

ALABAMA DEPARTMENT OF AGRICULTURE AND
INDUSTRIES ADMINISTRATIVE CODE
CHAPTER 80-7-1
RULES FOR CERTIFICATION OF STATE FARMERS MARKETS

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Chapter 80-7-1-.01 Purpose.

The Alabama Farmers Market Authority serves to promote the sale of Alabama-grown farm products by giving local farmers the chance to sell food they raise directly to consumers and allowing consumers to buy fresh food from the farmers who raise it. The Alabama Department of Agriculture and Industries', Farmers Market Authority accomplishes this purpose by providing local farmers markets the opportunity to become Certified State Farmers Markets, thus giving consumers confidence that they are buying only fresh locally raised produce.

The "Alabama Certified Farmers Market Program" is created to promote and identify a market place for Alabama grown fruits, vegetables, plants, and other products made and/or processed in Alabama.

The primary objectives of an "Alabama Certified Farmers Market" is to offer a diverse product selection, attract a large and repeating customer base, and afford farmers a profitable location to sell produce and other goods.

Factors that define the term "Farmers Market" and distinguish farmers markets from roadside stands, grocery stores and from other types of food marketing outlets, include: farmers selling produce and food items they grow and produce to individual customers at a temporary or permanent location, often located on public property, such as a common public area or parking lot on a periodic basis, typically once or twice a week for a set period of time, usually 3 or 4 hours. This happens during the local growing season, usually 5 or 6 months.

Depending on the farmers markets, a wide variety of products are available. Poultry, pork, fish, shellfish, lamb, beef, eggs, milk, cream, butter, cheese, honey, syrup, jams, jellies, sauces, mushrooms, flowers, breads, and pastries are some examples of vendor produced products sold at farmers markets in addition to fruits and vegetables.

Authors: Dou Wambles and Patrick B. Moody

Statutory Authority: Code of Ala.,1975. §§ 2-5A-1 et. seq. **History:**

Chapter 80-7-1-.02 Definitions.

As used in this Chapter, the following words shall have the meaning stated below:

(a) Agricultural Production and Practice of the Agricultural Arts -- To be involved in and make decisions regarding all phases of producing an agricultural product, which includes, but is not limited to, planting, growing, fertilizing, irrigating, cultivating, pest control, and harvesting.

(b) Authority - "Authority" refers to the "Farmers Market Authority" as provided in Alabama Code § 2-5A-1, et seq.

(c) Certified Farmers Market - A market certified by the Authority where agricultural products are sold by producers directly to consumers. The Authority shall issue a certificate to all farmers markets that apply for a certificate, and meet the criteria set forth by the Authority. A Certified Farmers Market may be operated by two or more producers, by a nonprofit organization, by a local government entity or other organization/entity approved by the Authority.

(d) Certified Agricultural Products -- Agricultural products, which are certified under the jurisdiction of the Authority relative to inspection and verification of compliance with the provisions of this Chapter, include fresh fruits, nuts, vegetables, shell eggs, honey, flowers, nursery stock, livestock products, fish and shellfish produced under controlled conditions in waters or ponds located in Alabama.

(e) Certified Farmers Market Certificate - A certificate issued by the Authority verifying the market sells only agricultural products produced by local farmers directly to consumers. The certificate is valid only when bearing the original signatures of the Authority and the authorized representative of the Certified Farmers Market.

(f) Commissioner - The person elected as the head of the Department of Agriculture and Industries.

(h) Consumer -- A person who purchases and receives agricultural products at a Certified Farmers Market.

(i) Director - A person appointed by the Commissioner who, under supervision of the Commissioner, serves as director of the Farmers Market Authority and administers this Chapter.

(j) Employee -- Any person employed by a farmer at a regular salary or wage, on either a full or part time basis. It does not include any person who is reselling or whose compensation is primarily based on a commission of sales.

Notwithstanding the above, an employee of an agricultural cooperative organized under the laws of Alabama may sell the agricultural products of one of its members in accordance with the provisions of this Chapter.

(k) Enforcement Officer An agent of the Department of Agriculture and Industries authorized to investigate the entities certified under these rules and regulations in order to ensure compliance with these rules and regulations.

(1) Grower representative -The immediate family member or employee of a farmer.

(m) Immediate Family -- Parents, children, grandparents, or grandchildren of the farmer or a family member regularly residing in the farmer's household.

(n) Land Which the Farmer Controls -- Land that the farmer farms and owns, rents, leases, or sharecrops, and is registered with the Authority and the Alabama Cooperative Extension System or the USDA Farm Service Agency.

