordings, video recordings, photographs, written notes and reports, and inspection-related communications to and from producers.
- C. **Governmental Authorities.** PCFMA may at any time in its discretion disclose inspection materials and disciplinary decisions related to inspection violations to governmental authorities, including, without limitation, the California Department of Food and Agriculture, the Agricultural Commissioner of any or all California counties, and the Environmental Health Director of any or all California counties.
- D. **Other Certified Farmers' Markets.** PCFMA may in its discretion disclose to other certified farmers' markets, after a decision is rendered in a producer's appeal or the expiration of the appeals period as defined in Section XV, inspection materials and disciplinary decisions related to inspection violations.
- E. **Other PCFMA Market Participants and Consumers.** PCFMA may at any time in its discretion disclose to PCFMA market participants, consumers, and other third parties the fact that PCFMA has suspended or expelled a producer for failure to comply with these Rules and Regulations.
- F. **Consent.** Each producer expressly consents to all aspects of PCFMA's disclosures of inspection violations as set out in Section XVII. Each producer understands and acknowledges that inspection



materials are internal records of PCFMA, and that producers are not entitled to inspect or approve any disclosure prior to its release, nor to or review, obtain, or make copies of any inspection materials at any time.

## **XVII. INSPECTION-RELATED CONSENTS**

Each producer expressly consents to the following:

- A. Requests by PCFMA from other certified farmers' market operators for references and other information concerning the producer including, without limitation, the producer's record of compliance with such market operator's market rules and regulations.
- B. All aspects of PCFMA's inspection program as set out in Sections V and X, including, without limitation:
  - 1) Production of documents and records relating to current insurance coverages, permits and licenses, tax-exempt status, and other matters;
  - 2) Pre-admission inspection within seven (7) days of request by PCFMA designated inspectors;
  - 3) Stall inspections by PCFMA designated inspectors without notice at any time during market hours;
  - 4) On-site inspections (including, without limitation, on-site inspections of both producers admitted on a provisional basis pending inspection and fully-admitted producers) within twenty-four (24) hours of request by PCFMA designated inspectors, and presence on producer's property of PCFMA designated inspectors and PCFMA consultants and collaborators (collectively "PCFMA Personnel");
  - 5) Presence of PCFMA Personnel during on-site inspections at farm or facility, who may interview the certificate holder or authorized representative and collect evidence in audio, video, photographic, or written form, as appropriate, including recording interview conversations.
- C. All aspects of PCFMA's disclosure of inspection violations as set out in Section XVI including, without limitation:
  - 1) PCFMA's disclosure of inspection materials and disciplinary decisions to government authorities;
  - 2) PCFMA's disclosure of inspection materials and disciplinary decisions to other certified farmers' markets
  - 3) PCFMA's disclosure to other PCFMA market participants, consumers, and other third parties that PCFMA has suspended or expelled a producer for failure to comply with these Rules and Regulations.

## **XVIII. ADDITIONAL MARKET RULES, POLICIES AND REQUIREMENTS**

These additional rules will apply to all producers within a PCFMA farmers' market:



A. Product Limitations

PCFMA reserves the right to limit the ability of producers to sell products in a PCFMA farmers' market when such a limitation is determined by PCFMA to be in the best interest of the farmers' market as a whole.

In determining whether product limitations may be placed on a producer at a particular farmers' market, PCFMA will take the following into consideration.

- 1) The demand for a particular product within a farmers' market compared to the amount of the product that may be available for sale. Consideration will be given toward providing customers with a variety of choices while providing producers opportunities for financial success. This determination may fluctuate seasonally as a particular product becomes more or less available or if demand for a particular product changes.
- 2) The variety of products a producer is already selling at a farmers' market.
- 3) Within the CFM, preference will be given, when possible to products which appear on a producer's primary certificate.
- 4) A product produced within the same city or county as a farmers' market will be given preference when possible.
- 5) Sales of out-of-season produce are allowable only to the extent of their reasonable and normal storage life within a facility operated by the producer that grew the produce or upon proof that such produce was produced by producer in greenhouse facilities operated by such producer.

