Farmers Market Nutrition Program

Supersedes 2019 Manual

Rules & Procedures – Revised November 2019
Effective January 1, 2020

Who can Participate?

- Only a bona fide producer of fresh fruits, vegetables, herbs and honey *(honey-SFMNP only)* can be certified for the FMNP.
  - The producer may send a family member, employee or designated agent registered with the FMA to sell his goods. **(If you have ever been disqualified from the FMNPs, you cannot be a designated agent in the FMNPs.)**
  - A person can only be a designated agent for one farmer at a time. The farmer must notify the FMA in writing with the name of their agent, the product(s) they will sell for them and the market(s) they will sell at.

Who Can Participate? (con't.)

- If you share or partner with another farmer and any fruit or vegetable from either entity will be sold for SFMNP checks, the full details of the sharing or partnership shall be detailed in writing to the FMA before April 15th of each year. Details will explain what each farmer contributes in land, seeds, fertilizer, herbicides, insecticides, pesticides, labor, fuel, and equipment. Invoices of the above expenses shall be submitted to FMA monthly to verify shared expenses as stated in the partnership plan.

Eligibility

Annually, all farmers must submit 1) a new farmers agreement and 2) a current year's growers permit to the Farmers Market Authority (FMA) prior to accepting any FMNP checks.

- Farmers Agreements must be submitted annually. You can access the farmers agreement by watching the current years training video online at www.fma.alabama.gov or by attending the current years training at one of the Cooperative Extension Offices that are providing this service. You must fill it out completely and return to the FMA.
- Growers permits must be obtained from the Cooperative Extension System annually and a copy must be forwarded each year to the FMA.
- ***It is the farmers responsibility to make sure that FMA has received the farmers agreement and growers permit prior to accepting FMNP* checks**.

Eligibility (con't.)

The farmer **shall**:

- Provide such information as the State agency shall require for its periodic reports;
- Assure that checks are redeemed for programmatic eligible foods;
- Provide eligible foods at the current market price or less than the current market price charged to other customers;
- Accept Farmers Market Nutrition Program (FMNP) checks within the dates of their validity;
- Clearly mark each check with a farmer identifier;
- Provide training to any employees on program rules and procedures;
- Accept FMNP checks only at sites authorized by the Farmers Market Authority. (If you have questions regarding authorized sites, contact the FMA.)

The farmer **shall:**

- Agree to be monitored for compliance with program requirements;
- Be accountable for actions of employees in the provision of foods;
- Offer FMNP recipients the same courtesies as other market customers;
- Comply with nondiscrimination provision of USDA regulations.

The farmer **shall not**:

- Collect sales tax on FMNP check purchases;
- Seek restitution from FMNP recipients for checks not paid by the State agency;
- Issue cash change for purchases that are in an amount less than the value of the FMNP check.

Locally Grown

- Farmers may accept **FMNP** checks only for locally grown fresh fruits, vegetables, herbs and honey (SFMNP only) which they grow on their land in the State of Alabama or on their land within 25 miles of the Alabama border.

- Farmers may accept **FMNP** checks for product grown on leased land that is no more than 70 miles from their home address and is no more than 25 miles from the Alabama state border.

Exception to Grow Your Own Requirement

- Farmers may purchase produce and accept FMNP checks for the purchased product **only** if:

  1) the market rules permit,
  2) the farmer submits a completed "Request to Purchase Form" to the Farmers Market Authority(FMA) to purchase products with justification for the need to purchase products, and
  3) permission is granted from the FMA.

- Products cannot be obtained from a non-farm source and then redeemed for FMNP checks. Non-farm source means any place other than the farm where production takes place. Under no circumstances can you purchase products at a farmers market, i.e. Birmingham Farmers Market, and accept FMNP checks for them.

