

Permits / Licenses / Certificates Required for Farm Market Vendors

- Signed* vendor agreement approved by the Site Manager
- ACORD 25** Certificate of insurance for commercial general liability insurance with limits of no less than \$1,000,000 for each occurrence and a general aggregate minimum of \$2,000,000. Said policy shall name “the State of New York, OPRHP, and their officers, employees, and agents” as an additional insured. The certificate holder of the ACORD 25 shall be “The New York State Office of Parks, Recreation and Historic Preservation, 625 Broadway, Albany, NY 12238.”
- Any permit, license, and/or certificate required of Farm Market seller by NYS Department of Agriculture & Markets, NYS Department of Environmental Conservation, NYS Liquor Authority, and NYS Department of Taxation and Finance as indicated below. Fresh produce (if raw, uncut and unprocessed); Eggs (from farm-owned hens); single-ingredient honey and maple syrup; grains and legumes; and whole, non-protected, freshwater fish do not require any permits, licenses, or certificates beyond what is specified above.

Foraged Mushrooms

- Must provide proof of being an NYS Department of Health approved mushroom identification expert

Plant sales

- Nursery Growers License OR Nursery Dealers License from NYS Department of Agriculture
- NYS Sales Tax Certificate

Honey / Maple Syrup (with additional ingredients added)

- Article 20C License from NYS Department of Agriculture & Markets

Baked Goods (home-baked)

- Article 20C License OR Article 20C Exemption from NYS Department of Agriculture & Markets

Baked Goods (not home-baked)

- Food Service Establishment Permit from NYS Department of Health

Fruit Juice (including non-alcoholic cider; must be pasteurized or UV treated)

- Article 20C License for manufacturers/bottlers from NYS Department of Agriculture & Markets

Kombucha

- Article 20C License from NYS Department of Agriculture & Markets
- Permit from NYS Liquor Authority (if produced with a level greater than 0.5% alcohol by volume)

Farm Breweries (with 20% or more of ingredients from NY)

- Farm Brewery License from NYS Liquor Authority
- NYS Sales Tax Certificate
- Tasting Permit from NYS Liquor Authority (if samples are offered)

Craft Breweries

- No-Fee Permit OR Marketing Permit from NYS Liquor Authority
- NYS Sales Tax Certificate
- Tasting Permit from NYS Liquor Authority (if samples are offered)

Farm or Micro Wineries (with 75% or more of agriculture product from NY)

- NYS Sales Tax Certificate
- Tasting Permit from NYS Liquor Authority (if samples are offered)

Farm Cideries

- Farm Cidery License from NYS Liquor Authority
- NYS Sales Tax Certificate
- Tasting Permit from NYS Liquor Authority (if samples are offered)

Farm Meaderies

- Farm Meadery License from NYS Liquor Authority
- NYS Sales Tax Certificate
- Tasting Permit from NYS Liquor Authority (if samples are offered)

Farm Distilleries

- Farm Distillery License from NYS Liquor Authority
- Marketing Permit from NYS Liquor Authority
- NYS Sales Tax Certificate
- Tasting Permit from NYS Liquor Authority (if samples are offered)

Processed Foods

- Article 20C License OR Article 20C Exemption from NYS Department of Agriculture & Markets
- Westchester County Board of Health Permit (if processing is on-site)

Meat and Poultry (raw or frozen)

- See attached for regulations

Processed Meat and Poultry

- Article 20C License from NYS Department of Agriculture & Markets

Fish

- Article 20C License from NYS Department of Agriculture & Markets (for pan-ready fish)
- Food Fish and Crustacean Dealers & Shippers License, OR Food Fish License, OR Hatchery Permit, OR General Permit from NYS Department of Environmental Conservation

Milk and Fluid Milk Products

- Part II Permit from NYS Department of Agriculture & Markets Division of Milk Control and Dairy Services
- Milk Dealers License from NYS Department of Agriculture & Markets Division of Milk Control and Dairy Services (if handling 3000+ pounds per month)

Cheese and other Dairy Products

- Article 20C License from NYS Department of Agriculture & Markets (if part of a food establishment regulated by Division of Food Safety)
- Part II Permit from NYS Department of Agriculture & Markets Division of Milk Control and Dairy Services (if a producer, or selling cut and wrapped cheese and not covered by Article 20C Licensing)

Fresh Cut or Dried Flowers

- NYS Sales Tax Certificate

Crafts

- NYS Sales Tax Certificate

NYS Sales Tax

Products Exempt from Sales Tax Collection

Farmers do not need to collect sales tax on farm and food products intended for human consumption; this includes: all fresh and processed foods: fruits, vegetables, baked goods, jellies, jams, preserves, meats, eggs, dairy products, syrup, honey, cider, etc. (unless listed below).

