

Subpart 2-Administrative Rules  
Chapter 07 - Farmers Market Nutrition Program

Criteria for Participation

- 100 To be eligible as a farmer participant in the Mississippi FMNP:
1. Be a bona fide farmer who grows and harvests fresh produce on property owned, Rented or leased in Mississippi by the farmer; produce grown on land leased or contracted through Extension projects (or experiments) by the farmer. If necessary to supply a market, produce grown or harvested on property in a state that borders counties with authorized market sites may be permitted. (\*Proof of the above by the farmer may be requested by MDAC and may include tax receipts for the previous year and/or notarized signed leases between the farmer and owner.)
  2. Produce a variety of fruits and vegetables to be sold at the farmers' market on all market days during the program cycle.
  3. Not be a wholesaler, unless proof can be shown that vendor also grows and harvests produce. In such a case, the vendor must submit a crop plan and sell only eligible products grown and harvested.
  4. Prior to certification for the Mississippi FMNP, submit a crop plan outlining products he/she intends to sell at the market. (The farmer may revise his/her crop plan to reflect increased or decreased planting of different fruits and vegetables.)
  5. Must be the person selling the produce or designate an authorized employee or family member to sell produce at market sites during the program period. The farmer certified as a participant in the FMNP shall be accountable for actions of employees or relatives who are either present at the market or performing transactions on behalf of the certified farmers.
  6. Agree to abide by the Rules and Procedures for Farmers and sign the Mississippi FMNP Farmer's Participation Application and Agreement each year prior to participating in the program.

Source: *Miss. Code Ann.* §69-1-13.

(Adopted June 7, 2002; Amended June 5, 2016.)

Policy & Procedures for Participating Farmers

- 101 In order to begin accepting checks at authorized farmers markets, farmers must attend a training session or meeting every 3 years through: farmers market grower meetings; video conferencing meetings arranged by extension; an online process prescribed by the Mississippi Department of Agriculture; or one-on-one training from the FMNP Coordinator, an extension agent authorized by the FMNP Coordinator or the local farmers market manager prior to participating. After training, farmers will receive a display poster with the Mississippi Farmers' Market Nutrition Program Participant logo (must be displayed at all times at the Market) and a certification stamp (a stamp containing the farmer's certification number to be utilized when accepting checks), if not previously authorized.

Source: *Miss. Code Ann.* §69-1-13.

102 Certified participating farmers are issued a certification number upon the completion of training and certification. This number must be stamped with the MDAC-issued stamp on the check prior to deposit at a bank or financial institution.

Source: *Miss. Code Ann.* §69-1-13.

103 Participating farmers may only accept FMNP checks for eligible food items as listed in the Program Guide for Farmers and submitted on the Farmer Participation Application and Agreement. Purchases for other items not listed must be made with cash or the SNAP/EBT card.

Source: *Miss. Code Ann.* §69-1-13.

104 Participating farmers may accept checks **ONLY** at authorized farmers' markets. Farmers **CANNOT RETURN CHANGE** for purchases made with checks.

Source: *Miss. Code Ann.* §69-1-13.

105 A certified farmer cannot supplement his/ her produce with that of a neighbor or another farmer unless the other person or entity registers for the program as well and authorizes their location to be inspected for verification of crop plan. Also, that farmer must authorize the certified farmer to sell their produce. (No money may exchange between farmers for produce, or farmers may not buy from other farmers.)

Source: *Miss. Code Ann.* §69-1-13.

106 Farmers must post prices of produce items when accepting WIC/Senior FMNP checks.

Source: *Miss. Code Ann.* §69-1-13.

107 Farmers must not collect sales tax on FMNP check purchases.

Source: *Miss. Code Ann.* §69-1-13.

108 Farmers shall not seek restitution from FMNP recipients for checks not paid by the FMNP/SFMNP.

Source: *Miss. Code Ann.* §69-1-13.

109 When accepting checks from WIC or senior participants, farmers **MUST** require the participant to **sign** the check. (If FMNP recipient is unable to sign his/her name, a farmer may assist).

Source: *Miss. Code Ann.* §69-1-13.