Eligible Foods

- FMNP checks **CANNOT** be redeemed for nuts, jelly, jam, eggs, baked goods, plants, flowers, or other non-food items, or items not produced on local farms.
- They are good **only for fresh, locally-grown, unprocessed fruits, vegetables, herbs *(herbs must be cut, cannot be potted)* and honey (SFMNP ONLY).** Produce may be cleaned, trimmed and packaged but not otherwise processed, heated, or cooked.

Example of Eligible Foods

butter beans
snap beans
broccoli
cabbage
carrots
cauliflower
collards
corn
cucumbers
eggplant
leafy greens (all)

onions
peas
pepper
potatoes (Irish)
pumpkins
squash
tomatoes
turnips
potatoes (sweet)
zucchini
honey (SFMNP only)

apples
blueberries
peaches
cantaloupe
nectarines
pears
plums
strawberries
watermelons
okra

This list is not exhaustive. All fruits and vegetables that you grow are eligible.

Sweet Grown Alabama **FARMERS MUST REDEEM CHECK BY 11/20/20__**

20000001

For the purchase of locally grown fresh fruits, vegetables and herbs
ONLY at authorized Farmers Markets in Alabama

Farmers Stamp

RECIPIENT MUST USE BY
NOVEMBER 15, 20__

PAYABLE TO: ANY AUTHORIZED FMNP MARKET VENDOR *MP*

NOT TO EXCEED $6.00

NO CHANGE ALLOWED

$ 6.00

NO CHANGE GIVEN

20__

"20000001" ¦¦ 000000000¦¦ 000000"

Checks are valid only through November 15. Current year will be printed on checks. It is your responsibility to make sure you are accepting checks within the valid dates. Check colors will change each year.

Receiving FMNP Checks

- Never give change for FMNP check purchases.
- Checks **cannot be** exchanged for cash, ***cannot be used to buy produce from another farmer*** or given away.
- Do not collect state or local taxes on purchases made with FMNP checks.
- Do not accept checks that are damaged, canceled, VOID or appear to be reproduced or tampered with and only current year checks are valid.
- FMNP customers should pay the same price for items as do customers paying with cash.
- Do not accept checks after **November 15th of the current market season for the calendar year**.

Safe Handling of FMNP Checks

- Keep all FMNP checks out of sight of random customers at the local Farmers Market and be aware where your checks are located at all times.
- FMNP checks should be deposited on a timely basis preferably, the same business day but no later than two business days after receipt.
- FMNP checks kept overnight should be locked in a heavy, fireproof device.
- Treat these checks like CASH!!!

Reimbursement of Checks

- All farmers will be **inactive** each year until FMA receives a new farmer's agreement and grower's permit.
  - **Therefore, verify with FMA that you are eligible to accept FMNP checks before making any deposits.**
  - You must stamp the front of each check with the FMNP certification stamp that is issued by the Alabama Department of Agriculture & Industries (ADAI), Farmers Market Authority Section (FMA).
- If you failed to stamp the front of the check or if the number is not legible, the check(s) will be returned to your bank and a fee may apply. If you are active, you will have the opportunity to stamp the checks and redeposit them. Be sure to keep your stamp filled with ink and apply a generous amount of pressure when stamping the checks to avoid returned checks. Do NOT throw away your stamp; it may be used each year you are in the program.

<u>Reimbursement of Checks</u> (con't.)

- Eligible farmers may deposit FMNP checks at their local banks.
- Any checks submitted by a farmer that is ***inactive*** will be returned to your bank and you will not be allowed to redeposit those checks. Consequently, all checks returned will be deducted from your account and in most cases a service charge will be assessed to the account.
- Be sure that you take the letter that FMA sent you addressing financial institutions for the **<u>FMNP</u>** to the bank with your deposits.

Enforcement of Program Guidelines

Farmer monitoring activities will include:

- Regular visits to the market to assure that farmers are abiding by the program rules.
- Compliance buys to check for proper redemption.
- Farm visits to check production sources.