Taxable Farm and Food Sales

When selling direct to consumer, you must collect sales tax on:

- Prepared foods intended for immediate on-site consumption
- Candy
- Soft drinks and fruit juices with less than 70% real juice
- All non-food products that are being sold to the end user
- Cut flowers, bedding plants, trees, shrubs, and other nursery products
- Forest products, firewood**, Christmas trees, lumber
- Fiber products (raw fleece or wool products when sold direct to end users)
- Hay, grain, straw (taxable if not being sold to another farmer)
- Horses sold for pleasure riding
- Ornamental crops like gourds, Indian corn, dried flowers, evergreens, etc.
- Crafts
- Topsoil, turf, gravel

**Firewood sold for home heating is not taxable; while firewood sold for recreational purposes (campfire, bonfire, cookout) *is* taxable.

What is “Processed” Food

Baking:

bread, rolls, pastries, pies, cookies, etc., wholesale or retail
in-store bakery operations, including bake-off operations

Blending:

spices, herbs, seasonings at retail or wholesale

Bottling at Retail or Wholesale:

fresh fruit juices
soft drinks
apple cider

Catering:

off-site service of foods prepared at establishment
(off –site preparation may require local H.D. Permit)

Cooking or Heat Treatment - Retail or Wholesale:

frying or cooking fish
cooking lobster, shrimp
raw pretzels
re-warming pretzels - popcorn
retail popcorn popping
wholesale popcorn popping
chocolate candy molds or forms
melting chocolate, hot chocolate unit
cooking chicken wings, meat products, hot dogs, meat loaf, sausage
eggs

Cooking or Heat Treatment:

lasagna, pasta and sauce, complete dinners, pizza, nachos
and cheese, soups, meat pies, knishes
cappuccino units

Curing or Brining:

retail ham, corned beef briskets, pigs knuckles, feet, tail
wholesale U.S.D.A. processing plant
salted fish

Cutting, slicing, eviscerating or shucking:

cold cuts, ready-to-eat meat
cheeses
bread, rolls, bagels
fish filleting, shellfish shucking, whole fish eviscerating
cut fruit or melon
cut vegetables into ready-to-eat sizes

Dehydrating:

fruit
vegetables
beef jerky
herbs and spices

Freezing:

frozen dessert machine, ice cream, yogurt, slush, ice milk
shaved ice, serving dish or cone hard ice cream
retail ice production and packaging

Grinding:

poultry or meat at retail
grating cheeses
retail coffee grinding, wholesale coffee grinding

Mixing Meat & Grinding with:

seasoning, meat loaf mix, meatball mix, pan sausage or patties

Mixing Salad Items:

tuna fish, macaroni, potato, coleslaw
fruit salad
vegetable salad mix

Packing/Repacking from Bulk at Retail or Wholesale:

exposed candy
cheese curd
salads; tuna, chicken, egg, mixed foods and pasta, etc.
pasta - cooked or dry
dried fruit
dried vegetables
cereals
ready-to-eat sprouts or cut vegetables

acidified foods - vegetables
exposed ready-to-eat foods

Retail Repacking of:

stuffing sausage into casings

Pickling or Marinating:

fish, herrings,
meat, poultry,
vegetables, cabbage,
fruit, olives

Roasting:

beef and meats
coffee
nuts
barbecue chicken, ribs, beef

Smoking:

fish
meat and meat products
cheeses

Meat and Poultry at the Farmer's Market: What a Farmer Needs to Know

The following is a summary of the regulations guiding the sale of meat and poultry at a farmers' market. This is a generalized document which does not include every detail and nuance of the regulations. It's implied in the regulations that the farmer's market is an extension of the farm; to fulfill this legal definition for meat and poultry sales, the farmer must maintain control of his/her product. A farmer cannot be responsible for selling the meat or meat products of another farmer at the market, contract out their sales at a farmers' market nor can they give their product to another vendor to sell on their behalf. This is one reason the farmer or his/her employees must attend the market. The only exception is in the case of meat products that are both slaughtered AND processed under USDA inspection. These products can be sold at a shared stand when the owner of the meat is not present.

Facility Types:

It is helpful to have an initial understanding of the different types of facilities available to producers before discussing what is legal at a farmers' market.

