



Food and
Nutrition
Service

May 4, 2020

1320 Braddock Place
Alexandria, VA
22314

SUBJECT: Special Supplemental Nutrition Program for Women, Infants and Children (WIC) Farmers' Market Nutrition Program (FMNP) Waiver Authority under the Families First Coronavirus Response Act; and Questions and Answers on Program Flexibilities

TO: Regional Directors
Special Nutrition Programs
All Regions

FMNP State Agency Directors
All Regions

Section 2204(a)(1) of the Families First Coronavirus Response Act (P.L. 116-127) provides WIC Farmers' Market Nutrition Program (FMNP) State agencies, including participating Indian Tribal Organizations and U.S. Territories, the opportunity to request a waiver of WIC regulatory requirements from the U.S. Department of Agriculture (USDA), Food and Nutrition Service (FNS). Such requests may only be granted if the State agency: (1) cannot meet program regulatory requirements due to COVID-19, and (2) the waiver is necessary to provide assistance to participants. This waiver authority solely applies to requirements in FMNP regulations at 7 CFR Part 248, not requirements contained in Section 17(m) of the Child Nutrition Act of 1966 (CNA, P.L. 89-642). If a provision is contained in the CNA, FNS cannot waive the requirement.

Many program flexibilities exist which do not require a regulatory waiver. Attachment A lists questions that FNS has received from FMNP State agencies with corresponding answers. These answers highlight existing program flexibilities, and where waiver authority exists. For programmatic changes which do not require a waiver, the State agency must submit a State Plan amendment for approval by the appropriate FNS Regional Office. See 7 CFR 248.4(b).

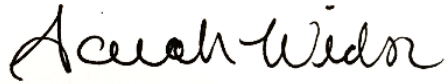
Before submitting a waiver request or State Plan amendment pursuant to 7 CFR 248.4, FMNP State agencies should consult with the questions and answers in Attachment A, State and local public health and safety laws, and legal counsel.

USDA FNS has the authority to provide waivers through September 30, 2020. State agency reporting requirements apply. An FMNP State agency may submit waiver requests to the FNS Regional Office for review, using Attachment B as a guide.

Pursuant to the Congressional Review Act (5 U.S.C. §801 et seq.), the Office of Information and Regulatory Affairs designated this guidance as not major, as defined by 5 U.S.C. § 804(2).

The Food and Nutrition Service is responding rapidly to the COVID19 pandemic with multiple waivers and flexibilities in its programs. The Families First Coronavirus Response Act requires the Food and Nutrition Service to collect specific data elements from States. The CARES Act provides funding, for which FNS will collect information in order to distribute funding. Please prepare the necessary data elements to collect and submit this data as described in this document. The public will be given the opportunity to comment on this data collection, including legislatively-mandated data collection through a future information collection process being submitted to the Office of Management and Budget.

If you have further questions, please refer them to the appropriate FNS Regional Office.



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 Director
 Supplemental Food Programs Division

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| Disclaimer: | The contents of this guidance document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. |
| Body of guidance document follows. | |

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