B. Certificates

- 1) Certificates are governed by California Code of Regulations:

*3 CCR § 1392.4 (c) The certified producer's embossed photocopy certificate shall accompany the certified agricultural products during transportation and shall be conspicuously posted at the point of sale.*

C. Second Certificates

- 1) Second certificates are governed by the California Code of Regulations:

*3 CCR § 1392.4 (f) (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 certified producer that is conducting sales at a certified farmer's market.*

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

*(5) The certified producer selling for another certified producer shall be selling or offering for sale, at the same certified farmers' market on the same day, certified agricultural products which the certified producer conducting the sales has produced and which are in greater volume than the*



*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. This volume requirement shall apply only at the beginning of each day of sale.*

- 2) A Certified Producer must not represent, nor be represented, by more than one other Certified Producer at any PCFMA market in a 12-month calendar year.

D. Load Lists

- 1) All agricultural producers selling certifiable agricultural products are required to provide to PCFMA a "load list": an itemized list of all certifiable agriculture products sold each market day.
- 2) Load lists are due to the Market Manager within 45 minutes of the posted closing time of any PCFMA farmers' market at which the producer is selling certifiable agricultural products.
- 3) Should PCFMA be fined by a state or county inspector for failure to deliver to them a requested load list because the farmer failed to provide the load list to PCFMA, the farmer shall reimburse to PCFMA the cost of the fine. Any farmer whose failure to provide load lists results in more than three fines to PCFMA within a 12-month period shall reimburse to PCFMA 120% of the cost of each fine.

E. Prices

- 1) Each producer must set their own prices for their products, post prices prominently, and avoid pricing actions that are detrimental to the overall health and success of the farmers' market.
- 2) Producers must have prices for their products posted before they may sell their products to customers. Failure to prominently post prices shall be considered a violation of these Rules and Regulations.
- 3) Pricing actions that PCFMA has deemed detrimental to the overall health and success of a PCFMA farmers' market include but are not limited to:
  - i. Reducing prices during the hours of a farmers' market operation
  - ii. Bringing amounts of produce that are more than the market should require with deliberate intent to sell that produce at a low rate
- 4) Detrimental pricing actions may be taken in account when reserving the producer for an additional PCFMA farmers' market or renewing a producer's reservation in a farmers' market for a subsequent year.
- 5) Collusion and deceptive pricing practices are prohibited.
- 6) Bargaining with the consumer on an individual basis is specifically allowed.

F. Market Hours, Arrivals and Departures

- 1) The hours for any PCFMA farmers' market will be set by PCFMA.
- 2) Sellers must arrive no earlier than 2 hours prior to and no later than 30 minutes prior to the published opening time of the market and leave within one hour after the published closing time of the market or as published in the market's published Standard Operating Procedures.





- 8) Any waste water generated during the market for washing of produce or utensils must be collected by the producer in a container with a lid or dumped into a receptacle approved by the Market Manager. Waste water removed by a producer must be properly disposed of at the producer's farm or business through the approved plumbing system which discharges into the public sewerage, into an approved private sewage disposal system, or as approved by the enforcing officer.
  - 9) Producers back stock, excess boxes, trimmings and waste must be maintained in a neat and orderly fashion that does not impede upon pedestrian access along adjoining sidewalks, customer aisles or neighboring stalls.
  - 10) Before the producer may leave the market, both the stall section and the surrounding area must be totally free of any produce and debris. Producers' trash must be removed by the producer and disposed of properly or disposed of in a receptacle specified by the Market Manager.
  - 11) All producers must observe all fire lanes while loading and unloading.
- I. Emails
- 1) All PCFMA producers agree to allow PCFMA to send to the email address supplied on the Application-to-Sell periodic updates on PCFMA, farmers' markets, and agricultural industry activities.
- J. Food Safety
- 1) Food safety is governed by the California Health and Safety Code:  
*113980. All food shall be manufactured, produced, prepared, compounded, packed, stored, transported, kept for sale, and served so as to be pure and free from adulteration and spoilage; shall have been obtained from approved sources; shall be protected from dirt, vermin, unnecessary handling, droplet contamination, overhead leakage, or other environmental sources of contamination; shall otherwise be fully fit for human consumption; and shall conform to the applicable provisions of the Sherman Food, Drug, and Cosmetic Law (Part 5 (commencing with Section 109875)).*  
*114371. (a) All food shall be stored at least six inches off the floor or ground or under any other conditions that are approved. Tents, canopies, or other overhead coverings are not required for fresh whole produce sales displays or storage, except when specifically required pursuant to this chapter. Flavored nuts and dried fruits that are being sold on a bulk or non-prepackaged basis shall be displayed and dispensed by the producer from covered containers. All processed food products being sold shall be in compliance with Section 113735 and the applicable provisions of Section 110460, 114365, or 114365.2.*  
*114371. (i) All harvested, cut, wrapped, or otherwise processed meat, poultry, and fish products shall be from approved sources as set forth in Section 113735, and shall be properly labeled or have documentation present at the point of sale that demonstrates compliance with this requirement. All harvested, cut, wrapped, or otherwise processed meat, poultry, and fish products offered for sale shall be transported, stored, displayed, and maintained at a temperature of 41° F or colder. The temperature holding capabilities of the storage containers used shall be sufficient to maintain safe product temperatures. Storage containers for meat, poultry, and fish products shall be insulated and have interior surfaces that are smooth, nonabsorbent, and easily cleanable. All*



