



March 21, 2011

Errol Bragg
AMS, USDA
1800 M Street, NW
Room 3012 – South Tower
Washington, DC 20036

Submitted online via: <http://www.regulations.gov>

Re: Comments on FMPP Proposed Rule, 76 Federal Register 12, page 3046-54 (January 19, 2011)

Dear Mr. Bragg,

We are submitting these comments on the Farmers' Market Promotion Program (FMPP) Proposed Rule on behalf of the National Sustainable Agriculture Coalition (NSAC). The comments are in reference to docket number AMS-TM-10-0088, TM-08-07.

NSAC is an alliance of grassroots organizations that advocates for federal policy reform to advance the sustainability of agriculture, food systems, natural resources, and rural communities. Our vision of agriculture is one where a safe, nutritious, ample, and affordable food supply is produced by family farmers who make a decent living pursuing their trade, while protecting the environment, and contributing to the strength and stability of their communities. Many NSAC organizations include farmers and ranchers who participate in direct producer-to-consumer marketing opportunities including farmers' markets, community-supported agriculture programs, and roadside stands.

Summary of NSAC's Comments

As the number of farmers' markets and other direct marketing outlets expand, the Farmers' Market Promotion Program, already in high demand, will become increasingly popular. In order to ensure the funds are ultimately offering consumers with a variety of options to connect with producers, NSAC recommends a set aside and guidelines to ensure that the funded projects represent a diverse array of producer-to-consumer direct marketing activities rather than the current, predominant focus on farmers' markets. Our comments also recommend modifications to three definitions, which if adopted will strengthen the intended focus of FMPP to benefit agricultural producers and their consumers. Additionally, we recommend enhanced efforts to diversify the applicant pool to include more farmer groups and cooperatives. Regarding the application process, we support an electronic submission system for FMPP applications. Finally, we suggest removing the rule's language prohibiting grants for consecutive years, instead leaving this language for the request for proposals and thus with the possibility to modify the specification as potentially needed in future iterations without need for a time consuming rulemaking process.

§ 185.1 Grant program scope.

FMPP funds are for improvement, expansion, or creation of *“domestic farmers' markets, roadside stands, community-supported agriculture programs, agri-tourism activities, and other direct producer-to-consumer market*

*opportunities.”*¹ To date, the vast majority of FMPP funds have been used for farmers’ markets, which are a burgeoning medium for connecting farmers and ranchers to consumers. As you know, NSAC played the lead role in developing the legislation for this program and then worked with congressional champions to get it into the farm bill in 2002 and to secure direct funding in 2008. We fully endorse funding for new and expanding farmers’ markets as a key goal of the program.

However, also on the rise are community supported agriculture programs (CSAs), agri-tourism, and internet sales, as well as continued interest in more traditional roadside stands, pick-your-owns, and other producer-to-consumer activities. By our count, CSAs, roadside stands, agri-tourism, and internet sales, and other direct marketing projects made up only 8 percent of the FMPP awards between 2008 and 2010. Recognizing that consumers use a variety of outlets for purchasing directly food from producers, and the variety of those methods continues to expand, NSAC strongly urges a more balanced distribution of FMPP funds among the various producer-to-consumer activities.

We propose the program adopt a 25 percent set aside for awards to *“roadside stands, community-supported agriculture programs, agri-tourism activities, and other direct producer-to-consumer market opportunities.”*² Along with the set aside, we recommend a set of written guidelines for the review panel to use in determining the nature of the project as well as specific guidelines for attempting to achieve a more balanced portfolio.

If in any given grant cycle there is a shortage of meritorious applications in the non-farmers’ market categories, then of course the set aside funding should revert to the general pool. On the other hand, the set aside should be clearly understood as a floor, not a ceiling, and thus be exceeded if response is high and quality is high in the non-farmer market areas.

We also recommend that AMS ensure that all outreach materials and outreach activities make potential applicants aware of the possibility of using FMPP funds for direct marketing initiatives other than farmers’ markets. We note with great alarm that the FMPP “fact sheet” includes no references to direct marketing options other than farmers’ markets, plus one passing reference to agritourism. This is totally unacceptable and should be rectified immediately. And more proactively, we strongly recommend additional materials be placed on the FMPP website highlighting the full range of direct marketing opportunities supported by the program.