- **USDA:** A facility that is inspected by the USDA. A USDA facility must be used to slaughter all amenable red meat, and poultry over the 20,000-bird limit to sell in commerce (in and out of state), and to sell amenable red meat through wholesale channels.
- **5-A Poultry:** This New York State inspected facility may slaughter and process poultry under the 20,000-bird limit, but above the 1000 bird limit. There are several 5-A exempt facilities including Producer Grower, Producer Grower Other Person, Small Enterprise and Retail Exempt. A plant can operate under only one of these exemptions at a time. In most cases a 5-A plant can only slaughter and process birds owned by the plant itself. However, dual 5-A Producer Grower licenses can be approved on a case by case basis for the same facility. A 5-A plant operating under the Producer Grower or Small Enterprise Exemption can also petition USDA for permission to slaughter other farmers' birds. A 5-A plant operating under a Small Enterprise Exemption can also purchase birds from another farmer, process them, and then sell them back to a distributor who happens to be the same farmer. In this case the label of the 5-A plant needs to be on the poultry with the words "distributed by: *farmers name.*"
- **5-A Exotic:** These New York State inspected facilities may slaughter and process non-amenable (exotic) species such as deer, elk, buffalo, and rabbit; allowing the meat from such animals to be sold in commerce.
- **20-C Processing:** These facilities may process (cut up or add value through smoking, curing, fermenting, or manufacturing) USDA inspected slaughtered amenable red meat or poultry.
- **Custom Exempt:** These facilities may slaughter and process for personal use or freezer trade only. Custom exempt processed meat and poultry cannot be legally sold at retail, either on or off farm. All custom meat is stamped "Not for Sale."

*The **On-Farm 1000 Bird Exemption:** A single farm may process on their own farm less than 1000 birds for direct sale to end-user, household-only consumer. For on farm slaughter only, one turkey is the equivalent of four birds.*

Inspected Product Required

Meat, Poultry and Game for sale at a farmers' market must be slaughtered and processed at an approved source. The sale of custom slaughtered and/or processed cuts of meat at a farmers' market is forbidden. Frozen meat and poultry must be maintained at $\leq 0^{\circ}$ F. Fresh chilled meat or poultry must be maintained at $\leq 40^{\circ}$ F. A farmer must use inspected product (see below as to what constitutes an inspected product) when selling cooked product at his farmers' market stall.

Amenable Meat (cattle, swine, sheep, goat meat, emu, ostrich, rhea)

- All amenable meat sold at farmers' market must be slaughtered under USDA inspection.
- Must be processed (cut up, value added) at a USDA or a NYS 20-C facility. When a 20C facility is used the seller of the meat must hold the 20-C license. Multiple 20-C licenses on the same facility are allowed on a case by case basis.

Non-Amenable Meat (farm raised deer, elk, bison, water buffalo, antelope, rabbit)*

- Must be slaughtered at a USDA or NYS 5-A exotic facility.
 - Must be processed at a USDA or NYS 5-A exotic facility.
 - A 20-C facility can be used to process the meat if slaughtered under USDA inspection. Again, the seller of the meat must hold the 20-C license if the meat was processed at a 20-C facility.
- *ONLY FARM RAISED GAME MAY BE SOLD. HUNTER HARVESTED GAME MAY NOT BE SOLD IN COMMERCE IN ANY MARKET.

Poultry (chicken, duck, turkey, goose, guinea hen, squab)

- May be slaughtered on farm under the "1000 bird exemption" if the farmer sells no more than 1000 birds. (For on farm slaughter 1 turkey = 4 birds). Birds slaughtered under this exemption CAN be cut up AND can be sold fresh or frozen.
- Poultry may be slaughtered at a USDA or a NYS 5-A poultry licensed facility. There are not currently any USDA poultry facilities in New York
- Poultry may be processed (cut up or made into value added products) at a USDA or NYS 5-A poultry facility. Poultry that is slaughtered at a USDA facility may be processed at a 20-C facility but the seller of the meat must hold the 20-C license.

Labeling Required

New York State has adopted the USDA FSIS Mandatory Labeling Requirements. The following items are required on the principal display panel (the main label) for all sales of meat or poultry, or meat and poultry products. Please note that labels on meat that is USDA Slaughtered and Processed must be approved by the USDA-FSIS:

- Product name (example- Beef Chuck Roast, Hot Italian Pork Sausage, Chicken Breasts)
- Inspection legend and establishment number - For USDA inspection this is the round purple stamp if amenable, or the triangular purple stamp if non-amenable. For 5-A the following wording must be on the label or carton, "Processed at a NYSDAM Article 5-A Facility". The 5-A plant number is optional. If it is poultry processed under the 1000 bird exemption, this does not need to be stated.

