

# Farmers Market LEGAL TOOLKIT



## Implement SNAP/EBT

### What is SNAP?

“SNAP” stands for Supplemental Nutrition Assistance Program, formerly called “food stamps.” The purpose of this program is to supplement the income of low-income families and individuals so they can better afford nutritious food.

The United States Department of Agriculture’s Food and Nutrition Service (FNS) manages this program in collaboration with state agencies. The federal government funds the program and sets eligibility requirements. State agencies administer the program.

**SNAP:** Supplemental Nutrition Assistance Program

**USDA:** United States Department of Agriculture

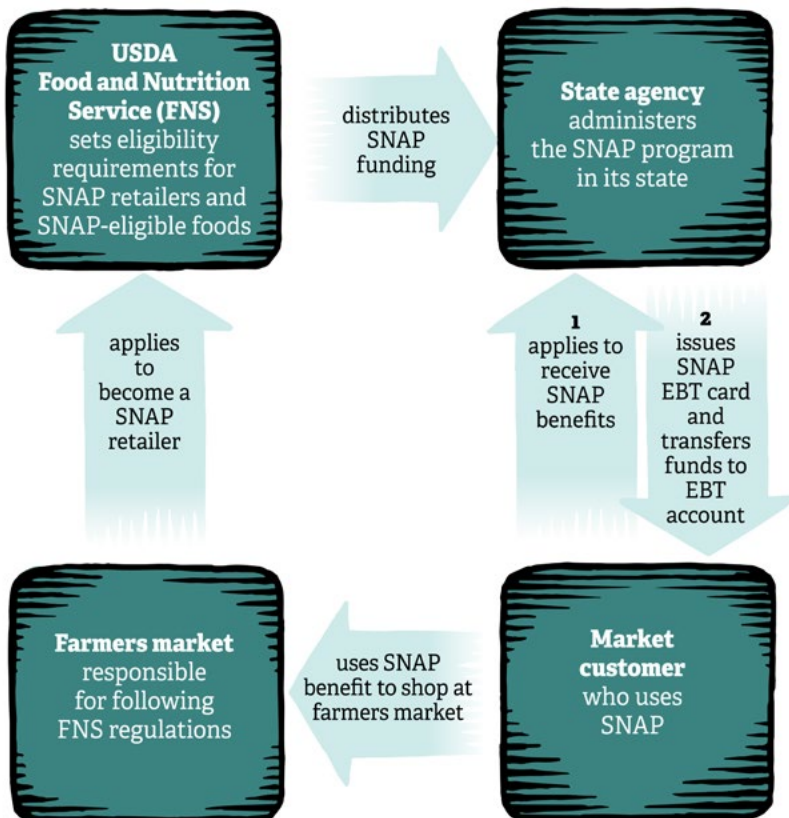
**FNS:** Food and Nutrition Service

**POS:** Point-of-sale

**EBT:** Electronic Benefit Transfer

**Scrip:** A form of market currency

### How SNAP Works



### What is EBT?

“EBT” stands for electronic benefit transfer. This is the state agency’s method of distributing SNAP benefits to families and individuals. Each recipient has an EBT card that looks like a credit or debit card and works in a similar way.

Each month, individuals or households that participate in SNAP receive a deposit of SNAP benefit dollars into their SNAP account. This account is linked to their EBT card, which they can then use like a debit card to spend on SNAP-eligible food items at SNAP-authorized retailers.

## Who administers SNAP—markets or vendors?

Farmers markets interested in accepting SNAP benefits must decide who should become a SNAP-authorized retailer and administer the point-of-sale (POS) device that accepts SNAP EBT payments. This can be the market as a whole, individual vendors, or both.

### Market Operated

Currently, the most common way that farmers markets accept SNAP benefits is through a market-operated system. This means the farmers market applies to become a SNAP-authorized retailer, rather than vendors. Once approved, the market purchases or rents a POS device to be operated at a central location which accepts SNAP EBT on behalf of all its vendors.

### Vendor Operated

Another option is for the market to encourage vendors to apply individually to become SNAP-authorized retailers. In this system, a vendor elects to purchase or rent their own POS device and use it to accept SNAP benefits at their individual booth.

<p><b>Centralized POS Device</b></p> <ul style="list-style-type: none"> <li>• Device is operated on behalf of all vendors</li> <li>• Market pays all relevant equipment costs and fees</li> <li>• Vendors may contribute to these costs through vendor fees</li> <li>• Free SNAP EBT POS equipment may be available in your state</li> </ul>	<p><b>Separate POS Device</b></p> <ul style="list-style-type: none"> <li>• Vendors operate their own POS device and cover all relevant equipment costs and fees</li> <li>• Free SNAP EBT POS equipment may be available in your state</li> </ul>
<p><b>Market Currency/Receipt System Required</b></p> <ul style="list-style-type: none"> <li>• A market currency (scrip) or receipt system is used to facilitate SNAP transactions in a centralized, market-operated system</li> <li>• Customers receive market currency or a receipt to purchase items from vendors</li> </ul>	<p><b>No Scrip</b></p> <ul style="list-style-type: none"> <li>• In a vendor-operated system customers make payments directly to the vendor and no scrip is required</li> </ul>
<p><b>Delayed Reimbursement</b></p> <ul style="list-style-type: none"> <li>• The market sets up a schedule to reimburse vendors for their SNAP sales. Vendors may wait a week or more for the market to reimburse them</li> </ul>	<p><b>Immediate Payment</b></p> <ul style="list-style-type: none"> <li>• Payments are made directly to the vendor, so there is no need for reimbursement</li> </ul>

## Market Currency Systems

Market-operated SNAP systems that use a centralized POS device often use some form of market currency to facilitate transactions. This currency is also called “scrip.” This can be in the form of wooden or plastic tokens, paper currency, or even electronic tokens.