*meat, poultry, and fish products shall be stored in a manner that reduces the risk of cross-contamination*

*113735. (a) "Approved source" means a food source allowed under Article 3 (commencing with Section 114021) of Chapter 4, or a producer, manufacturer, distributor, or food facility that is acceptable to the enforcement agency based on a determination of conformity with applicable laws, or, in the absence of applicable laws, with current public health principles and practices, and generally recognized industry standards that protect public health.*

*(b) Any whole uncut fruit or vegetable or unrefrigerated shell egg grown or produced in compliance with all applicable federal, state, or local laws, regulations, and food safety guidelines issued by a regulatory agency shall be deemed to be from an approved source.*

K. Food Sampling

1) Food Sampling is governed by the California Health and Safety Code:

*114371. (b) Food preparation is prohibited at certified farmers' markets with the exception of food samples. Trimming whole produce for sale shall not be considered food preparation. Distribution of food samples may occur provided that the following sanitary conditions exist:*

*(1) Samples shall be kept in clean, nonabsorbent, and covered containers intended by the manufacturer for use with foods. Any cutting or distribution of samples shall only occur under a tent, canopy, or other overhead covering.*

*(2) All food samples shall be distributed by the producer in a manner that is sanitary and in which each sample is distributed without the possibility of a consumer touching the remaining samples.*

*(3) Clean, disposable plastic gloves shall be used when cutting food samples.*

*(4) Fresh, whole produce intended for sampling shall be washed or cleaned in another manner of any soil or other material by potable water in order that it is wholesome and safe for consumption.*

*(5) Notwithstanding Section 114205, available potable water may be required for handwashing and sanitizing; the need determined and manner approved by the enforcement agency.*

*(6) Potentially hazardous food samples shall be maintained at or below 45°F and shall be disposed of within two hours after cutting. A certified farmers' market or an enforcement officer may cause immediate removal and disposal, or confiscate and destroy, any potentially hazardous food samples found not in compliance with this paragraph.*

*(7) Wastewater shall be disposed of in a facility connected to the public sewer system or in a manner approved by the enforcement agency.*

*(8) Utensils and cutting surfaces shall be smooth, nonabsorbent, and easily cleanable, or single-use articles shall be utilized. If the producer uses only single-use articles or maintains an adequate supply of clean replacement articles readily available at the site at the time of use, ware-washing facilities shall not be required.*

2) Potentially hazardous food is defined in the California Retail Food Code:

*113871. (a) "Potentially hazardous food" means a food that requires time or temperature control to limit pathogenic micro-organism growth or toxin formation.*



*(b) "Potentially hazardous food" includes a food of animal origin that is raw or heat-treated, a food of plant origin that is heat-treated or consists of raw seed sprouts, cut melons, cut tomatoes or mixtures of cut tomatoes that are not modified to render them unable to support pathogenic micro-organism growth or toxin formation, and garlic-in-oil mixtures that are not acidified or otherwise modified at a food processing plant in a way that results in mixtures that do not support growth or toxin formation as specified under subdivision (a).*

