

# HONEY AT CERTIFIED FARMERS MARKETS

## What's allowed in a Certified Farmers Market?

Within a Certified Farmers Market you are only allowed to sell agricultural products of your own production. The exception to this is second certificates which is detailed below.

Only items defined as agricultural products are allowed to be sold within a Certified Farmers Market. Food and Agricultural Code § 47000.5 changed some definitions in 2015 and now defines an "agricultural product" as: a fresh or processed product produced in California, including fruits, nuts, vegetables, herbs, mushrooms, dairy, shell eggs, honey, pollen, unprocessed bees wax, propolis, royal jelly, flowers, grains, nursery stock, raw sheared wool, livestock meats, poultry meats, rabbit meats, and fish, including shellfish that is produced under controlled conditions in waters located in California. Products that are characterized as services, arts, crafts, bakery, candies, soaps, balms, perfumes, cosmetics, pottery, clothing, fabrics, pastas, compost, fertilizers, candles, ceramics, foraged foods, and types of wares are not agricultural products for purposes of this chapter. If you want to sell candles, soaps, honey sticks, lotions or other non-agricultural products, they must be sold in the non-certified or community events area of the market.

### The California Code of Regulations defines the types of Agricultural Products:

**Certified agricultural products** are certified under the jurisdiction of the county agricultural commissioner relative to inspection and verification of compliance with the provisions of the direct marketing regulations, include fresh fruits, nuts, vegetables, shell eggs, honey, flowers, and nursery stock.

**Noncertifiable Agricultural Products** include all certified agricultural products that have been processed, those products other than certified agricultural products noted in above from any tree, vine or plant and their flowers (including processed products), livestock (including rabbits) and livestock products, and fish and shellfish produced under controlled conditions in waters or ponds located in California.

**Processed Agricultural Products** shall be defined as agricultural products that have been altered or prepared by such means as, but not limited to, slicing, juicing, drying, shelling, smoking, freezing or cooking, provided, however, that the seller has produced all of the ingredients contained in the final product. The only exceptions to this production requirement shall be the inclusion of food coloring, pectin, rennin/rennet or ingredients used as preservatives, seasonings, and flavorings.

Regarding processed products, only simple processing is allowed within the Certified Farmers Market. For example, if you have apples on your Certified Producers Certificate (CPC), you can sell apple juice. However, apple pies would not be allowed since it is not a simple process and has many other ingredients added to it.

Similarly, if you have honey on your Certified Producers Certificate, you can sell honey comb, pollen, royal jelly, beeswax and creamed honey. Soaps, lotions and lip balms cannot be sold in the certified area.

### Second Certificates

There are the regulations regarding second certificates:

(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.

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

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

**Marking Requirements for Extracted and Comb Honey Defined by  
California Food and Agricultural Code:**

**Extracted Honey:**

All containers or sub-containers of extracted honey shall be conspicuously marked with

- 1) the name and address of the producer or distributor\*,
- 2) the net weight of the honey in the container, and
- 3) one of the United States grades established for honey by the United States Department of Agriculture, except honey to which pollen has been added,
- 4) if the amount of pollen added is visible and each such container is plainly and conspicuously labeled with the words "Pollen Added,"
- 5) in the case of opaque containers, with the color of the honey
- 6) Any "slack filled" container shall be conspicuously marked "slack filled." "Slack filled" means that the contents of any container occupy less than 85% of the closed container.
- 7) Containers less than 5 ounces are exempt from standard weight requirements.

\*the exception to this is if your business is listed in the local phone book then you may omit the street address. The business name along with the city, state and zip code must still be on the label.

**Grades for Extracted Honey:**

1. U.S. Grade A; U.S. Grade B; U.S. Grade C; Substandard

**Chunk or Bulk Comb Honey:**

All containers of chunk or bulk comb honey shall be conspicuously marked with

- 1) the name and address of the producer or distributor,
- 2) the net weight of the honey in the container,
- 3) one of the United States grades established for chunk or bulk comb honey by the United States Department of Agriculture

- 4) Comb honey that has crystallized shall be conspicuously marked with the word "crystallized" upon the container of honey or the label of any such container, or on a placard used in connection therewith having references to such honey.
- 5) Opaque containers of bulk or chunk comb honey shall be marked with the color the honey would be if extracted, except when in the unclassified grade.
- 6) Glass containers of chunk or bulk comb honey may contain any amount of actual comb honey but not just wax or an empty wax comb that later fills with the extracted honey from the filling of the container. Opaque containers of chunk or bulk comb honey shall contain not less than 50% of volume of chunk or bulk comb honey unless otherwise specified.
- 7) Containers of chunk or bulk comb honey shall conform to the standard units of net weight in containers.
- 8) Any "slack filled" container shall be conspicuously marked "slack filled." "Slack filled" means that the contents of any container occupy less than 85% of the closed container.

### **Adulterated Honey:**

Honey is considered to be adulterated when anything not deposited by the bee is added to the honey. This would include products such as royal jelly, pollen, and nuts. When adulterated, the honey must be labeled in accordance with product predominance such as "Honey & Walnuts." (Honey constitutes the majority of the container contents). In the case of pollen added and the pollen is visible, the honey must be labeled as, "Honey With Pollen Added." In both examples, the walnuts and pollen would need to be of the producer's own production. The identity of the honey and the added product must be in the same type and type and size of letters.

