

RULES AND PROCEDURES FOR FARMERS (FMC-5)

The New York State Department of Agriculture and Markets (Department), as administrator of both the Women, Infants and Children (WIC) Farmers Market Nutrition Program and the Senior Farmers' Market Nutrition Program, herein referred to as the Farmers Market Nutrition Program (FMNP), will designate markets in New York State as local partners in the 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.

1. **Eligibility.** To be eligible to participate in the FMNP, and to accept FMNP checks, farmers must:
 - a. Be a **bona fide farmer**. For the purposes of the FMNP one must grow and harvest on land owned or leased by the farmer fruits, vegetables, and/or culinary herbs.
 - b. Meet a market's higher standard (e.g. 100% producer only) if a market's rules state a higher standard.
 - c. Display notices at the point-of-sale stating that any tropical citrus, or other non-locally grown produce cannot be purchased with FMNP checks because they are not locally grown.

2. **Application.** To apply a farmer must:
 - a. Complete and sign an **Farmer Participation Agreement (FMC-6)** listing all anticipated markets.
 - i. A market manager/sponsor must counter-sign all Farmer Participation Agreement (FMC-6).
 - ii. Forward completed Farmer Participation Agreement's (FMC-6) to the Department.
 - b. Provide evidence of his/her *bona fide* farmer status to every market were FMNP checks are accepted.
 - i. Submit a current year **Crop Plan (FMC-12)**. Other formats are accepted so long as they include the following information: (a) production site locations (b) a list of the vegetables and/or fruits expected to be grown for sale at the market (c) the acreage or row-feet of each crop listed (d) the period of availability for each crop listed (e) the total planted acres for the farmer, and (f) subject to market rules, any produce purchased for resale with the name of the supplier.
 - ii. If there are significant deviations from this plan, an updated crop plan must be provided.
 - iii. If the market's rules permit farmers to purchase a limited amount of locally grown produce for resale at the market, and they intend to do so, crop plans must also list all items farmers intend to purchase, their period of availability, and the name of the producer or supplier.
 - iv. Should a farmer later decide to purchase additional produce items, the farmer must amend and resubmit their crop plan to their market manager or sponsor.
 - c. When the market sponsor or manager receives a Farmer Participation Agreement (FMC-6) and Crop Plan (FMC-12), he/she will then review the forms and counter-sign the Farmer Participation Agreement (FMC-6) certifying: (1) participation in their market and (2) eligibility for the FMNP as a *bona fide* farmer at their market. The market sponsor/manager will then forward the Farmer Participation Agreement (FMC-6) to the Department and retain the crop plan for his/her records. Farmers may choose to forward a completed Farmer Participation Agreement's (FMC-6) to the Department instead of having their market forward them.

3. **Administration.** To participate in the FMNP a farmer must perform or provide as necessary the following services, and abide by the following requirements:
 - a. Apply annually and activate their stamp; checks are transacted through a banking system and the checks will not clear unless the stamp is active.
 - i. Farmers will retain their stamp and ID for the duration of their participation in the FMNP;
 - ii. Farmers new to the program will receive their activated stamp in their authorization package;
 - iii. Farmers enrolled in previous years must re-apply ANNUALLY to activate their stamp.
 - b. Only accept FMNP checks after receiving their approval package from the Department.
 - i. When the Department receives and approves an application, an approval package will be mailed to the farmer containing: (1) check cancellation **STAMP** and **STAMP PAD** (new farmers only); (2) **FMNP FARMER ID CARD**; (3) laminated **SIGN** with illustration: "We Gladly Accept New York State Farmers' Market Checks"; and (4) a copy of the approved Farmer Participation Agreement (FMC-6). **Farmers should sign and stamp their FMNP Farmer ID Card.**