110 Farmers should not accept checks that have been mutilated or damaged.

Source: *Miss. Code Ann.* §69-1-13.

111 Farmers may not accept checks for credit to buy fruits and vegetables at a later market day or for the next year.

Source: *Miss. Code Ann.* §69-1-13.

112 Farmers must accept checks printed and intended for use during the current year's program cycle.

Source: *Miss. Code Ann.* §69-1-13.

113 Farmers must not discriminate against WIC/Senior recipients in price, quality, or service. Farmers must offer fresh produce to WIC/Senior recipients at no more than the price charged to other customers, and offer the same courtesies extended to other customers.

Source: *Miss. Code Ann.* §69-1-13.

114 Farmers participating at a market and selling eligible foods and non-eligible foods or outside produce allowed by the market **MUST** post FMNP poster prominently near FMNP authorized items so that customers can easily see which items may or may not be purchased with FMNP checks.

Source: *Miss. Code Ann.* §69-1-13.

115 To offset some administrative costs of the program, previously authorized farmers requesting a new MFNMP stamp will pay a charge of \$10.00 for replacement of a stamp. In the event a replacement stamp is needed, the farmer must complete the replacement FMNP stamp form, enclose a check payable to the Mississippi Department of Agriculture and Commerce and mail to the attention of the FMNP Coordinator at P.O. Box 1609, Jackson, MS 39215.

Source: *Miss. Code Ann.* §69-1-13.

116 The last day farmers may **accept and deposit** checks from WIC and senior recipients will be set by the FMNP Coordinator prior to the start of the program. Refer to the check printed for the program year.

Source: *Miss. Code Ann.* §69-1-13.

(Adopted June 7, 2002; Amended June 5, 2016.)

## Program Violations

117           Actions of a farmer and/or farmers' market which constitute violations of the Rules and Procedures governing the FMNP are divided into Class I and Class II violations.

1.       **Class I** violations include:
  - a. Failure to display the Mississippi Farmers' Market Nutrition Program Poster.
  - b. Knowingly provide false information about the program to check recipients or others.
  - c. Accept checks for foods not solely grown by the farmer and not accounted for on the FMNP Application and Agreement.
  - d. Offensive behavior toward WIC/Senior recipients, and/or preventing any FMNP representative from conducting any monitoring visits (market or farm).
2.       **Class I** violations will result in a verbal warning from MDAC to the violating farmer and applicable market manager and will be documented in the MDAC's file for that farmer and market. The farmer ~~will~~ may be invited to explain the alleged violation; that response and/or any corrective actions taken will also be recorded. The second substantiated instance of a **Class I** violation during a season will constitute a **Class II** violation.
3.       **Class II** violations will include the following:
  - a. Giving program participants cash change when the value of the participant's purchase is less than the value of the check(s) presented.
  - b. Cashing checks for customers or cashing checks under any circumstances, including checks accepted by an unauthorized, suspended or disqualified vendor at the market.
  - c. Accepting checks for non-food items or for any purchase other than eligible foods.
  - d. Accepting checks, or indicating willingness to accept checks by posting an authorized Mississippi FMNP poster at any site that is not authorized to accept checks or at a farmers' market or related site where the farmer is not currently authorized to participate.
  - e. Accepting checks after the expiration date.
  - f. Participating in the program while selling fruits or vegetables *solely* grown by someone other than the participating farmer.
  - g. Charging higher prices for check sales than for cash sales.
  - h. Discriminating against a recipient on the basis of race, color, national origin, gender, religion, age, or disability.
  - i. Continuing to participate in the program during a period of suspension or disqualification, including acceptance or evidence of intent to accept checks.
  - j. The second substantiated instance of a Class I violation during a season will constitute a Class II violation.

4. **Class II** violations by a farmer/ farmers' market shall result in suspension and/or probation for the remainder of the market period from the Miss. Farmers' Market Nutrition Program.

Source: *Miss. Code Ann.* §69-1-13.

- 118 Suspensions may be invoked under the following circumstances:
- 1.The second instance of any Class I violation during the program cycle.
  - 2.The first instance of any Class II violation during the program cycle.