*(c) "Potentially hazardous food" does not include any of the following:*

*(1) A food with an aw value of 0.85 or less.*

*(2) A food with a pH level of 4.6 or below when measured at 75°F.*

*(3) An air-cooled, hard-boiled egg with shell intact, or an egg with shell intact that is not hard boiled, but has been pasteurized to destroy all viable salmonellae.*

*(4) A food in an unopened, hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution.*

*(5) A food that has been shown by appropriate microbial challenge studies approved by the enforcement agency not to support the rapid and progressive growth of infectious or toxigenic micro-organisms that may cause food infections or food intoxications, or the growth and toxin production of Clostridium botulinum, such as a food that has an aw and a pH that are above the levels specified under paragraphs (1) and (2) and that may contain a preservative, other barrier to the growth of micro-organisms, or a combination of barriers that inhibit the growth of micro-organisms.*

*(6) A food that does not support the rapid and progressive growth of infectious or toxigenic micro-organisms, even though the food may contain an infectious or toxigenic micro-organism or chemical or physical contaminant at a level sufficient to cause illness.*

3) PCFMA may issue its own sampling rules that are more restrictive than those of the state or county.

4) Sampling of products in a PCFMA farmers' market is a privilege and is allowed only so long as the sampling procedures are in compliance with state and county regulations and PCFMA's rules concerning the safe distribution of food products.

5) Any producer in violation of PCFMA's sampling rules may lose the privilege of sampling for up to four weeks. Any producer repeatedly in violation of PCFMA's sampling rules may lose the privilege of sampling in any PCFMA market for up to 12 months.

L. Noise, Disturbance and Intrusion

1) Radios or other forms of amplified sound are not allowed during market sales hours unless specifically authorized by the Market Manager. No loud hawking, barking or shouting to promote product is allowed. All product promotion must occur within the space assigned to the producer and not in any common area. Disruptive action in the market is prohibited.

M. Identification Signs

1) Identification signs in CFMs are governed by the Food and Agricultural Code:



*Section 47004. (c)(1) [All vendors of agricultural products selling within a certified farmers' market shall] Post a conspicuous sign or banner at the point of sale that states the name of the farm or ranch, the county where the farm or ranch maintains the production grounds that produced the products being offered for sale is located, and a statement that "We Grew What We Are Selling" or "We Raised What We Are Selling" or "We Grow What We Sell" or similar phrases that clearly represent that the farm or ranch is only selling agricultural products that they themselves have grown or raised on California land that they possess or control. Product sales by different farms at the same vendor stand shall separate the products from each farm or ranch and correspondingly post the required sign or banner in direct relationship with the sales display of the products produced by each farm.*

- 2) All signage and packaging must comply with Section XX of these Rules and Regulations, as applicable.
- 3) Signs posted by producers are subject to approval of the Market Manager. Signs that state "No Pesticides" and/or "No Sprays" are not permitted. Verbal communication of the terms "No Pesticides" and/or "No Sprays" is also not permitted.
- 4) All producers selling unpasteurized almonds or milk/dairy products are required to display a PCFMA-approved warning sign indicating the possible health risks related to consuming unpasteurized products. This warning statement must also appear on the label of the unpasteurized products.

N. Product Packaging

- 1) Product Packaging in CFMs are governed by the Food and Agricultural Code:

*Section 47004. (c)(2) [All vendors of agricultural products selling within a certified farmers' market shall] Ensure that all processed agricultural products that they offer for sale state in a clear manner by package label, container label, or bulk sales signage that they consist only, with the exception of incidental flavorings and necessary preservatives, of agricultural products grown or raised by the farm or ranch selling them, the farm or ranch name, and the city where the farm or ranch is located. In addition, every processed product shall identify on a package label, container label, or on bulk sales signage the registration number or other identity reference of the facility where the food was processed, or another required labeling statement or information, in accordance with Sections 110460, 114365, and 114365.2 of the Health and Safety Code, or, in the case of meat or poultry products, the identity of the facility where the meat or poultry products were cut and wrapped, in accordance with the applicable United States Department of Agriculture or State of California inspection standards, or, in the case of dairy products, the identity of the facility where the dairy products were manufactured or processed.*