(o) Locally grown -Agricultural products grown within the borders of Alabama or within twenty-five (25) miles of the Alabama state border.

(p) Market Manager -- A person or persons registered with the Authority empowered to implement the rules, regulations, policies, and directives of the governing body of a Certified Farmers Market.

(g) Market Rules -- A set of written rules or regulations approved by each Certified Farmers Market and the Authority. The rules and regulations may be more stringent than established state regulations, provided they do not violate or conflict with any state law or regulation governing their activities.

(r) Non-certifiable Agricultural Products -Non-certifiable agricultural products include all certified agricultural products that have been processed.

(s) Nonprofit Organization -- An organization which qualifies for nonprofit status for Alabama income tax purposes.

(t) Relish -- a cooked, uncooked or pickled sauce usually made with vegetables or fruits and often used as a condiment; can be smooth or chunky, sweet or savory and hot or mild, and must have an acidity level less than 4.6pH.

Authors: Don Wambles and Patrick B. Moody

Statutory Authority: Code of Ala.J 975, §§ 2-5A-1, et seq.

History:



Chapter S0-7-1-.03 Certification Requirements of a Certified Farmers Market.

(a) A person or entity may apply to be a Certified Farmers Market by completing a Certified Farmers Market Application and submitting it to the Authority. The application shall be on a form authorized by the Director.

(b) Application to become a Certified Farmers Market shall be made by the proposed operator(s) of a Certified Farmers Market and shall include a signed agreement by the operator(s) to comply with the terms of the Authority's Rules and Regulations.

(c) Upon receipt and approval of the Certified Farmers Market Application, the Authority shall issue a Certified Farmers Market Certificate. The certificate shall identify where the market is located and indicate that the marketplace is a Certified Farmers Market where agricultural products may be sold or offered for sale.

(d) The governing body of a Certified Farmers Market shall promulgate a set of market rules and regulations which specify procedural criteria pertaining to the following:

(1) Establish the identity of the persons or entities that govern the market and the philosophy and purpose of the market.

(2) Establish the identity and duties of the Market Manager.

(3) Establish rules for participating in the market.

(4) Establish who may participate in the market and what may be sold at the market. The number of non-food vendors may not exceed 30% of the total vendors. Arts and crafts are not permitted for sale at the market unless they have received prior approval by the Market Steering Committee/Board. Items purchased for resale, as well as items made from kits, commercially available plans and items that are mechanically mass-produced may not be sold at the market.

(5) Establish the process for selecting vendors and establishing fees. Establish market space allocation procedures including priorities, preferences, and stall fees.

(6) Identify all documents and licenses required to participate including: proof of insurance, grower's permits/certificates and/or business licenses. Attach a copy of all documents to the final version of your market's rules.

(7) Establish detailed guidelines on issues such as market location, day(s) and hours of operation set-up, clean-up, selling times, notification for non-attendance, pets, samples, sanitation, signage, smoking, food safety and food handling.

(8) Establish procedures for rule enforcement including reporting violations, notice, penalties, suspension or removal and appeals.

(9) Incorporate applicable State and Local requirements into your market's rules, with agreement that it is vendor's responsibility to comply.

(10) The sale of live animals is not allowed at the market.

(11) Wine is prohibited for distribution and/or retailing at farmers markets in the State of Alabama. Alcohol, i.e. beer, whisky, etc., is prohibited for sale at farmers markets.

(12) Establish the method by which the vendor agrees to indemnify and hold harmless the market organizer from any liability arising from the vendor's participation in the market.

(13) Establish rules for handling and storing different types of foods with guidelines for sampling if allowed. It is the responsibility of each vendor to abide by all state and federal regulations which govern the production, harvest, preparation, preservation, labeling, or safety of products offered for sale at the market. All vendors regardless of product must meet the health requirements that prevent food borne illnesses. No cooking is permitted within the market area without prior approval.

(f) The Certified Farmers Market's rules and regulations shall contain a clause, which states that the governing body and its designated agents shall implement and enforce all rules and regulations pertaining to the operation of the Certified Farmers Market in a fair and equitable manner.

(g) A copy of the Certified Farmers Market rules and regulations and any updates shall be sent to the Authority. The Authority's copy shall govern the Certified Farmers Market.

(h) In order to be recognized by the Authority as a Certified Farmers Market the criteria and/or rules as set out in Chapter 80-7-1-.04 must be met. (This does not prohibit a market from imposing more stringent requirements on its sellers.)