Source: *Miss. Code Ann.* §69-1-13.

- 119 A second Class II violation within the same market season and/or the following market season will result in disqualification from the FMNP program for up to 5 years. The farmer's certification stamp and participating program poster will be collected immediately by MDAC.

Source: *Miss. Code Ann.* §69-1-13.

- 120 In the event a farmer in violation of the "Rules and Procedures" redeems checks, the farmer may be required to pay the state agency for the total amount of the transactions in violation. MDAC will send a letter demanding payment. If there is no response after thirty (30) days, the matter will be referred to legal staff.

Source: *Miss. Code Ann.* §69-1-13.

- 121 Certain violations may constitute a criminal offense, subjecting the recipient, local agency or farmer/farmers' market to prosecution under applicable state or federal laws. Following the investigation of and a finding resulting in an adverse action, MDAC will notify the farmer or farmers' market of the adverse action to be taken. The farmer or farmers' market will have an opportunity to appeal the adverse action.

Source: *Miss. Code Ann.* §69-1-13.

(Adopted June 7, 2002; Amended June 5, 2016.)

#### Administrative Procedure

- 122 A recipient, local agency or farmer/farmers' market may appeal an adverse action of the Farmers' Market Nutrition Program of the Mississippi Department of Agriculture and Commerce (Department), including the denial of its application to participate, imposition of a sanction, or disqualification from participating in the Farmers' Market Nutrition Program (FMNP).

Source: *Miss. Code Ann.* §69-1-13.

123 The Department shall provide the recipient, local agency or farmer/farmers' market with written notification of the adverse action, the causes for the action, and the effective date of the action, including the agency's determination of whether the action shall be postponed if it is appealed. The notification of an adverse action shall be provided by certified mail, return receipt requested, at least fifteen days before the effective date of the action. An adverse action may be postponed, at the Department's option, if the Department finds that recipients would be unduly inconvenienced by the adverse action. In a case where a recipient appeals the termination of benefits, the recipient shall continue to receive FMNP benefits until a final decision is reached by the Department or the expiration of the current FMNP season, whichever occurs first. Applicants who are denied benefits may appeal the denial, but shall not receive benefits while awaiting the decision.

Source: *Miss. Code Ann.* §69-1-13.

124 The recipient, local agency or farmer/farmers' market may appeal the adverse action and request an administrative hearing within thirty (30) days from the date of the notification. The Commissioner of the Department shall appoint an impartial hearing officer, who shall conduct a hearing after giving written notice of the date, time and place of such hearing to the farmer or farmers' market not less than fourteen (14) days prior to commencing the hearing. Failure to request a

Source: *Miss. Code Ann.* §69-1-13.

125 The Department shall cause the hearing to be recorded by a court reporter. Any party may, at its own expense, request the court reporter to prepare a transcript of the hearing. The Mississippi Rules of Evidence shall not apply to these proceedings, but the Hearing Officer may use them as a guide in the proceedings. The parties will have the opportunity to confront and cross examine adverse witnesses.

Source: *Miss. Code Ann.* §69-1-13.

126 At the conclusion of the hearing, the Hearing Office shall prepare a written recommendation. The Commissioner may adopt or reject the recommendation as the final order of the Department or remand the matter for future proceedings. The final order shall be issued within sixty (60) days from the date of receipt of the request for a hearing by the Department. The recipient, local agency or farmer/farmers<sup>2</sup>-market shall have thirty (30) days from the date of entry of the final order to pay any penalties that may be imposed. The decision of the Department may be appealed to the Circuit Court of the First Judicial District of Hinds County. The appealing party shall be responsible for the costs of preparing the record on appeal, including the costs of the transcript.

Source: *Miss. Code Ann.* §69-1-13.

127 In addition, all fair hearing procedures are pursuant to 7 *CFR* §248.16 of the *WIC Farmers' Market Nutrition Program Consolidated Regulations*.

Source: *Miss. Code Ann.* §69-1-13.

(Adopted June 2, 2002; Amended June 5, 2016.)