O. Scales

- 1) Scales are governed by the California Code of Regulations:

*3 CCR § 1392.4 (e) When any agricultural products are sold by weight, the type of scale used shall be approved by the Department of Food and Agriculture, and shall be tested and sealed for use by the county sealer-director of weights and measures.*



P. Bags

- 1) Sellers are not permitted to provide T-Shirt style plastic bags to customers and may not charge customers for bags unless required to do so by a local ordinance.
- 2) Sellers must comply with local ordinances concerning the usage and provision of bags, including those more restrictive than bag-related rules created by PCFMA.
- 3) Sellers providing bags for the convenience of their customers must insure that such bags do not litter the market.

Q. Conduct

- 1) Conduct of producers, including written and verbal representations to customers is governed by the Food and Agricultural Code:

*Section 890. (a) It is unlawful for any person or entity, or employee or agent of that person or entity, to make any statement, representation, or assertion orally, by public statement, advertisement, signage, or by any means that relates to the sale or availability of agricultural products that is false, deceptive, or misleading regarding any of the following:*

- (1) The area of production of the agricultural product.*
  - (2) The identity of the producer of the agricultural product.*
  - (3) The manner and method of production of the agricultural product.*
- 2) Any statement and/or action which is deemed to be offensive, abusive, or otherwise inappropriate to a customer, market manager, market staff person, attending producer, PCFMA staff person, sponsor, or any official from a city, county or state agency conducting business within the Market parameters, will be considered a violation to these market rules and will be subject to any or all disciplinary steps indicated in these market rules.
  - 3) Any attempt by a producer, or any of its employees, contractors, family members, or other persons associated with the producer, to coerce, manipulate, harass, abuse, bribe, threaten, or blackmail a PCFMA staff member in connection with a reservation in a market, location within a market, number of stalls in a market, permission to sell a particular product in a market, or other requirements within these Rules and Regulations shall be considered a violation of these Rules and Regulations and may be subject to fines, suspension, or expulsion at the discretion of PCFMA, as set out in Section XIII.
  - 4) PCFMA employees are allowed to accept gifts from PCFMA producers of only those items that the producers are authorized to sell in a PCFMA farmers' market, with the value of any single gift not exceeding \$25. However, no producer is under any obligation to make any gift of any item to a PCFMA employee.
  - 5) Offering or providing a gift of any value in an attempt to secure favor or influence a decision of a PCFMA employee is a violation of these Rules and Regulations.
  - 6) All producers will sell and market their products in a manner satisfactory to the Market Manager and in an honest, conscientious and business-like manner.
  - 7) Producers must wear shirts and closed-toe shoes while on the market premises.



## R. Insurance

- 1) Producers must, at all times while selling in a PCFMA market, take out and maintain in full force and effect a current policy or policies of general public liability and product liability. These policies must name PCFMA as an Additional Insured; give PCFMA ten (10) days advance written notice prior to its cancellation, if canceled during the operating season; and provide coverage of \$1,000,000 each or greater per each occurrence and general aggregate. A certificate showing proof of insurance naming PCFMA as an additional insured must be filed with the Association before entry into a Market.
- 2) A current copy of automobile insurance must be presented to a Market Manager upon request for any vehicle owned or operated by a PCFMA producer that is entering any portion of a PCFMA farmers' market site.

## S. Limitation of Liability

- 1) Under no circumstances, and under no legal theory, whether in tort, contract, or otherwise, will PCFMA or its directors, officers, employees, or agents be liable to a producer or any other person for any losses, liabilities, damages, or claims, including, without limitation, claims in respect of death or injury to a producer's person, property, or business or any incidental, special, consequential, exemplary, lost profits, or punitive damages arising out of or relating to (a) producer's participation in a PCFMA farmers' market; (b) any act or omission by any PCFMA party including, without limitation, decisions by PCFMA to relocate, suspend or expel producer, or to disclose inspection materials, inspection results and related disciplinary actions on the part of PCFMA, regardless of the cause and even if caused by negligence, whether passive or active, or (c) decisions by governmental authorities or other certified farmers' markets following disclosures by PCFMA except to the extent that any such liability is caused solely by the gross negligence or willful misconduct of PCFMA.

