

## SUBCHAPTER G—MISCELLANEOUS MARKETING PRACTICES UNDER THE AGRICULTURAL MARKETING ACT OF 1946

### PART 170—USDA FARMERS MARKET

Sec.

- 170.1 To which farmers market does this rule apply?
- 170.2 Is the USDA Farmers Market a producer-only market?
- 170.3 What products may be sold at the USDA Farmers Market?
- 170.4 Who may participate in the USDA Farmers Market?
- 170.5 Is there a fee to participate in the USDA Farmers Market?
- 170.6 How are potential market participants identified for the USDA Farmers Market?
- 170.7 Can I apply if I am not recruited?
- 170.8 What are the application procedures?
- 170.9 What type of information does the application require?
- 170.10 Must a participant in the market have insurance?
- 170.11 How are farmers and vendors selected for participation in the USDA Farmers Market?
- 170.12 What are the selection criteria for participation in the USDA Farmers Market?
- 170.13 What are the operating guidelines for the USDA Farmers Market?
- 170.14 What circumstances will prevent participation in the USDA Farmers Market?

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#### § 170.1 To which farmers markets does this rule apply?

This rule applies only to the USDA Farmers Market at headquarters on the corner of 12th Street & Independence Avenue, SW., Washington, DC.

#### § 170.2 Is the USDA Farmers Market a producer-only market?

Yes. A producer-only market is one that does not offer agricultural products that are commercially made, created, or produced, and only allows agricultural products that are grown by a principal farmer. A producer-only market offers raw agricultural products such as fruits, vegetables, flowers, bedding plants, and potted plants. The USDA Farmers Market is a producer-only market since only farmers who may sell products that they grow or

produce will be selected for participation. It also allows the sale of value-added products and other specialized non-produce items.

#### § 170.3 What products may be sold at the USDA Farmers Market?

Products that may be sold at the market include, but are not limited to, fresh, high-quality fruits, vegetables, herbs, honey, jams and jellies, cheese, vinegars, cider, maple syrup, fish, flowers, bedding plants, and potted plants. USDA inspected meats and poultry items also may be sold.

#### § 170.4 Who may participate in the USDA Farmers Market?

Members of three groups may participate in the USDA Farmers Markets:

(a) *Principal farmers or producers who sell their own agricultural products.* The principal farmer must be in full control and supervision of the individual steps of production of crops including tilling, planting, cultivating, fertilizer and pesticide applications (if applicable), harvesting and post-harvest handling on its own farm with its own machinery and labor.

(b) *Principal farmer or producers who sell their own value-added agricultural products.* Value-added products may include agricultural products that have been enhanced through a modification of the product, such as braiding, weaving, hulling, extracting, handcrafting, and the like. It also may result from growing the product in a way that is acknowledged as safer. Farmers and vendors selling these types of products must prepare them predominately with material they have grown or gathered.

(c) *Nonproduce vendors.* A limited number of non-produce vendors may be selected by market management to sell specialized products that enhance the market atmosphere and historically attract customers to a farmers market. These specialized vendors, such as bakers, may be exempted from the reselling restrictions that apply to the farmers and vendors described in paragraphs (a) and (b) of this section.

## Agricultural Marketing Service, USDA

## § 170.12

### **§ 170.5 Is there a fee to participate in the USDA Farmers Market?**

No, there are no fees charged to participate in the market.

### **§ 170.6 How are potential market participants identified for the USDA Farmers Market?**

Potential market participants are recruited by AMS market management through local farm organizations in the Washington DC metropolitan area State Departments of Agriculture from the mid-Atlantic region including, Virginia, West Virginia, Maryland, Delaware, and Pennsylvania. Upon receiving a list of potential farmers and vendors from the organizations and the State Departments of Agriculture, an information packet, which includes an application and this rule, will be mailed to each potential participant identified by the contacts.

### **§ 170.7 Can I apply if I am not recruited?**

Yes. Interested persons may call or write USDA to request an information packet even if they are not recruited. Those interested may write USDA/AMS/TM/MSB, Room 2646-South Building, 1400 Independence Avenue, SW., Washington, DC, 20250, or call (202) 720-8317. They may also call the USDA Farmers Market Hotline at 1-800-384-8704 to leave a message to have a packet mailed or faxed. They may also visit the web site at <http://www.ams.usda.gov/farmersmarkets/> to review the selection criteria, the operating rules, and to receive an application electronically.

### **§ 170.8 What are the application procedures?**

In January of each year, prospective and returning participants must submit to USDA a completed application for participation in the upcoming market season. Each application will include a copy of this rule, which includes the selection criteria and operating guidelines. Each applicant also will certify that each is the owner or representative of the farm or business submitting the application.