- c. Only accept FMNP checks from participants during the program period: June 1 - November 30.
- d. Display the laminated sign “We Gladly Accept NYS Farmers’ Market Checks” at their market booth at all times from June 1 - November 30. The purpose of this sign is to ensure that check recipients can locate FMNP participating farmers and use their FMNP checks. If more signs are required, farmers can request replacements by contacting the Department. **Additional signs will be provided at no cost.**
- e. Only accept FMNP checks for **locally grown** fresh fruits, vegetables and/or culinary herbs.
 - i. Farmers may not accept checks for any other produce, including non-locally grown fresh fruits and vegetables, apple cider, grape juice, eggs, cheese, jam, honey, maple syrup, baked goods, painted pumpkins, ornamental gourds, plants (including potted herbs), or flowers.
 - ii. Under FMNP rules, market sponsor(s) or manager(s) are permitted to limit “locally grown” 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.
- f. Only accept FMNP checks at markets participating in FMNP.
- g. Only accept FMNP checks at markets listed on the Farmer Participation Agreement (FMC-6) and/or at locations where the Department has authorized a farmer to do so.
- h. Treat FMNP checks like cash and safeguard them from possible loss or theft prior to redemption. All FMNP checks have a face value of \$4.00 and are worth \$4.00 for the purchase of locally grown fresh fruits and vegetables.
- i. Always accept cash in addition to checks from check recipients. For example, a sale of \$4.25 may be paid for with one check and twenty-five cents cash.
- j. Never return cash as change for purchases made exclusively with FMNP checks. When the value of a purchase made with FMNP checks is less than \$4.00 or a multiple of \$4.00, farmers may add additional locally grown fruits and/or vegetables of the customer’s choice to make up the difference.
- k. Never cash (at full value or at a discount) FMNP checks for anyone (including check recipients, unauthorized farmers, or non-farmer vendors). **This unlawful practice is termed “check trafficking” and may result in suspension from the FMNP.**
- l. Mutilated FMNP checks or checks lacking the microstrip along the bottom must not be accepted, as they will be rejected by either the local bank or the clearinghouse bank.
- m. Stamp (cancel) each FMNP check with a valid FMNP cancellation stamp.
 - i. Stamps are issued by the Department to each participating farmer.
 - ii. Farmers must stamp each check in the designated area on the check with **black ink only**.
 - iii. The stamp image must be clearly legible, including the state seal and all four digits.
 - iv. Unstamped or illegibly stamped checks will not be paid.
 - v. Farmers do not need to endorse or stamp the back side of the FMNP check.
 - vi. Farmer can request a replacement stamp or ID card by calling the Department.
 - 1. A fee may be assessed when a request is made for a replacement stamp.
- n. Redeem FMNP checks by either depositing them in their personal or business checking account or by cashing them at any branch of KeyBank of New York.
 - i. **Bank fees.** Many New York State banks charge a service fee for depositing checks in some types of checking accounts. **IMPORTANT** - Before depositing any FMNP checks, farmers should speak with a bank officer regarding fees that may apply to their account(s) in order to avoid paying such fees. If a deposit fee cannot be avoided, FMNP checks may be brought to any KeyBank branch in NY; KeyBank branches in NY will cash FMNP checks at no cost to the farmer, even if the farmer does not have an account with them.
 - ii. **Cashing checks.** A maximum of 250 checks (\$1,000) may be cashed per banking business day at any KeyBank branch of New York. FMNP checks will not be cashed without the FMNP Farmer ID Card. To cash FMNP checks at Key Bank branches, farmers must present the teller with their FMNP Farmer ID Card signed and stamped. The ID card must bear the same FMNP stamp number as the number stamped on the checks being cashed. The teller may ask farmers for other identification such as a driver’s license.
 - iii. **Depositing checks.** To deposit FMNP checks, a separate deposit slip should be prepared listing the number of \$4.00 checks and the total amount of the deposit. For example, a deposit slip for 50 FMNP checks should read:

TOTAL	50 X	\$4.00	
			\$200.00

- iv. If farmers encounter problems with depositing or cashing FMNP checks, please try to resolve them with the bank officer. If further assistance is needed, please call, or have the bank officer call the Department.
- o. Adhere to important dates:
 - i. FMNP checks may be accepted and deposited or cashed beginning **June 1**.
 - ii. The last day FMNP checks may be deposited or cashed is **December 15**.
 - iii. The last day farmers may accept checks from recipients is **November 30**.
 - iv. FMNP checks can be deposited/cashed through **December 15** of the year issued.
 - v. Any deposits after **December 15** will not be paid and are subject to a bank service charge.