## T. Indemnification

- 1) Producer will indemnify, defend, and hold PCFMA, and its directors, officers, employees, and agents (together, "PCFMA Parties") harmless from and against any and all third party claims, liabilities, damages, suits, actions, causes of action, costs and expenses, including reasonable attorneys' fees and expenses, that such PCFMA Party may suffer arising directly or indirectly from (a) producer's participation in a PCFMA market, including, without limitation, claims arising from the sale and consumption by individuals of products sold by a producer and operation and set-up by a producer of its stall space, whether that claim involves product liability, consumer protection, or any other tort or legal claim; or (b) any violation by producer of its obligations under these Rules and Regulations, the California Code or any applicable laws, except to the extent the liability is caused solely by the gross negligence or willful misconduct of PCFMA.

## U. Sales of Organic Products:

- 1) Sales of Organic Products are governed by the California Food and Agriculture Code: *47004. (c) (3) Ensure all products being represented or offered for sale as organic are clearly labeled or have conspicuous and posted point-of-sale signage identifying the products as organic.*



2) Sales of Organic Products are governed by the California Code of Regulations:

*3 CCR § 1392.4 (h) Any person selling organic products or representing products as organic on behalf of another certified producer at a certified farmers' market shall conspicuously post at the point of sale a photocopy of the represented certified producers' current State of California organic registration and, if applicable, documentation of the represented certified producers' organic certification. Prior to posting organic documents, it is permissible to conceal from public view acreage and dollar amounts pertaining to annual sales. A complete photocopy of the original, unaltered, current organic document(s) shall, upon the request of an enforcement officer, be made available for review at any time during participation in a certified farmers' market.*

*(i) Any person selling organic products or representing products as organic at a certified farmers' market shall conspicuously post at the point of sale a photocopy of his or her current State of California organic registration and, if applicable, documentation of his or her organic certification. Prior to posting organic documents, it is permissible to conceal from public view acreage and dollar amounts pertaining to annual sales. A complete photocopy of the original, unaltered, current organic document(s) shall, upon the request of an enforcement officer, be made available for review at any time during participation in a certified farmers' market.*

- 3) The only products that may be promoted, represented or sold as organic are those that meet the requirements of the Organic Foods Production Act of 1990. The promotion, representation or description of products as organic that do not meet the requirements of the Organic Foods Production Act of 1990 is a violation of the law and these Rules and Regulations.
- 4) If a producer is selling both organic and conventionally grown products at the same stall, clear and concise separation of the products and signage is required.
- 5) All signage denoting organic and conventionally grown products the terms "organic" and "conventionally-grown," "non-organic," or any equivalent term, must use lettering of roughly equal size and weight on each sign. Handlers must prevent the commingling of organic products with non-organic products and protect organic products from contact with prohibited substances.

V. Presence of Animals

1) The Presence of Animals is governed by the California Health and Safety Code:

*114371. (d) No live animals, birds, or fowl shall be kept or allowed, and no individual shall bring a live animal, bird, or fowl, within 20 feet of any area where food is stored or held for sale within a certified farmers' market. This subdivision does not apply to guide dogs, signal dogs, or service dogs when used in accordance with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and as provided in Section 36.104 of Title 28 of the Code of Federal Regulations. All guide dogs, signal dogs, and service dogs shall be used and properly identified in accordance with Section 54.1 and subdivision (b) of Section 54.2 of the Civil Code, and Sections 30850, 30851, and 30852 of the Food and Agricultural Code.*

W. Smoking

1) Smoking is governed by the California Health and Safety Code:



*114371 (f) Smoking of cigarettes, cigars, pipe tobacco, and other nicotine products shall not be permitted within 25 feet of the common commerce area comprised of sales personnel and shopping customers of the certified farmers' market.*

X. Standard Operating Procedures

- 1) Each individual market location may develop and issue a set of Standard Operating Procedures (SOP) to address market-specific issues such as downloading procedures, parking, set-up, or other issues.
- 2) Acceptance of a stall space within a market is an indication of the producer's agreement to comply with the SOP for that market.
- 3) Each market-specific SOP is considered a part of these Rules and Regulations and enforceable as such.