Authors: Don Wambles and Patrick B. Moody

Statutory Authority: Code of Ala., 1975. § 2-5A-

8 History:

Chapter 80-7-1-.04 : Criteria and Rules for a Certified Farmers Market

(a) General Criteria for an Alabama Certified Farmers Market

(1)"Alabama Certified Farmers Market" means a place, structure or building that is used by two or more Alabama Farmers for the direct sale of their own on-farm produce and/or food products to consumers. and where sales of these farm products represent the core business of the market.

(A)A grower/producer is a person(s) that grows or produces agricultural products. At least 80% of the agricultural product grown and offered for sale must be produced by the grower/producer or under the grower/producer's direction. The grower must verify in writing with the market manager and the Farmers Market Authority the name, location and contact information from whom the other 20% of locally grown products brought to market originate if this is permissible and clearly defined in the market's rules.

CB) A grower or grower representative must be present during market hours when his/her products are offered for purchase.

(2)The market may be operated by an association, non-profit organization, government entity (state, county, municipal, tribal, etc.) or other organization/entity approved by the Authority.

(3)Markets can allow the sale of non-food products (arts and crafts) and other value-added products at the market's discretion as long as the number of non-food vendors (arts and crafts) does not exceed 30% of the total vendors. Other value added products includes processed foods, and floral products.

(A)All products that may be potentially hazardous must be permitted by the appropriate agency or in compliance with all city, county, state and federal laws and regulations.

(4)The market must be organized pursuant to Ala. Code 2-5A-1 et seq. and comply with Chapter 80-7-1 of the Alabama Department of Agriculture and Industries Administrative

Code. (b) Rules Requirement for Farmers Markets

C1) Certified Farmers Markets shall have a clear and organized set of rules that are enforced by a manager, who answers to either a board or steering committee. Market rules should be simple and easy to understand. Certified Farmers Markets shall adopt the minimum rules as set forth in Appendix A.

(2)Market rules should contain the following:

(A)A description of the market governance and market manager responsibilities;

(B)Rules for general operations such as hours/days of market, parking policies, and health and safety policies;

CC) Rules enforcement procedures, including penalties for failure to comply and a grievance procedure;

(D) Policies for who can sell at the market and how the market will approve vendors;

(E) Guidelines for what products can be sold, the use of equipment the presentation of displays, and the use of scales;

(F) Vendor fees and space assignment policies;

(E) How the market will ensure and enforce compliance;

(F) Rules that are unique to the market such as a waiting list policy or special events;

(G) The market management/governance may conduct farm visits;

(H) Standards of vendor behavior;

(I) All contact information;

(3) All eligible producers must have a growers permit.

(4) In addition to the above, a Certified Farmers Market's rules must, at a minimum, adhere to the following guidelines as set out in (c) – (j) of this chapter.

(c) Home Processed

(1) Home Processed products are subject to sales tax. See Alabama Code §40-23-4(a)(5) and §40-23-62(8).

(2) Home processed products must satisfy all public health, labeling, permitting and other requirements pertaining to processed products. Chapter 420-3-22-.01 of the Rules of Food Establishment Sanitation now excludes a kitchen in a private home from the definition of food establishment if only food that is non potentially hazardous (time or temperature control required for safety) is prepared for sale or service at a function such as a charitable, religious, civic, or not-for-profit organization's food sale, or at state sanctioned Farmers Markets, and if the consumer is informed by a clearly visible label, tag, or placard at the sales or service location that the food is prepared in a kitchen that is not inspected by a regulatory agency, i.e. County or State Health Department.

(3) Label, Tag or Placard must conform to the size and form of the label below, and be placed at the top of the product that is to be sold.

This item(s) was prepared in a kitchen that is NOT inspected by a regulatory agency.

(4) This effectively excludes farmers markets from regulatory requirements of the ADPH regarding non-potentially hazardous home processed foods. Certain home processed foods for example baked breads, rolls, cookies, cakes, brownies, fudge, double-crust fruit pies, traditional fruit jams, jellies, marmalades and relishes, candy, spices or herbs, snack items such as popcorn, caramel corn and peanut brittle, may be sold at farmers markets with appropriate labeling. The label of a food in packaged form shall specify conspicuously the name and place of business of the manufacturer, packer, or distributor.