4. **Violations and Sanctions.**

- a. If an FMNP-authorized farmer has been identified through compliance purchases to have committed a violation, he/she 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.)
- b. If a farmer is identified through a second compliance purchase to have committed a second such violation, he/she 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.) Violations that occurred in the prior year will be considered to be part of a consecutive series.
- c. A second violation may, and a third violation **will** result in disqualification from the FMNP. If a disqualification decision is made by the Department, the farmer will be notified in writing that he/she is being disqualified from the program for the duration of the current program year (and for the following year if the third violation occurs). The farmer's Farmer ID Number will be cancelled as of that day and will no longer be valid for check depositing or cashing. The farmer must then return his/her FMNP Farmer Stamp, laminated FMNP sign, and FMNP Farmer ID Card to the Department. A disqualified farmer may request a Fair Hearing at the Department at which an Administrative Hearing Officer will review the disqualification decision.
- d. **Immediate disqualification from the FMNP may occur if a farmer is found to be:** (1) redeeming or cashing FMNP checks for check recipients, unauthorized farmers or non-farmer vendors ("check trafficking") or (2) discriminating against check customers in price, quality, or service, including charging check customers higher prices than non-check customers or establishing separate displays exclusively for check customers. **Immediate disqualification may also occur if a farmer:** (3) fails to respond to a second violation notice by the date specified in the notice or (4) fails to attend a scheduled violation conference or teleconference. Farmers disqualified from the program may be ineligible to participate in future years. Under FMNP rules, a farmer disqualified from the FMNP is entitled to a Fair Hearing regarding such an action.
- e. To assist the Department in maintaining the integrity of the FMNP, please report to the Department any observed or suspected violations of FMNP "Rules and Procedures". Confidentiality will be assured. Anyone's assistance in helping ensure the integrity of the FMNP is greatly appreciated.
- f. To protect the integrity of the FMNP and under the FMNP "Rules and Procedures" participating farms may be visited by participating market sponsors, managers or the Department to verify crop plans. If information obtained by a participating market sponsor, manager or by the Department pursuant to a farm inspection indicates that an FMNP-authorized farmer does not in fact qualify for participation in the FMNP as a *bona fide* farmer, the farmer's FMNP Farmer ID Number will be cancelled and will no longer be valid for check depositing and cashing, and the farmer will be asked to return his/her FMNP Farmer Stamp, laminated FMNP sign, and FMNP Farmer ID Card to the Department.

- 5. **Discrimination.** Participating farmers must not discriminate against participants in the program in regards to product price, quality, or service, or establish separate displays of produce designated solely for check recipients. Farmers must offer fresh produce to check recipients at no more than the price charged to other customers, and offer check recipients the same courtesies offered other customers. Any person presenting FMNP checks for making purchases should be presumed to have obtained them legitimately. (NOTE: proxies are permitted to shop on behalf of participants in the program).

6. **Standard assurances.** The farmer assures the Department that in carrying out this Agreement, s/he will not exclude from participation in, deny the benefits of, or otherwise subject any person to discrimination based on race, color, nation origin, sex, handicap, age or marital status, and will comply with all requirement imposed by or pursuant to the following: a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-6), and the nondiscrimination regulations of the U.S. Department of Agriculture as now or hereinafter amended (7 CFR Part 15, Subpart A). b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1686), and the nondiscrimination regulations of the U.S. Department of Agriculture (7 CFR Part 15a). c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and the nondiscrimination regulations of the U.S. Department of Agriculture (7 CFR Part 15b). d) The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et. seq.), and the nondiscrimination regulations of the U.S. Department of Agriculture (7 CFR Part 15c). e) Title VII (Equal Credit Opportunity Act) of the Consumer Credit Protection Act, as amended (15 U.S.C. 1601 et. seq.), (Regulations B, 12 CFR 202, March 23, 1977).
7. **Civil rights violations complaint process.** Farmers that receive complaints from FMNP check recipients alleging civil rights violations must explain there is a complaint process and refer them 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, audiotape, 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: 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.

This institution is an equal opportunity provider.

Department Contact Information:

New York State Department of Agriculture and Markets
Farmers' Market Nutrition Program
10B Airline Drive Albany, NY 12235
Phone: (800) 554-4501 or (518) 457-7076
Email: farmersmarkets@agriculture.ny.gov