### Tokens & Paper Scrip

1. A CUSTOMER VISITS THE MARKET'S CENTRALIZED SNAP POS DEVICE AND INFORMS THE OPERATOR HOW MANY SNAP DOLLARS THEY WOULD LIKE TO SPEND AT THE MARKET.

2. THE POS DEVICE OPERATOR PROCESSES THE CUSTOMER'S SNAP EBT CARD AND CHARGES THE REQUESTED AMOUNT, THEN PROVIDES THE CUSTOMER WITH TOKENS OF EQUIVALENT VALUE AND A PAPER RECEIPT.

3. THE CUSTOMER SHOPS AT THE MARKET, PURCHASING SNAP-ELIGIBLE PRODUCTS FROM VENDORS USING THE TOKENS.

*SNAP Tokens and paper scrip must be visually distinct from legal tender and from any other kind of currency used by the market (e.g., scrip used as market gift certificates) and must be non-replicable.*

# Am I Eligible to Accept SNAP Benefits?

- 1 To be eligible, you must meet the definition of a *farmers market* or a *direct marketing farmer*

## Farmers Markets Definition

The USDA FNS defines a “farmers market” as “two or more farmer-producers that sell their own agricultural products directly to the general public at a fixed location [meaning one location].”

## Direct Marketing Farmers Definition

The USDA defines “direct marketing farmers” as “farmer-producers that sell their own agricultural products directly to the general public.”

The agricultural products described in both definitions include fruits and vegetables, meat, fish, poultry, dairy products, and grain.”

- 2 You must meet one of the two food stocking rules below: the 50% Rule or the Staple Food Groups Rule

### Rule 1: 50% Rule

- ▶ More than 50% of the total dollar amount of your gross retail sales must come from the sale of eligible staple foods

#### Farmers Markets:

50% is taken from the total gross retail sales from all your vendors

#### Direct Marketing Farmers:

50% of the total dollar amount of your own total gross retail sales.

### Rule 2: Staple Food Groups Rule

- ▶ You must continually sell at least seven (7) varieties of foods within each of the four “staple food groups” which includes perishable foods in at least three (3) of these categories:
  1. Meat, poultry, or fish
  2. Bread or cereal
  3. Vegetables or fruits
  4. Dairy products
- ▶ “Continually” means the food is offered for sale and normally on display in a public area on any given day.
- ▶ “Variety of foods” means different types of foods.

## How Do I Apply?

- 1 Select a “responsible official”

- ▶ This person, along with the market, is liable for the market’s compliance with SNAP rules and regulations

- 2 Gather the relevant information and documents

- 3 Complete the online application

- ▶ Register for a USDA “eAuthentication” account
- ▶ Create, complete, and submit an online application

- 4 Once your application is complete

- ▶ A decision will be made within 45 days of your application being received
- ▶ FNS may require that the market be visited by an FNS employee to confirm eligibility
- ▶ If you are approved you will receive a SNAP license
- ▶ You may not accept SNAP benefits until you receive this license



# What's Next Once I'm Authorized to Administer SNAP?

As a SNAP-authorized retailer, you have certain ongoing compliance obligations related to equipment, selling SNAP-eligible foods, and training.

## 1 Equipment

*Farmers markets and direct marketing farmers are both eligible to apply to the Food and Nutrition Service (FNS) for authorization to accept SNAP benefits.*

### Obtaining a POS device

There are typically fees for equipment purchase or rental and for setup. Some markets may be eligible for free or reduced-cost equipment.

### Using a POS device

- ▶ A transaction fee is charged for every transaction through electronic transfers. Vendors may not charge any additional fee to SNAP customers to pay for POS device fees.
- ▶ If your market operates at multiple locations during the same season, you likely need more than one POS device.
- ▶ You may choose an EBT-only POS device or a POS device that accepts SNAP EBT, credit cards, and debit cards.
- ▶ You must provide a transaction receipt to SNAP customers, which usually must be a paper receipt.

## 2 Foods

### SNAP-eligible foods:

- Fruits and vegetables
- Breads and cereals
- Meats, fish, and poultry
- Dairy products
- Seeds and plants that produce food

### Ineligible items:

- Alcoholic beverages
- Tobacco
- Hot food or food products prepared for immediate consumption (with limited exceptions)
- Vitamins or medicines
- Other non-food items

Selling ineligible items to someone paying with SNAP benefits can open the vendor or the market to penalties ranging from monetary fees to disqualification from participating in SNAP to criminal sanctions.

## 3 Training

### Requirements

- ▶ There is no direct requirement for retailers like farmers markets and direct marketing farmers to train their personnel regarding SNAP rules. However, FNS expects that farmers markets ensure their personnel are trained, because when farmers markets apply for SNAP authorization, they are required to certify that they understand their “responsibility to ensure that training be completed for all of the owners and employees working in their store.”

### Liability

- ▶ In market-operated SNAP systems, the farmers market can be penalized for violations by vendors, like selling ineligible items to customers who are paying with SNAP benefits. It is therefore in the farmers market's best interest to train their vendors well.
- ▶ Having a training program in place can reduce penalties. If a violation is found, a showing that the retailer had policies in place to prevent SNAP violation allows the retailer to request a monetary penalty as opposed to being disqualified from accepting SNAP benefits.

Find more legal resources for farmers markets at [farmersmarketlegaltoolkit.org](http://farmersmarketlegaltoolkit.org)