### **Organic**

In order to call your honey organic you would need to ensure that the bees are not going to any plants they have had prohibited substances applied to them and also the plants are not Genetically Modified Organisms (GMOs). Also you would need to register with the California Department of Food and Agriculture through our office as an organic producer. If you sell more than \$5,000 annually, you would also need to be certified as organic.

### **Who can sell?**

Only the producer or the lawful authorized representative of the producer may sell agricultural products within the area defined as a certified farmers' market.

### **Pesticide Use**

If you are using pesticides, you must have an operator ID and report monthly pesticide use. You may only use pesticides that are registered for use on bees (check the label). Contact our office for more information at (650) 363-4700.

### **Load lists**

Load lists at Certified Farmers Markets should be completed per producer for each market. The load lists are required to have the following information:

Name of the Certified Producer

Product sold (as it appears on your certified producer's certificate and including processed agricultural products)

Quantity of each product sold at the market (use same units as on CPC)

The markets must keep these records for eighteen (18) months.

### **Varieties of Honey (orange blossom, blackberry, etc)**

In order to sell varieties of honey, you must have hives near large areas of those monocultures. Stating that there are a couple orange trees in the neighborhood near your hives would not produce a different variety of

honey. Buying varieties of honey from other producers and re-selling it as your own honey at a certified farmers' market is a violation. Misrepresenting how your honey was produced, or where your honey was produced, or who it was produced by is punishable by a fine up to \$5,000 and/or 6 months in jail.

### Honey Sticks

Honey Sticks must contain honey of your own production. You should save your receipt from the processor to show that it is your honey that is in the honey sticks.

### Banners

All vendors of agricultural products selling within a certified farmers' market shall do all of the following: Post a conspicuous sign or banner at the point of sale that states:

- 1) The name of the farm or ranch (needs to match name on CPC)
- 2) The **county** where the farm or ranch maintains the production grounds that produced the products being offered for sale is located
- 3) 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.

### Marking your Apiary

FAC §29046. (a) No person shall maintain an apiary on premises other than that of his or her residence unless the apiary is identified as follows:

(1) By a sign that is prominently displayed on the entrance side of the apiary or stenciled on the hive, that states in dark letters not less than one inch in height on a background of contrasting color, the name of the owner or person responsible for the apiary, his or her address and telephone number, or if he or she has no telephone, a statement to that effect.

(2) If the governing body of the county or city in which the apiary is located has provided by ordinance for the identification of apiaries, in the manner which is prescribed in the ordinance.

(b) No person shall locate or maintain an apiary on private land not owned or leased by the person unless the person has approval from the owner of record, or an authorized agent thereof, and can establish approval upon demand of the director or commissioner. The approval shall include the name and phone number of the person granting approval.

(c) (1) No person shall locate or maintain an apiary on any public land without the expressed oral or written approval of the entity which owns, leases, controls, or occupies the land, and can establish this approval upon demand of the director or the commissioner. The approval shall include the name and telephone number of the person granting the approval. During the citrus bloom period, as established by the commissioner, including 72 hours prior to the declaration of the bloom period until 48 hours after the conclusion of the bloom period, the apiary operator shall obtain written permission to place bees on public land, and shall make it available to the director or the commissioner upon demand. Any apiary located or maintained on public land without lawful consent is a public nuisance and may be subject to seizure by the director or the commissioner.

(2) The director or commissioner may commence proceedings in the superior court of the county or city and county in which the seizure is made petitioning the court for judgment forfeiting the apiary. Upon the filing of the petition, the clerk of the court shall fix a time for a hearing and cause notices to be posted for 14 days in at least three public places in the place where the court is held, if the person owning the apiary is unknown, setting forth the substance of the petition and the time and place fixed for its hearing. At that time, the court shall hear and determine the proceeding and upon proof that the apiary was located or maintained on public

lands without approval of the entity, may order the apiary forfeited. Any apiary so forfeited shall be sold or destroyed by the director or the commissioner. The proceeds from all sales shall be used in accordance with Section 29032.

**Fictitious Business Name (FBN) or Doing Business As (DBA)**

A Fictitious Business Name (FBN) or Doing Business As (DBA) statement is required when the business name does not include the surname of the individual owner(s) and each of the partners; or the business name suggests the existence of additional owners; or the nature of the business is not clearly evident by the name of the business. For example Bill Smith and Sons Plumbing would require a FBN because the name implies additional owners, Bill Smith Plumbing does not require a FBN. Bill Smith Industries would require a FBN because it does not identify the nature of the business. You should check the County Clerk's website and search to make sure the name you want to use is available and then file a Fictitious Business Name Statement.

County of San Mateo  
Clerk's Office - Business Services  
555 County Center, 1<sup>st</sup> Floor  
Redwood City, CA 94063  
Phone: (650) 363-4500

For any questions or further clarification, please call Erin Herbst at (650) 363-4700 or email at [eherbst@smcgov.org](mailto:eherbst@smcgov.org).