

RULES AND PROCEDURES FOR FARMERS (FMC-5)

The New York State Farmers' Market Nutrition Programs (FMNP) promotes fresh, unprocessed, fruits and vegetables grown by local farmers so they may expand their sales through New York State farmers' markets and farm stands. The FMNP also promotes improving the nutrition of families enrolled in WIC and low-income seniors by eating more fresh, local fruits and vegetables. The program is also intended to encourage economic development in communities through the promotion and expansion of farmers' markets and farm stands in New York State.

Rules and Procedures: The New York State Department of Agriculture and Markets (Department), as administrator of both the Women, Infants and Children Farmers' Market Nutrition Program (WIC FMNP) and the Senior Farmers' Market Nutrition Program (SFMNP), herein referred to as the Farmers' Market Nutrition Programs (FMNP), will designate markets in New York State as local partners in the administration of the FMNP. The Department, and all designated markets, shall provide for the operation and administration of the FMNP. The Department, with support from designated markets, will approve farmers for participation in the FMNP. The rules and procedures as described below apply to all approved farmers in the FMNP. The Department reserves the right to interpret the information below as necessary in individual circumstances.

1. Definitions:

- a. **Bona fide Farmer.** For the purposes of the FMNP, to be considered a *bona fide* farmer, one must grow and harvest, on land owned or leased by the farmer, **locally grown** fruits, vegetables, and/or culinary herbs.
- b. **Locally grown.** For the purposes of the FMNP, to be considered **locally grown**, at a minimum, the product must be grown in New York State and/or adjacent states.
 - i. a market operator is permitted to restrict the definition of locally grown further to include portions of New York State, all of New York State, portions of adjacent states, or all of adjacent states based on their market location, farmer geographic participation, and overall market objectives. Depending on the model of operation, markets must also demonstrate the following:
- c. **50% Grow Rule.** For the purposes of the FMNP of the fruits and vegetables being offered for sale by a *bona fide* farmer, at a minimum, 50% (by volume) must be grown and harvested on land he/she owns or leases.
- d. **Farmers' market:** a location where two or more *bona fide* farmers **attend the market each week**, who: a) are planning to participate in the FMNP and (b) meet the "50% Grow Rule."
- e. **Farm stand:** a location where the operator of the market is (1) a *bona fide* farmer who meets the "50% Grow Rule" and is planning to enroll in the FMNP by submitting the Farmer Participation Agreement (FMC-6), or (2) a private nonprofit agency (nonprofit) exempt from income tax under the Internal Revenue Code of 1986, as amended, (26 U.S.C. 1 et. seq.) and at a minimum, 50% (by volume) of the fruits and vegetables being offered for sale at the market are sourced directly from local *bona fide* farmers who plan to participate in the FMNP.
- f. **Mobile market:** a location where the operator of the market is (1) a *bona fide* farmer who meets the "50% Grow Rule" and is planning to enroll in the FMNP by submitting the Farmer Participation Agreement (FMC-6), or (2) a nonprofit and at a minimum, 50% (by volume) of the fruits and vegetables being offered for sale at the market are sourced directly from local *bona fide* farmers, who plan to participate in the FMNP.

2. **Eligibility.** To be eligible, each year a farmer must:

- a. **Be considered a *bona fide* farmer:** For the purposes of the FMNP, to be considered a *bona fide* farmer, one must grow and harvest on land owned or leased by the farmer locally grown fruits, vegetables, and/or culinary herbs. For the purposes of the FMNP, to be considered **locally grown**, at a minimum, the product must be grown in New York State and/or adjacent states.
 - i. a market manager/sponsor is permitted to restrict the definition of locally grown further to include portions of New York State, all of New York State, portions of adjacent states, or all of adjacent states, based on their market location, farmer geographic participation, and overall market objectives.
- b. **Participate in an authorized FMNP market as a *bona fide* farmer:** At some point during the FMNP season, which is June 1 through November 30, farmers may participate in the FMNP as a vendor and/or supplier but must demonstrate their grower status depending on market type outlined below:
 - i. **Farmers' markets:** (a) when vending at a farmers' market participating in the FMNP, the *bona fide* farmer must meet the "**50% Grow Rule.**" For the purposes of the FMNP, to meet the "50% Grow Rule," of the fruits and vegetables being offered for sale by a *bona fide* farmer, at a minimum, 50% (by volume) must be grown and harvested on land they own or lease.
 - ii. **Farm stands:** (a) when operating a farm stand participating in the FMNP, selling produce primarily from their own farm, the *bona fide* farmer must meet the "50% Grow Rule." Note: To enroll a personal farm stand in the FMNP, farm stand operators must submit a market application (FMC-8) (see **Rules and Procedures for Markets (FMC-4)** for more information on the market application process).
 - iii. **Mobile markets:** (a) when operating a mobile market participating in the FMNP, selling produce primarily from their own farm, the *bona fide* farmer must meet the "50% Grow Rule." Note: To enroll a mobile market in the FMNP, mobile market operators must submit a market application (FMC-8) (see **Rules and Procedures for Markets (FMC-4)** for more information on the market application process).

