

## PPM 298: Sale of Agricultural Research By-Products

<b>Responsible Officer:</b>	Research and Extension Center Systems Director
<b>Responsible Office:</b>	<a href="#">Research and Extension Centers</a>
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<b>Effective Date:</b>	07/27/2020
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<b>Scope:</b>	All UC ANR programs producing agricultural research by-products, primarily occurring at the Research and Extension Centers (RECs)

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**Note:** For links to referenced documents see Section VI, *Related Information*, below.

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## I. POLICY SUMMARY

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- A. Subject to the guidelines of this section of the Policy and Procedure Manual (PPM) it is the practice of the University of California's (UC) Agriculture and Natural Resources (ANR) to sell marketable agricultural research by-products produced pursuant to UC ANR's research activities.
- B. This policy applies to all UC personnel working with agricultural by-products produced at UC ANR's Research and Extension Centers (RECs), UC Cooperative Extension (UCCE) field sites, or at any other site that is owned or managed by UC ANR.
  - 1. UC ANR personnel associated with a REC should also see PPM Section 580. Item No. III.D., *Agricultural Commodity Disposal*, which provides information on this topic as it specifically applies to the RECs.
- C. The majority of the research by-products produced by UC ANR are generated on a REC. Accordingly, relevant policies and procedures were designed principally for implementation at the RECs. Throughout this policy only the REC Director/Superintendent will be mentioned as the responsible party. Contact the Vice Provost of Research and Extension for matters pertaining to the sale of agricultural by-products associated with a UCCE office (see contact information on page 1 above).
- D. The information presented here is general and cannot address all of the unique concerns that could arise regarding the sale of agricultural research by-products. Before making a commitment to sell the by-products of agricultural research, UC ANR personnel may wish to consult with the contact person shown on page 1 above.

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## II. DEFINITIONS

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**Agricultural Research By-Products:** In this context "agricultural research by-products" means a marketable and saleable surplus agricultural commodity resulting from research activities occurring on property owned or occupied by UC ANR. This may include crops, animals, animal by-products, and other commodities.

**De Minimis:** From the Latin, *de minimis* – "of minimum importance" or "trifling." Property is considered *de minimis* when its fair value is negligible, that is, below the costs required for handling, record keeping, storage, removal, and other costs associated with its sale.

**Fair Value:** The price at which a willing buyer and a willing seller settle a sale of property. Recent transactions or advertisements may be used as an estimate to establish fair value.

**Handling Costs:** Expenses associated with making agricultural by-products available for sale (e.g., harvesting, storage, freight, advertising, recordkeeping, etc.).

**Near Relative:** The spouse, child, parent, brother, sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of a University employee, and step-relatives in the same relationship. Near relative also includes the domestic partner

of a University employee and a relative of the domestic partner in one of the foregoing relationships.

**Net Income:** Sales revenue remaining following payment of handling costs associated with the sale of agricultural research by-products.

**REC Director:** The REC Director, REC Superintendent or designee.

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### **III. POLICY TEXT**

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- A.** UC ANR will generate agricultural by-products only as a secondary effect of UC ANR's research and extension activities. REC properties and resources should not be used for the sole purpose of producing agricultural by-products with the intent to sell.
- B.** When marketable agricultural by-products are produced pursuant to UC ANR's research and extension activities, sale of those by-products is encouraged.
- C.** The REC Director has the responsibility and the authority to decide to sell or not to sell agricultural research by-products. However, in general, agricultural research by-products should be sold if the REC Director can be reasonably sure that such a sale will generate net income following the payment of associated handling expenses and that such sale can be conducted safely and in compliance with any applicable regulations or other UC policies.
- D.** The sale or donation of all agricultural research by-products is subject to confirmation by the Principal Investigator (or other academic leading the research project or activity) that the by-products are safe to bring to market.
- E.** When the sale of agricultural research by-products would result in a net loss, or if the net income would be negligible, the REC Director may donate the commodity to a University department or to an external non-profit organization.

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### **IV. COMPLIANCE / RESPONSIBILITIES**

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**A. UC ANR Vice President (Vice President)**

The Vice President has overall responsibility for this policy, and has authority for the execution of the sale of agricultural research by-product agreements in accordance with Presidential Delegation of Authority No. 2100, *Execution of Purchase Contracts, Subcontracts, and Standard Purchase Orders for Materials, Goods, and Services to be Supplied to the University*.

**B. UC ANR Vice Provost of Research and Extension (VPRE)**

The Vice Provost of Research and Extension has been assigned responsibility for the implementation of and compliance with this policy. As well, the VPRE is specifically responsible for decision-making with respect to programmatic questions or concerns that may arise relevant to the policy. Finally, the VPRE has authority to approve exceptions to this policy, provided that such exceptions are also reviewed by the UC ANR Controller and the Controller has no objection.

**C. UC ANR Controller (Controller)**

The Vice President has re-delegated to the Controller the authority to execute sale of agricultural research by-product contracts on behalf of The Regents.

**D. UC ANR Administrative Policies and Business Contracts (APBC)**

The Administrative Policies and Business Contracts unit is responsible for reviewing, issuing, and arranging for the execution of the sale of agricultural research by-product contracts.

**E. Risk & Safety Services**

The Risk & Safety Services unit is responsible for assessing the risk and compliance element of the sale of agricultural research by-products.

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**V. PROCEDURES**

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**A. Establishing Fair Market Value**

1. The REC Director (or their designee) will identify the approximate fair market value of agricultural research by-products in order to determine if the sale of a given commodity is likely to yield net income.
2. The REC Director will make this determination by consulting relevant published sources, recent auction results, or other reasonable sources of such information.