§ 185.2 Definitions

It is important for both substantive and political reasons that the program continue to serve farmers and farm income as a primary objective. The goal of the Farmer-to-Consumer Direct Marketing Act, of which FMPP is a subset, is *“to promote, through appropriate means and on an economically sustainable basis, the development and expansion of direct marketing of agricultural commodities from farmers to consumers.”*³ All direct marketing under the Act is to be *“established and maintained for the purpose of enabling farmers to sell (either individually or through a farmers’ organization directly representing the farmers who produced the commodities being sold) their agricultural commodities directly to individual consumers, or organizations representing*

¹ 7 U.S.C. 3005(b)(1)

² 7 U.S.C. 3005(b)(1)

³ 7 U.S.C. 3001

consumers, in a manner calculated to lower the cost and increase the quality of food to such consumers while providing increased financial returns to the farmers.”⁴

Thus it is clear that the entire Act, including the FMPP, is to benefit farmers and consumers. While this does not necessarily mean there cannot be any funded projects that have an ancillary benefit to food businesses that are not operated by farmers, it does mean that farmers must be the overwhelmingly predominant beneficiary on the seller side. This also becomes a critical element of retaining political support for the program as part of the farm bill.

With this in mind, we recommend the following changes in the definition section of the rule, each of which strengthens the program and brings the rule into conformance with the statute.

(f) *Agritourism* means the act of consumers visiting a working farm or any agricultural or on-farm or farmer-controlled agribusiness operation for the purpose of enjoyment, education, or active involvement in the activities of the farm or operation.

(i) *Direct producer-to-consumer marketing* means agricultural marketing where farmers ~~or vendors~~ or other agricultural producers sell their own products directly to consumers.

(n) *Farmers market* means a public and recurring assembly of farmers; and their employees; ~~and/or vendors~~ that sell agricultural products that they have grown, raised, or produced, directly to consumers. Non-farm vendors selling locally grown and processed food are permissible. However, locally grown food sold directly by farmers and their employees that have grown, raised, or produced it is the predominant feature of a qualified farmers market. The extent to which a farmer and/or vendor sells other farmers' food and/or agricultural products to enhance the market's diversity is under discretion of market management, provided locally grown food sold directly by farmers and their employees that have grown, raised, or produced it is the predominant feature of the market.

We believe each of these changes is critical. There is no statutory basis for an expansion of this program to non-farm agribusiness operations or to non-farm vendors. We recognize the need for markets to be diverse and believe it is in keeping with the spirit of the law to accept applications and make awards to market projects that allow limited exceptions to farmer-only market rules, provided the clear, dominant nature of the project is, as even the title of law says, farmer-to-consumer direct marketing.

§ 185.3 Eligible entities for grant funds.

The Regulatory Flexibility Act preamble to the proposed rule notes that “agricultural cooperatives” and “producer networks or associations,”⁵ which were added as eligible entities in the 2008 Farm Bill, account for a mere 5.1% of FMPP applications. NSAC recommends that AMS work to attract more such proposals so that FMPP funded projects represent a more diverse array of producers and thus expand the potential to reach a greater variety of consumers. We do not propose any changes

⁴ 7 U.S.C. 3002

⁵ 7 U.S.C. 3005(c)(1)

to the rule on this point, but believe that enhanced outreach would be helpful, as would continual oversight of application, grant, and reporting processes to ensure that unnecessary barriers are not erected that would keep producer-controlled groups from participating.

§ 185.8 Completed application package.

NSAC supports the recommendations of the Farmers Market Coalition with respect to submission format. We agree that the use of an electronic submission system for FMPP applicants would enhance the program by streamlining the application process, better organizing application materials for the review panel, and providing a searchable database of past award recipients that would serve as a model for less experienced grant writers.

§ 185.12 Consecutive grants.

In the proposed rule, AMS specifies that applicants cannot receive two consecutive FMPP grants. We understand and support the intent of this provision to diversify award recipients and ensure a fair and balanced distribution of funds. However, we question the wisdom of enshrining this principle in the rule. In our view, it would be smarter to include this provision or one like it in the annual Request for Proposals and then continue to monitor and assess its relevance and effectiveness. It is not difficult to imagine that legitimate reasons might emerge to modify the prohibition in whole or in part in a future year. Should such a revision be called for, it would be far easier to revise the Request for Proposals than to have to go through the complete rulemaking process.

The proposed rule also specifies a 12-month waiting period after all reports have been received and accepted before another application can be submitted. We recommend that final rule retain a provision requiring all reports to have been received and accepted prior to submitting a new application. However, we recommend dropping the 12-month reference in light of our recommendation in the paragraph above to use the Request for Proposals rather than the rule as the appropriate place to specify consecutive grant requirements or prohibitions.

Thank you for the diligence with which AMS drafted the proposed rule and for carefully considering our recommendations for the final rule.

Sincerely,



Helen J. Dombalis, Policy Associate



Ferd Hoefner, Policy Director