2. **Application.** To apply, a farmer must:

- a. **Submit a Farmer Participation Agreement (FMC-6)**
 - i. **Prior to accepting any FMNP coupons at market.** A farmer may choose to directly submit their agreement to the Department or have a market operator forward their agreement on behalf of the farmer.
 - ii. **Counter-signature.** Agreements require a counter-signature from a manager or contact operating an authorized FMNP market. If an applicant only participates in the FMNP at their own personal farm stand, they are exempt from obtaining a counter-signature. If an option exists to obtain a counter-signature, that option must be taken. Applicants are only exempt from this requirement if no other option exists. If you manage your own multi-vendor farmers' market, you may not counter-sign your own farmer application; you must have the sponsor or co-manager counter-sign your application.
- b. **Submit a Crop Plan (FMC-12) annually**
 - i. to **every market manager where the farmer accepts FMNP coupons**, not to the Department, as evidence of his/her *bona fide* farmer status. Crop plans will be retained in the records of authorized FMNP markets for three years and may be audited by the Department at any time. Note: If a farmer decides to enroll their personal farm stand into the FMNP, a crop plan must be included with the market application, as evidence

of who the *bona fide* farmer is at the farm stand (see **Rules and Procedures for Markets (FMC-04)** for more information on the market application process).

- c. **Train annually.** All farmers must train.
 - i. New farmers to the FMNP must participate in an online training webinar delivered by the Department or they may train face-to-face with their market manager using the Department's materials.
 - ii. Returning farmers to the FMNP satisfy the training requirement when they read the **Rules and Procedures for Farmers (FMC-05)**.
 - d. **Read** the material provided in the authorization package from the Department.
3. **Authorization.** Farmers who meet all the requirements and are approved for the program will be mailed an authorization package each year and listed on the "Authorized Farmers" list posted online.
- a. This authorization is valid for three years as long as the farmer remains in good standing with the Program. Farmers who violate program rules are not in good standing and may be required to enroll annually.
 - b. The authorization package will include the FMNP farmer authorization letter, the FMNP Farmer sign (color specific to the year), and the Coupon Redemption Form.
 - b. Farmers new to the FMNP will also receive their FMNP stamp in the authorization package.
 - c. Authorization must occur before accepting any coupons.
 - d. There will not be payment for coupons before a farmer is authorized in FMNP.
4. **Administration.** To participate and maintain in good standing in the FMNP, a farmer must perform or provide as necessary the following services and abide by the following requirements:
- a. Only accept FMNP coupons after receiving the annual authorization package or notification from the Department.
 - b. Only accept FMNP coupons at approved locations listed on their (FMC-6) or posted on the list of Authorized Markets. If attending a market not on the (FMC-6), farmers can update their record by contacting the Department.
 - c. Only accept FMNP coupons at approved markets on the FMNP Authorized Market List (online at www.agriculture.ny.gov).
 - d. Only accept current FMNP coupons from participants during the FMNP season June 1 through November 30.
 - e. Only accept FMNP coupons for locally grown fresh fruits, vegetables, and/or culinary herbs.
 - f. Display the promotional farmer sign "We Accept NYS Farmers' Market Coupons" at the market booth at all times during the June 1 through November 30 program season.
 - g. Adhere to the "**50% Grow Rule**" at authorized FMNP market or meet the market's higher standard where applicable (e.g. 100% producer only market).
 - h. Permit a farm visit to occur, as necessary, by a representative from an FMNP market manager/sponsor and/or from the Department to verify information submitted on a crop plan.
 - i. Treat FMNP coupons like cash and safeguard them from possible loss or theft.
 - j. Always accept cash in addition to coupons from coupon recipients.
 - k. Never return cash as change for purchases made exclusively with FMNP coupons.
 - b. Never participate in "**coupon-trafficking**." Coupon trafficking occurs when a customer or non-FMNP vendor exchanges the FMNP coupon improperly for cash or other currency. For the purposes of the FMNP, "coupon-trafficking" is defined as cashing and/or providing any other currency as a redemption for FMNP coupons either for customers, non-FMNP farmers, or non-FMNP vendors. See Violations below.
 - l. Never discriminate against FMNP coupon recipients in price, quality, or service, or establish separate produce displays exclusively for FMNP coupon recipients.

- m. Never accept mutilated FMNP coupons or coupons lacking the serial number and bar code, as they will be rejected by the redemption provider.
- n. Display notices at the point-of-sale stating that any tropical citrus or other non-locally grown produce cannot be purchased with FMNP coupons because they are not locally grown.
- o. Stamp each FMNP coupon using their authorized FMNP stamp with **black ink only**.
 - i. Stamps are issued by the Department to each participating farmer; farmers can request a replacement stamp by calling the Department. A fee may apply.
 - ii. The stamp image must be clearly legible, including the state seal and all four digits; unstamped or illegibly stamped coupons will not be paid; farmers do not need to endorse or stamp the back side of the FMNP coupon.
- p. Redeem all FMNP coupons by December 15.