- Net weight statement- this includes packed on date, sell by date, price per pound, and net weight. Frozen meat does not require a sell-by date. Some products can be sold by the package (like sausage) as opposed to by the pound, but in this case the net weight MUST be on the package.
- Address line- It must include the name or trade name and place of business of the manufacturer, packer or distributor for whom the product is prepared. The address should reflect the business or farm which will deliver the product to the end consumer. In other words, if the manufacturer or packer such as a 20- C or 5-A plant sells directly to the end consumer then the address should be the 20-C manufacturer/packer or 5-A plant. If the farmer is acting as a distributor, then the address should be the farm's address. If a USDA plant is manufacturing/packing for a distributor, the address should be the distributor. The name of the distributor must be preceded by a phrase such as "Prepared for _____", or "Distributed by _____". An additional "Raised by _____" may be added, but cannot replace the distributor line. If the business is listed in a telephone or city directory, the information listed for the place of business must include the city, state and postal zip code. If the business is not listed in a telephone or city directory, the street address must also be included in the address line.
- Handling statement- Packaged products that required special handling to maintain their wholesome condition must have prominently displayed on the principal display panel, the applicable handling statement: "Keep Refrigerated", "Keep Frozen", "Perishable- Keep Refrigerated or Frozen". Additional safe handling instructions are also required.
- Ingredient statement- This is only needed if the product is composed of more than one ingredient, so this is irrelevant for most fresh meat products. However, products like sausage fall into this category. This list of ingredients must show common names of all ingredients in descending order of their predominance.
- Nutrition facts- not required for raw (fresh or frozen) meat, but is required on meat and poultry processed products like sausages. A NY processor employing fewer than 100 employees or producing fewer than 100,000 units are exempt from nutritional labeling. USDA processors with fewer than 500 employees and producing fewer than 100,000 pounds (of one recipe) are exempt from nutritional labeling. HOWEVER, if a farmer makes a nutritional claim in any way, then he must have a nutritional label.

Safe Handling Instructions

Safe handling instructions are required if the meat or poultry component of a product is raw or partially cooked (NOT considered Ready to Eat (RTE)). This additional label is required if the product is destined for household consumer or institutional users. Meat and poultry products intended for further processing at another official establishment are exempt from this requirement. Whole, halved and quartered carcasses are not considered packaged product and do not need a handling statement.

Label Claims

To make nutrient claims about a product such as "lean" or "low-fat", the claim must be verified at the producer's expense, and the producer must have documentation that the product meets the

requirements for the definition. Producers who wish to make the claims “Naturally Raised,” “Grass Fed,” or “Free Range” must contact the Labeling and Review Branch of the USDA to make an animal production claim. Independent auditors will certify the specific claims including “Humanely Raised” or “Certified Organic.” There are no provisions to claim “Antibiotic Free” or “Hormone Free.” “Chemical Free” is expressly prohibited.

Packaging:

All packaging materials in direct contact with food must be safe for their intended use under the Federal Food, Drug and Cosmetic Act (FFDCA). Meat and poultry products may not be packaged in a container which is composed of any substances which may adulterate the contents or be injurious to health. Only FDA approved food grade packaging is allowed. Packaging materials for meat or poultry must be accompanied or covered by a guarantee or statement of assurance from the packaging supplier. The guarantee must state that the material complies with the FFDCA. It must also state the brand name, supplier, and conditions for use, including temperature, and other limits. Farmers who are direct marketing should ask their processors for a copy of this guarantee or assurance statement. FSIS monitors the packaging material used in all meat and poultry plants. The plants must maintain a file containing guarantees for all packaging materials in the plant. This file must be open to FSIS officials at all times. NYSDAM does not routinely inspect or monitor meat and poultry packaging, unless there are consumer complaints or if a blatant violation is noticed on a routine inspection.

Vacuum Packaging

Vacuum packaging reduces the amount of air from a package and hermetically seals the package so that a near-perfect vacuum remains inside. This is also known as modified atmospheric packaging. Only USDA processors and 20-C retail food-stores are licensed to vac-pac. A 20-C plant without a retail food store is considered for variance on a case-by-case basis, but a HACCP plan will most likely be required with the application. 5-A plants may also apply for a variance for vacuum packaging of raw meat (no poultry) with the submission of a HACCP plan. Barrier Films and Meat Trays are acceptable packaging. Freezer paper is also acceptable. Shrink bags, which are not vacuumed are also acceptable.

Storage and Transportation:

Products must be stored at 0 degrees Fahrenheit, if frozen; or 41 degrees Fahrenheit (or colder), if refrigerated. The product must be transported and maintained at these temperatures for market sales. This can be accomplished by either a freezer or an ice chest/cooler. All units holding frozen or refrigerated product should contain a thermometer to monitor the temperature of the product at all times. While a freezer is generally preferred, a heavy-duty ice chest/cooler may also be used provided sufficient ice is available to maintain safe product temperatures. Styrofoam coolers are not approved. If an ice chest is used, the meat must be covered in the ice. Provisions must be made to drain away melted ice from the product. The meat should NEVER be sitting or floating in melted ice water. Additionally, vendors should ensure that juices from one species do not drip onto and contaminate another species. Storing product in dedicated species-specific coolers or freezers can reduce the risk of cross-contamination from one species to another.