Complaint Process

- Report questions or problems to the Market Manager. If the problem cannot be resolved satisfactorily this way,

- **Call or write to the FMNP Coordinator:**

  Don Wambles

  Alabama Department of Agriculture & Industries

  Attention: Farmers Market Authority

  1445 Federal Drive
  Montgomery, Alabama 36107
  (334) 240-7247 or 1-877-774-9519

Discrimination Statement

"In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, religious creed, disability, age, political beliefs, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA."

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To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at: How to File a Complaint (http://www.ascr.usda.gov/complaint_filing_cust.html), and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

(1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;

(2) fax: (202) 690-7442; or

(3) email: program.intake@usda.gov.

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declaración de discriminación

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Las personas con discapacidades que necesiten medios alternativos para la comunicación de la información del programa (por ejemplo, sistema Braille, letras grandes, cintas de audio, lenguaje de señas americano, etc.), deben ponerse en contacto con la agencia (estatal o local) en la que solicitaron los beneficios. Las personas sordas, con dificultades de audición o con discapacidades del habla pueden comunicarse con el USDA por medio del Federal Relay Service [Servicio Federal de Retransmisión] llamando al (800) 877-8339. Además, la información del programa se puede proporcionar en otros idiomas.

Para presentar una queja programa de discriminación, completar el Formulario de Queja USDA Programa Discriminación, (AD-3027) se encuentra en línea en: http://www.ascr.usda.gov/complaint_filing_cust.html, y en cualquier oficina de USDA, o escribir un carta dirigida al USDA y proporcionar en la carta toda la información solicitada en el formulario. Para solicitar una copia del formulario de queja, llame al (866) 632 a 9992. Presentar el formulario o carta completa a USDA por:

Mail: Departamento de Agricultura de EE.UU.
Oficina del Secretario Adjunto de Derechos Civiles
1400 Independence Avenue, SW
Washington, DC 20250-9410;
(2) de fax: (202) 690-7442; o
(3) e-mail: program.intake@usda.gov

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Action on Complaints

- Action on a complaint will occur no later than five (5) working days from the date the complaint is received and documented.

- *The complaint must contain*: **1) the name of person filing complaint, 2) the name of person the complaint is leveled against, and 3) the nature of the complaint.**

- The identity of any person or entity filing a complaint shall be kept confidential unless it becomes necessary to identify that person or entity as a witness at a hearing or judicial proceeding regarding the complaint.

- For complaints that involve organizational issues within the market, contact the Market Manager. If the problem involves access to the FMNP program or FMNP checks contact the FMNP Coordinator.

Program Violations

Class I violations will result in a verbal warning and will be documented in State Agency's file for that vendor or market.

Class II violations will result in written citation of non-compliance to the violating vendor.

Class III violations will result in suspension and possible disqualification from the Program.

<u>Class I Violations include</u>:

- Failure to display the Alabama FMNP poster.
- Failure to abide by the Program complaint process.
- Knowingly providing false information about the program to check recipients or others.
- Failure to keep non-local foods separate from locally grown foods.

Class II Violations include:

- Accepting checks after the expiration date.
- Failure to cooperate with State agency request to inspect a production site within a reasonable time.
- Abusive treatment of check recipients; e.g. charging higher prices for check sales than for cash sales or speaking in a derogatory tone.

Class III Violations include:

- Accepting FMNP checks for any products purchased at non-farm sources.
- Accepting FMNP checks for produce that you did not grow without written permission from the Farmers Market Authority.
- Cashing FMNP checks for any person or reason.
- Using checks to buy produce from another farmer.

Class III Violations (con't.)

- Giving cash change for a purchase in an amount less than the value of the FMNP checks.
- Accepting checks for any items other than locally grown fresh fruits, vegetables and herbs.
- Participating in the coupon program while selling foods exclusively produced by someone else.
- Accepting checks at unauthorized sites (i.e., anywhere other than at farmers markets and roadside stands authorized by the Farmers Market Authority.)

