

Memorandum

To : Certified Producer's, Market Operators
and other Interested Parties

Date: May 18, 2021

Place: Sacramento

Phone: (916) 900-5030

SP

From : Department of Food and Agriculture -

**Steve Patton, Branch Chief
Inspection & Compliance Branch**

Subject : **Interpretation of California Code of Regulations Section 1392.4(e)(6)**

On January 01, 2021, revisions to Article 6.5 of the California Code of Regulations (CCR) were effective.

The revisions included newly adopted Section 1392.4(e)(6) which states, "The certified producer, selling for another certified producer shall not sell or offer for sale, at the same certified farmers' market, on the same day, the same commodity, variety/type, or product(s)."

Following education and outreach by the Direct Marketing Program (Program) about the revised regulations, the Program received several questions and requests for clarification regarding CCR Section 1392.4(e)(6).

The intent of the regulation is to ensure that when a Certified Producer is representing another Certified Producer at a Certified Farmers' Market (CFM), the exact same commodity is not being sold by both producers at the same market, on the same market day.

The interpretation of CCR Section 1392.4(e)(6) by the Program is as follows: when a certified producer is representing another certified producer at a CFM, the commodities sold must be of a different variety/type to which distinct differences are visually observed.

For instance, Producer A can sell their Granny Smith apples and bring Producer B's Red Delicious apples to the market. Both are selling apples as a commodity, but the variety/types are visually distinct. In the case of shell eggs, the eggs of separate species would be considered different variety/type of eggs. In the case of mushrooms, portobella (agaricus) would be considered a different variety/type of mushroom than shiitake (specialty) mushrooms. If a commodity is not visually distinct, such as red flesh or yellow flesh watermelon, a producer may be required to prove the variety to an enforcing officer.

For additional question, please contact the Certified Farmers' Marketing Program at (916) 900-5030 or cfm@cdfa.ca.gov.