(5) The acidity of foods is measured by pH. The range of pH is commonly considered to extend from zero to 14. A pH value of 7 is neutral, because pure water has a pH value of exactly 7. Values less than 7 are considered acidic, while those greater than 7 are considered basic or alkaline. Acidic foods are usually tart and sour. all fruits are acidic: tomato, lemon, peach, apple, etc. The FDA rule for acid foods states that a food must have a pH below 4.6 to be sold as a minimally processed food. The reason for this is bacteria do not grow at this level of acidity.

(6) This exclusion shall not be construed as allowing the sale of low acid foods (pH >4.6) in hermetically sealed containers (i.e. such as home-canned green beans, peas, tomato relish, salsa, etc.) when such food is not prepared in a permitted establishment. The finished product will need to be tested, if the pH level is unknown.

(7) Food Product Testing Requirements:

(A) A small sample (at least 1 cup) of the product is required. The cost is approximately \$40.00 per sample. Checks may be made payable to: Alabama Cooperative Extension System or ACES. The sample should be carefully and safely packaged and mailed/sent to:

Regional Extension Agent
Alabama Cooperative
Extension 221 Poultry Science
Building 260 Lem Morrison Dr.
Auburn University, AL 36849
Alabama Cooperative Extension
System
Food Product Testing Services

CB) The product must include the following information: Contact Person, Mailing Address, City/State/Zip, Phone/Fax, Email, Product Name

(d) Sampling/ Food Safety

(I) All vendors, regardless of product must meet the health requirements that prevent food borne illnesses. The standard requirements and recommendations for preparation and sampling at the Certified Farmers Market are:

(CA) Preparation of fruit and vegetable samples requiring cutting or slicing should be done on-site immediately prior to consumption.

(CB) No home prepared food samples shall be served at the market.

(CC) Clean knives and cutting boards must be placed in protective plastic containers, food storage bags, wrapped in plastic wrap, etc.

(D) Clean equipment must be used to cut product. in-use items must be stored so they are protected from contamination.

(E) Replace soiled knives, cutting boards, etc. with clean items every two hours.

(F) Use single service items whenever possible.

(G) Store soiled items in a closed bag or container to avoid attracting insects.

(CH) All fruits and vegetables must be rinsed thoroughly in clean water.

(I) Products may be rinsed or cleaned prior to bringing them to the market. The items should be stored in disposable food bags.

(J) Rinse melons in a 200 parts per million chlorine solution prior to slicing for sampling.

(K) Fruit and vegetable sample servings must be protected from contamination at all

times. (L) Serving must be done in a manner protecting the sample from any bare hand contact.

(M) Utilize disposable gloves, single service utensils, napkins or tissues, or toothpicks are all adequate methods to avoid handling prepared samples.

(CN) Any ice used for cooling must be continuously and properly drained to avoid wrapped items soaking in melted ice water.

(O) Canned items (i.e., jelly, salsa, etc.) may be opened one jar at a time and sampled with clean disposable utensils.

(P) Use toothpicks, wax paper, paper sampling cups, or disposable utensils to distribute samples.

CO) Temperature control must be maintained on items needing refrigeration after opening.

(2) The County Environmentalist may have specific additional requirements depending on the food to be prepared and served, the general location of the event or food concession area, the availability of city water and sewage, and other local considerations. The Rules of the State Board of Health require that a permit to operate a temporary food booth be obtained prior to any prepared food being sold.

(e) Meat Products

Cl) Live animals are prohibited for sale at farmers markets in Alabama.

(2) Only raw meats, including fish and seafood, that are processed, packaged, and labeled at an inspected facility or are otherwise exempted from inspection may be sold at a farmers market. Exempted meats: rabbits, quail and bison.

(3) Beef, pork, poultry and lamb products sold at farmers markets must originate from livestock slaughtered in a government (federal or state) inspected facility.

(4) All meat and poultry products must be wrapped and labeled with the seal of inspection on package. USDA publication "Guidance for Determining Whether a Poultry Slaughter or Processing Operation is Exempt from Inspection Requirements of the Poultry Products Inspection Act Revision 1, April 2006," provides detailed information on the requirements for the sale of poultry at markets.

(5) Meat products, other than fish and shellfish, must be brought to the market in frozen condition and kept frozen until sold. Selling packaged meat at the Farmers market requires sanitary handling and temperature control. A mechanical unit capable of maintaining the meat and poultry products in the frozen state is recommended to be used. For example, a freezer could be used.

(6) Fish and shellfish products may be sold fresh if maintained at a temperature of 37°F to 41°F.