Suspension

The first instance of any Class III violation will result in immediate Suspension and possible Disqualification.

Upon receipt of "*Notice of Suspension"* from the State Agency, the vendor must immediately cease displaying the Alabama Farmers Market Nutrition Program poster and stop accepting FMNP checks at any participating market for the period of the suspension.

Period of Suspension – minimum of 10 days
maximum of 30 days

Disqualification

Disqualification may be invoked for:

- The third instance of any Class I violation during a season.
- The second instance of any Class II violation during a season.
- The first instance of any Class III violation during a season.

Multi year Disqualifications

Extended Disqualification

Upon the second disqualification

in a three (3) year period, the disqualification

will be for three (3) years.

Permanent Disqualification

Accepting vouchers during a suspension or disqualification will result in permanent disqualification from the program.

Disqualification Process

- A “Notice of Disqualification” will be sent to the farmer via the U. S. Postal Service.
- The notice will explain the cause(s) for the action and the effective date of the action.
- Disqualification takes effect on the 10th day from the date on the letter, during which time the farmer may appeal the adverse action.

Pre-Disqualification Meeting

- You may request a pre-disqualification meeting with the pre-disqualification appeals committee. (You may bring employees that are directly involved in the action for this meeting but representatives of other entities will not be allowed.)

- The appeals committee will be comprised of three members.

- Farmer will receive written notice acknowledging the request of the meeting within ten days.

- The meeting will result in:
    1) disqualification,
    2) suspended and placed on probation
    3) sanction lifted with the farmer being placed on probation, or
    4) ruled in favor of the farmer.

Appeal Procedure

- If no pre-disqualification meeting is requested, or if the outcome of the meeting is not satisfactory,
- The farmer may appeal in writing or orally within 10 days of receipt of the pre-disqualification ruling.
- Notice of time and date of the appeal hearing will be given in order for preparation of the hearing.
- The farmer can ask the date be rescheduled one time.
- The hearing will be conducted by an impartial hearing officer.

Appeal Procedure (con't.)

- Opportunity will be given for confronting the person or entity that brought the adverse action against you.

- The basis of the hearing officer's decision will be delivered to you in writing. (This is done on his time frame-ADAI/FMA has no input to the length of time it takes to receive a ruling)

- If the disqualification is substantiated, the farmer will automatically be disqualified.

- During the appeal, the farmer cannot accept checks until the hearing official renders a decision.

- If you still wish to pursue the issue, you can request a judicial review at your own expense.

<u>Accepting FMNP checks during suspension or after you have been disqualified from the programs will cause you, and anyone who accepts the checks from you for redemption purposes, to be permanently banned from future participation in the FMNP.</u> Persons involved in such activity could face fines, imprisonment or both. Farmers are prohibited from cashing FMNP checks for any person or any reason. Farmers cannot use FMNP checks to purchase produce from other farmers. Compliance buys are often conducted by the Farmers Market Authority in order to check for proper redemption. (See FMNP Regulations, Subpart G - Section 248.20 below.)

<u>FMNP Regulations: Subpart G – Section 248.20</u>

(c) *Penalties:* In accordance with section 12(g) of the National School Lunch Act, whoever embezzles, willfully misapplies, steals or obtains by fraud any funds, assets or property provided under Section 17 of the Child Nutrition Act of 1966, as amended, whether received directly or indirectly from USDA, or whoever receives, conceals or retains such funds, assets or property for his or her own interest, knowing such funds, assets or property have been embezzled, willfully misapplied, stolen or obtained by fraud shall, if such funds, assets or property are of the value of $100.00 or more, be fined not more than $10,000.00 or imprisoned not more than five years, or both, or if such funds, assets or property are of a value of less than $100.00, shall be fined not more than $1,000.00 or imprisoned for not more than one year, or both.