5. Coupon Redemption.

- a. Deadline for coupon redemption is **December 15** each year. If this falls on a weekend, plan accordingly. If you believe you will not make the deadline, please contact the Department immediately to make arrangements.
- b. **By Mail**
 - i. Coupons must be mailed for redemption and post marked by December 15 of each year.

**Farmers' Market Federation of New York
109 Twin Oaks Drive Suites U2-4
Syracuse, NY 13206**

- ii. Treat coupons like cash. We recommend requesting tracking for each package.
- iii. A redemption payment check for the value of the coupons received will be sent by the Farmers Market Federation of New York.
- iv. Payment will be made to the farmer affiliated with the Farmer ID on the coupon.
- v. Please plan accordingly as redemptions take some time.
- c. **Electronically**
 - i. In 2024, farmers may have the option to redeem coupons electronically using mobile app technology. The Department plans to pilot an electronic redemption option for selected farmers as an alternative or in combination with mail-in coupon redemption. Farmers will need to stamp all coupons and have their own compatible mobile technology. The electronic redemption and payment will be at no charge to the farmer. Please contact the Department for further details.
- d. **Problems?** If further assistance is needed, contact the Department at 518-457-7076 x1 or farmersmarkets@agriculture.ny.gov.

6. Violations and Sanctions.

- a. A farmer who does not meet eligibility, application or administration criteria (sections 1,2 & 4) or does not comply with the intentions of the program is considered in violation of the program, not in good standing, and may receive warnings and/or sanctions.
- b. Farmer payment may be withheld until the program violation is resolved.
- c. If an FMNP-authorized farmer is identified through a farm inspection to not meet the eligibility requirements of the program, they will be notified in writing by the Department that such a finding has occurred and they will be disqualified from the program.
- d. If an FMNP-authorized farmer has been identified through compliance purchases to have committed a violation, they will be notified in writing by the Department that such a violation has occurred and that future violations can result in termination from the program. A copy of the letter will be provided to the market sponsor or manager.
- e. If a farmer is identified through a second compliance purchase to have committed a second such violation, they will be again notified in writing and required to provide an explanation

by a specified date and/or to participate in a violation conference to discuss continued participation in the program. A copy of the letter will be provided to the market sponsor or manager.

- f. Violations that occurred in the prior year will be considered to be part of a consecutive series.
- g. A second violation may, and a third violation **will**, result in disqualification from the FMNP.
- h. **Immediate disqualification from the FMNP will occur if a farmer:** (1) is found to be trafficking FMNP coupons or (2) is found to be discriminating against coupon customers or (3) fails to respond to a second violation notice or (4) fails to attend a scheduled violation conference.
 - i. If a disqualification decision is made by the Department, the farmer will be notified in writing that they are being disqualified from the program. Farmers disqualified from the program may not accept nor redeem coupons and may be ineligible to participate in future years. This disqualification may affect their participation in other state-run nutrition programs.
 - ii. Upon disqualification, the farmer's stamp will be cancelled immediately and will no longer be valid for coupon redemption. The farmer must then return their FMNP stamp and FMNP sign to the Department.
 - iii. A disqualified farmer may request a Fair Hearing at the Department at which an Administrative Hearing Officer will review the disqualification decision.

7. **Civil rights violations and the complaint process.** Farmers that receive complaints from FMNP coupon recipients alleging civil rights violations must explain there is a complaint process and refer them to the United States Department of Agriculture, Food and Nutrition Services (USDA FNS) within five days, in accordance with FNS requirements as stated below:

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, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotope, American Sign Language, etc.), should contact the agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing, or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the [USDA Program Discrimination Complaint Form](#), (AD-3027) found online at: <https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint>, 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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2. **Standard assurances.** The Farmer hereby agrees that they will comply with all nondiscrimination laws, regulations, instructions, policies, and guidelines. This includes Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.); Title II and Title III of the Americans with Disabilities Act (ADA) of 1990 as amended by the ADA Amendment Act of 2008 (42 U.S.C. 12131-12189) as implemented by Department of Justice regulations at (28 CFR Parts 35 and 36); Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency." (August 11, 2000), all provisions required by the implementing regulations of the U.S. Department of Agriculture (7 CFR Part 15 et seq); and FNS directives and guidelines to the effect that no person shall, on the ground of race, color, national origin, age, sex, or disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity for which the Agency receives Federal financial assistance from FNS; and hereby gives assurance that it will immediately take measures necessary to effectuate this agreement.

This assurance is binding on the Farmer, its successors, transferees, and assignees as long as the farmer receives assistance or retains possession of any assistance from the Department. The person or persons whose signatures appear on the FMNP Farmer Agreement (FMC-06) have agreed to this assurance on behalf of the farm/business.

Department Contact Information:

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(518) 457-7076 x1

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