### **§ 170.9 What type of information does the application require?**

The application for participation in the USDA Farmers Market will provide market management with information on contacts, farm location, type of farming operation, types of products grown, and business practices, including insurance coverage.

### **§ 170.10 Must a participant in the market have insurance?**

There is no requirement for a participant to have insurance; however, USDA asks that participants with insurance provide insurance information for our records.

### **§ 170.11 How are farmers and vendors selected for participation in the USDA Farmers Market?**

USDA reviews all applications and selects participants based primarily on the type of farmer or vendor (i.e., fruit, vegetable, herb, baker) and secondly, on the specific types of products to be sold. The selection of the participants is conducted by the market management to ensure a balanced product mix of fruits, vegetables, herbs, value-added products, and baked goods.

### **§ 170.12 What are the selection criteria for participation in the USDA Farmers Market?**

The selection criteria are designed to ensure a consistently high level of quality and diverse products are available at the market, while operating in the constraints of space available at the market site. The criteria are:

(a) *Member of one of the three participant groups specified in §170.4 of this part.* The participant must be a producer-only farmer or producer, seller of value-added products, or specialized non-produce vendor.

(b) *Participant offers a product that adds to a product mix.* Market management will ensure that a balanced mix of fresh fruits and vegetables will be maintained throughout the season. Final selection of fruit and vegetable producers will be made based on their ability to ensure a wide range of fresh farm products throughout the season.

(c) *Willingness to Glean.* Participants should commit to supporting the USDA food gleaning/food recovery initiative.

## § 170.13

This commitment requires farmers and vendors to donate surplus food and food products at the end of each market day to a local nonprofit organization identified by USDA. Questions about tax deductions for gleaning should be referred to the Internal Revenue Service or a tax advisor. Receipts for donated foods may be obtained from the receiving nonprofit organization.

(d) *Commitment to market.* Participants must commit to the entire market season and be willing to participate on a regular basis.

(e) *Grandfather provision.* Market management reserves the right to select several farmers or vendors based on previous participation in the program, consistency in providing quality products, and compliance with operating guidelines.

### **§ 170.13 What are the operating guidelines for the USDA Farmers Market?**

(a) *Market Operation.* The Market will be held in parking court #9 of the USDA Headquarters Complex located on the corner of 12th Street and Independence Avenue, SW., Washington, DC. Selling will not begin before 10 a.m. and will end promptly at 2 p.m. each market day. All participants must be in place, setup and ready to sell by 10 a.m. Due to space restrictions at the site, late arrivals will be located at market management's discretion. All vehicles must vacate the market site no later than 3 p.m.

(b) *Notification of Attendance.* Each participant must call USDA within 48 hours of a market day if they cannot attend. Failure to provide proper and timely notification may result in termination of participation in the market.

(c) *Participant Space.* One vehicle is permitted per space; all other vehicles must be removed from the immediate market premises. One space is 16w x 17d feet, and all trucks must fit within that area. There is only room for 15 spaces.

(d) *Signage.* Participants must clearly display the name of their farm/business and post prices for all items being sold.

(e) *Clean-up.* Participants are responsible for cleaning all trash and waste within and around their allotted space.

## 7 CFR Ch. I (1-1-12 Edition)

Garbage bins are provided on the market site for this purpose.

(f) *Cooperative Marketing.* Participants are permitted to share space with another participant or sell another's products if the arrangement is deemed by market management as beneficial to the market. A co-op must be pre-approved by market management and will not be accepted if similar products are already sold by existing farmers or vendors.

(g) *Farm/Business Visits.* Market management may visit farm/business locations to verify compliance with market criteria and guidelines. Participants should submit a map and directions to their farm/businesses with their market applications.

(h) *Conduct on Federal Property.* Participants must comply with Subpart 20.3 of the Federal Property Management Regulations, "Conduct on Federal Property," 41 CFR 20.3.

### **§ 170.14 What circumstances will prevent participation in the USDA Farmers Market?**

(a) Efforts will be made to accommodate all who apply to participate in the market. However, market management may deny participation in the market because of insufficient space or excess supply of the products to sell, failure to meet the stated criteria, or the participant's noncompliance with the operating guidelines or regulations.

(b) Participants who sell before the 10 a.m. opening time will be restricted from participating in the market following their second violation. A written warning will be given to the participant for the first violation of this guideline. After the second violation occurs, a letter of reprimand will be given to the participant restricting their participation for the next immediate market day.

(c) Participants who arrive after the 10 a.m. opening time may be restricted from participating in the market following their second violation. A written warning may be given to the participant for the first violation of this guideline. After the second violation occurs, a letter of reprimand may be given to the participant restricting their participation for the next immediate market day.