(7) Meat at farmers markets being sold by resellers will include a "Distributed by/Packed for", or similar, statement on the labels of their meat products. Conversely, meat products being sold at Farmers markets that are prepared and packaged by the selling vendor will not include a "Distributed by/Packed for", or similar, statement.

(f) Wine /Alcohol/ Controlled Substances

Cl) Wine is prohibited for distribution and/or retailing at farmers markets in the State of Alabama. Alcohol, i.e. beer, whisky, etc., is prohibited for sale at farmers markets.

(2) Controlled substances are prohibited for sale at farmers markets.

(g) Insurance

(1) Each Certified Farmers Market shall acquire, or show proof of liability insurance.

(h) Proper Weights and Measurement

(1) All farmers markets must meet the legal measurement guidelines established by the State of Alabama for dry and wet produce. Produce may be sold by weight measure or count depending on the commodity. Selling by weight or measure involves legally defined weights and measures. A quart is a legal dry quart or legal liquid quart not necessarily a quart basket filled past the rim of the basket. A pound is a legal pound, as judged by specially calibrated weights certified by the National Institute of Standards and Technology.

(2) Not all scales are eligible for farmers market usage. Those scales stamped, "Not legal for use in trade" on them, cannot be used to measure product for sell at markets. Examples of scales not to be used are: bathroom, baby, restaurant portion scales, postal, and kitchen utility scales.

(3) When selling by measure, a standard dry pint or dry quart container is actually measured by the cubic inches it contains, not the shape. An accurate measure would be when the container is filled and struck level across the top sides of the container. When purchasing containers, be certain they meet the legal definition of pints, quarts, pecks, etc.

(4) Just as water weight can be lost after harvest, volume can decrease as well. Some settling also can occur in transit. The content must be level to the top of the container at the time of sale. It is recommended seller overfill containers to allow for these factors.

(5) When selling by liquid such as cider, the exact amount in the container has to be measured to achieve the correct cubic inch fluid amount. When selling bakery products, items must have stated weight on packaging or identified so the consumer may make an informed purchase.

(6) Scales being used in commerce shall be tested at least once each fiscal year based on the fiscal year adopted by the State of Alabama which runs from October 1st through September 30th.

(i) Dairy Products

(1) All dairy products, including cheese, must be processed, packaged, and labeled at a facility permitted and inspected by the Alabama Department of Public Health's Milk and Food Processing Branch. Product must have the proper labeling vendor contact information or have information posted so consumer will know who to contact if necessary.

(2) ***Sale of raw milk (or human consumption is not legal and cannot be sold at markets.***

(j) Shell Eggs

(1) Shell eggs are considered farm products and may be sold at farmers markets with proper labeling information on package. Information required is: name and address of egg packer, date eggs were packed, grade and weight. Carton or egg container and egg product itself must be sanitized and free from fecal matter and other farm filth.

Egg Weights

	Dozen Carton	Dozen Carton	1.5 Dozen Carton	2.5 Dozen Sleeve
Pee Wee	15 oz	.94 lbs	1.41 lbs	2.34 lbs
Small	18 oz	1.13 lbs	1.69 lbs	2.81 lbs
Medium	21 oz	1.31 lbs	1.97 lbs	3.28 lbs
Large	24 oz	1.50 lbs	2.25 lbs	3.75 lbs
Ex-Large	27 oz -	1.69 lbs	2.53 lbs	4.22 lbs
Jumbo	30 oz	1.88 lbs	2.81 lbs	4.69 lbs

(2) There are three consumer grades for eggs: U.S. Grade AA, A, and B. The grade is determined by the interior quality of the egg and the appearance and condition of the egg shell. Eggs of any quality grade may differ in weight (size).

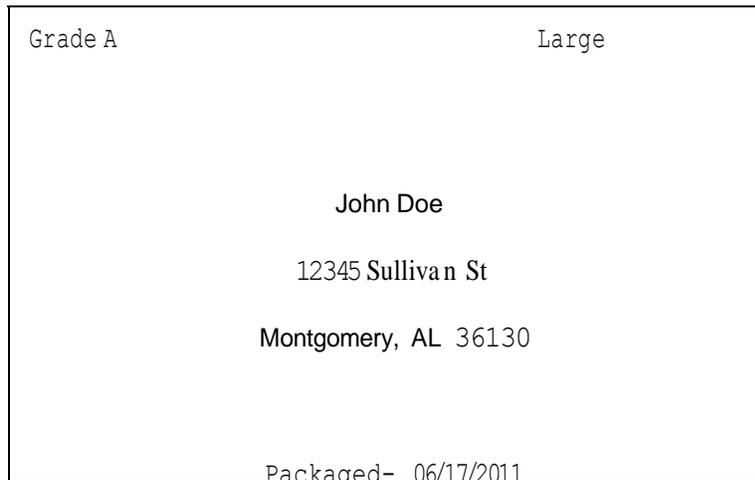
(3) U.S. Grade AA eggs have whites that are thick and firm; yolks that are high, round, and practically free from defects; and clean, unbroken shells. Grade AA and Grade A eggs are best for frying and poaching where appearance is important.