**B. Conducting the Sale**

1. The REC Director (or their designee) will conduct the sale of agricultural research by-products in a fair and open manner (e.g., public bid, etc.) using one of the following methods:
  - a. Public auction or sale to the highest bidder based on fair market value.
  - b. Sale under contract to a vendor, organization, or individual based on fair market value.
  - c. First come, first served sale based on fair market value when the availability and price of agricultural research by-products are made known to the public through newspaper advertising and/or other announcements including website postings.
  - d. Private sale to an individual or organization when the cost and effort involved in arranging for a sale by methods a, b, or c above would be disproportionate to the expected return, and the Vice Provost of Research and Extension specifically approves the private sale.
2. The REC Director is responsible for maintaining appropriate records of all sales of agricultural research by-products.
3. Contracts for the Sale of Agricultural Research By-Products
  - a. The REC Director must forward written, unsigned contracts for the sale of agricultural research by-products to the Administrative

Policies and Business Contracts (APBC) Director in the Controller's Office (see Section VI, *Related Information* below for contact information link).

- b. The REC Director must also answer the following questions in the covering email transmitted to the APBC Director:
  1. Who is harvesting the crop? (REC employees, contract labor, buyer, etc.)
  2. Does the buyer need to bring vehicles, trailers, or equipment onto the REC? If so, please describe.
  3. Confirm that the REC Director has reviewed the agreement and agrees to the following:
    - i. REC can accommodate any special handling requirements included in the agreement.
    - ii. Any pesticides used on the subject crop were applied in compliance with state and county regulations and pesticide label requirements.
    - iii. No experimental pesticides were applied to the crop.
    - iv. A "Pesticide Use Report" is available and will be provided to the buyer if requested.
  4. The REC Director may need to supply other information as required by contract or policy.
- c. The APBC Director will review the contract and will work with the REC Director to resolve any issues of concern. In particular, the contract will be reviewed to ensure that it includes terms and conditions verifying that the buyer accepts the product as is and releases the University from any liability after completion of the sale; and provides proof of insurance, if required, before entering University property for removal of the product. As necessary, the APBC Director will consult with the Risk & Safety Services Director on any questions of risk management, safety, or regulatory compliance.
- d. The Vice President has re-delegated authority to sign contracts for the sale of agricultural by-products to the Controller. When the APBC Director has verified that such a contract is acceptable, they will forward it to the Controller for execution on behalf of The Regents.
- e. The APBC Director will then provide a copy of the fully-executed contract to the REC Director, and will forward the ink-signed original to the REC Office Manager.
  1. If electronic signature is accepted by buyer, APBC Director will arrange for digital signature for both parties' person of

authority and will redistribute the fully executed PDF via email to all parties.

2. The “Office of Record” for digital contracts will be kept in the Controller’s SharePoint “Agreements” Library (see link in Item VI, *Related Information* below).
- f. The REC Director’s office will be the “Office of Record” for that contract.
- g. Before the vendor comes onto the UC ANR property to collect the agricultural research by-product, the REC Director will ensure that they complete and sign the Facilities Waiver (see link in Item VI, *Related Information* below).**
4. In conducting a sale of agricultural research by-products, UC ANR will fully comply with any applicable health and safety requirements.
5. UC ANR personnel that are employees of the UC ANR program producing or selling agricultural research by-products, and/or their near relatives, may not purchase such agricultural by-products. Doing so may present a conflict of interest (whether actual or perceived) which is to be avoided. If there are extenuating circumstances and sale to an employee or near relative appears to be in the best interest of the REC, contact the APBC Director who can seek an exceptional approval by the UC ANR Vice President if merited in the subject situation.
6. The REC Director is responsible to ensure that payment is received by their office.

### **C. Donation of Agricultural By-Products**

Donation of agricultural research by-products to educational institutions, other governmental bodies, or non-profit organizations may be authorized subject to the following provisions.

1. The fair market value of the agricultural research by-product is *de minimis*, that is, below the cost of handling, record keeping, storage, removal and other costs associated with its sale.
2. Donations may not be made to any educational institution or non-profit organization owned or operated by an employee (or near relative of an employee) of the department originating the agricultural research by-products.
3. When donations are solicited by organizations, they must be requested in writing, on official letterhead, by an officer of the educational institution, other governmental body, or non-profit association. If the REC reaches out to an organization to offer a donation, the REC should retain with the contract a copy of the organization’s webpage or other verification that they are a non-profit group.

### **D. Questions**

Department Heads should direct programmatic questions and concerns to the VPRE (contact information on page 1 above). Administrative questions should be directed to the REC Business Manager or to the Administrative Policies and Business Contracts Director (contact information in Item VI, *Related Information* below).

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## **VI. RELATED INFORMATION**

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- [UC Policy and Procedure Manual Section 281, Policy on Pesticides and Related Chemicals: Use and Experimentation](#)
- [UC Policy and Procedure Manual Section 580, Research and Extension Centers](#)
- [UC ANR Risk Services Facilities Waiver](#)
- [UC ANR Policy, Compliance, and Programmatic Agreements \(PCPA\)](#) (contact the PCPA Director for detailed questions regarding sale of agricultural research by-product contracts)
- [UC ANR Controller's SharePoint Library, Agreements](#)

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## **VII. FREQUENTLY ASKED QUESTIONS**

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Not used.

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## **VIII. REVISION HISTORY**

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Not applicable (initial issuance of policy).