Y. Acceptable Forms of Payment

- 1) All producers must accept PCFMA approved methods of customer payment which include but are not limited to; current WIC FMNP checks and SFMNP checks, WIC CVV checks within the first date to use and last date to use, EBT scrip, VeggieRx coupons, Market Money and Carrot Cash.
- 2) Certified Agricultural Producers selling fruits, vegetables, herbs and honey must complete the required application to accept WIC FMNP and SFMNP checks and provide their state-issued WIC number to PCFMA.

## **XIX. ENTIRE AGREEMENT**

These Rules and Regulations set out the final and complete agreement between PCFMA and producers, and supersede all prior versions of these Rules and Regulations.

PCFMA may issue Standard Operating Procedures containing market-specific rules for any farmers' markets that PCFMA operates. These Standard Operating Procedures may be more restrictive than these Rules and Regulations as is necessary for the efficient operation of a farmers' market but may not exempt any producer from any requirement of these Rules and Regulations.

In addition, PCFMA may place additional restrictions or conditions upon any producer as a condition of the producer's participation in any or all PCFMA farmers' markets. Those restrictions or conditions shall be documented in writing and signed by the producer. Such documentation may not exempt any producer from any requirement of these Rules and Regulations.

Any previous agreement, either verbal or written, that exempts any producer from any requirement of these Rules and Regulations is considered null and void and is superseded by these Rules and Regulations.

Each producer acknowledges and understands the provisions contained in these Rules and Regulations and confirms its agreement to them. If there is any inconsistency between these Rules and Regulations and any other policy or other communication between PCFMA and producers, except those noted in Section XIX, these Rules and Regulations will control.



## XX. DEFINITIONS

- A. The following commonly used industry terms are not currently defined by either the United States Department of Agriculture (USDA) or the California Department of Food and Agriculture (CDFA). To aid farmers' market customers, PCFMA has developed and will enforce the following definitions used on signage or labeling in PCFMA's farmers' markets.
- 1) **Cage-Free:** Birds or meat from birds labeled as "cage-free" must be from birds that throughout their life were not be restricted in cages but were allowed to roam inside a henhouse or other facility. Eggs labeled as "cage-free" must be from birds that throughout their life were not be restricted in cages but were allowed to roam inside a henhouse or other facility. "Cage free" does not require that the birds be permitted to leave the henhouse or other facility.
  - 2) **Free Range:** Birds or meat from birds labeled as "free range" must be from birds that throughout their life were not restricted in cages at any time and must be allowed access to a door that leads outside. Eggs labeled as "free range" must be from birds that throughout their life were not restricted in cages at any time and must be allowed access to a door that leads outside.
  - 3) **Grass Fed:** A meat product from an animal (beef, sheep, bison, or goat) that has been fed nothing but grass from weaning to harvest.
  - 4) **Heirloom:** Any product or variety labeled as "heirloom" must be an open-pollinated cultivar that existed prior to 1951. No commercial hybrids or genetically-modified organisms may be labeled as "heirlooms".
  - 5) **Naturally-grown/Natural:** Meat and poultry products labeled as "natural" or "naturally-grown" must be minimally processed and contain no artificial ingredients including artificial colors, flavors, or preservatives. All other products labeled as "natural" or "naturally-grown" must be cultivated without any artificial products including any artificial fertilizer or pesticide.
  - 6) **Pastured:** Birds or meat from birds labeled as "pastured" must be from birds that throughout their life were not restricted in cages at any time and must be allowed to roam outside for at least half of their daylight hours every day. Eggs labeled as "pastured" must be from birds that throughout their life were not restricted in cages at any time and must be allowed to roam outside for at least half of their daylight hours every day.
  - 7) **Transitional:** Any farm or producer labeled as "transitional" must be practicing organic methods of farming during the three year period required for organic certification.
  - 8) **Tree-ripened:** Any product labeled as "tree-ripened" must have been allowed to fully ripen on the tree before picking. No product subject to gas or other artificial methods to induce ripening may be labeled as "tree-ripened".
  - 9) **Vine-ripened:** Any product labeled as "vine-ripened" must have been allowed to fully ripen on the vine or plant before picking. No product subject to gas or other artificial methods to induce ripening may be labeled as "vine-ripened".