(4) U.S. Grade A eggs have characteristics of Grade AA eggs except that the whites are "reasonably" firm. This is the quality most often sold in stores.

(5) U.S. Grade B eggs have whites that may be thinner and yolks that may be wider and flatter than eggs of higher grades. The shells must be unbroken, but may show slight stains. This quality is seldom found in retail stores because they are usually used to make liquid, frozen, and dried egg products.

(6) Egg Label
Example:



Authors: Don Wambles and Patrick B. Moody
Statutory Authority: Code of Ala.,1975, §2-5A-8
History:

Chapter 80-7-1-.05 Issuance of Certificates.

(a) The Authority shall issue a Certified Farmers Market certificate upon review of application and determination that the applicant meets the requirements to operate a Certified Farmers Market.

(b) A Certified Farmers Market certificate shall be valid until December 31st of the 2nd year in which the certificate is issued.

Authors: Don Wambles and Patrick B. Moody

Statutory Authority: Code of Ala.J 975, § 2-5A-8

History:

(a)The operator of a Certified Farmers Market shall ensure that each person participating in the sale of agricultural products in the area designated as a Certified Farmers Market:

(1)Is a Farmer, or grower representative.

(2) Sells only certified agricultural products.

(b)No person shall operate a Certified Farmers Market unless he or she has in his or her possession a current, valid Certified Farmers Market Certificate issued by the Authority.

(c)The operator of a Certified Farmers Market shall, upon the request of an enforcement officer, provide for review his or her current, valid Certified Farmers Market Certificate at any time during the operation of a Certified Farmers Market.

Authors: Don Wambles and Patrick B. Moody

Statutory Authority: Code of Ala.. 1975. § 2-5A-

§ History:

Chapter 80-7-1-07 Applicability of Rules and Regulations Regarding Farmers
Market Nutrition Programs.

No provision in this Chapter shall be construed to in any way invalidate, supersede, or otherwise
impair the applicability of the rules and regulations regarding either the Senior Farmers Market
Nutrition Program or the WIC Farmers Market Nutrition Program.

Authors: Don Wambles and Patrick B. Moody

Statutory Authority: Code of Ala., 1975, § 2-5A-

8History:

Chapter 80-7-1-.08 Penalties.

(a) All Farmers and Certified Farmers Markets are required to adhere to the rules and regulations of the Authority. The Commissioner may discipline the following for violating the Authority's rules and regulations:

(1) The Certified Farmers Market; or

(2) A family member, employee, or another Farmer acting on behalf of the Farmer; or

(4) Any other person whose actions may have resulted in the violation.

(b)The Commissioner, upon determination that a Farmer has violated the Authority's rules and regulations may:

(1) Issue a written reprimand; or

(2) Suspend a license up to six months; or

(3) Refuse to allow farmer access to market for a period of up to 18 months.

(c)The Commissioner, upon determination that a Certified Farmers Market has violated the Authority's rules and regulations may:

(1)Issue a written reprimand; or

(2)Suspend a Certified Market Certificate for up to six months; or

(3) Revoke the Certified Market Certificate;

(d)Disciplinary actions shall be initiated by the Director of the Authority upon belief that a violation has occurred. All persons or entities certified under these rules may appeal any disciplinary action initiated by the Director.

Authors: Don Wambles and Patrick B. Moody

Statutory Authority: Code of Ala.,1975, § 2-5A-8

History:

Chapter 80-7-1-.09 Appeals.

Any person may appeal to the Commissioner for a hearing to challenge any of the following actions:

- (a) Denial of any certificate.
- (b) Revocation of any certificate.
- (c) Suspension of participation privileges.

In all cases, the appeal must be submitted to the Director in writing within 30 days of the date the action or decision was made.

Authors: Don Wambles and Patrick B. Moody

Statutory Authority: Code of Ala..1975, § 2-5A-

8 History: