

A Farmers' Market Guide: Avoiding Penalties Under the Supplemental Nutrition Assistance Program (SNAP)

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The federal Supplemental Nutrition Assistance Program (SNAP), formerly known as the Food Stamp Program, serves over 36 million people -- up 7 million from a year earlier largely due to the economy.

Higher participation in Southwest Virginia is no exception. Recently published data from the New York Times involving statistics from June 2009 estimate that 12 percent of Washington County residents receive SNAP benefits, up 27 percentage points from 2007. Other areas of Southwest Virginia saw increases in participation of up to 54%.

Along with this substantial increase in individual participation comes increased risk for Farmers' Markets accepting SNAP benefits. With more SNAP transactions occurring every day, Farmers' Markets must conduct business with an increased awareness of the regulations governing this valuable program.

Under SNAP regulations, Farmers' Markets are classified as Retail Food Stores. Accordingly, Farmers' Markets, may be held accountable for SNAP violations committed by their personnel or farmers. Here are some ways Farmers' Markets can protect themselves:

Don't engage in trafficking. Traffick-

ing is the buying or selling of SNAP benefits for anything other than eligible food. Farmers' Markets may face permanent disqualification from the program, may be subject to civil or criminal liability, and may be investigated by other governmental agencies.

Develop and implement an effective compliance policy and personnel training program. This is a useful preventative measure Farmers' Markets can take to avoid violations under SNAP. An effective compliance policy and training program in effect at the time of a violation is required when requesting a civil monetary penalty in lieu of permanent disqualification.

Don't accept SNAP benefits for payment of items sold on credit. SNAP regulations prohibit Farmers' Markets from accepting SNAP benefits for items sold on credit. The penalty for establishing such credit arrangements with SNAP customers is disqualification from the program for one year.

Separate eligible and ineligible food. Under SNAP regulations, Farmers' Markets may only accept SNAP benefits in exchange for eligible food items. Eligible food is defined broadly as any food intended for human consumption, with the exception of alcoholic beverages, tobacco and hot food prepared for imme-

diate consumption. Penalties for accepting SNAP benefits in exchange for ineligible food items range from a warning letter to permanent disqualification and a claim, depending on the violation. However, penalties for accepting SNAP benefits in exchange for cigarettes, tobacco, alcohol or expensive non-food items may result in a three- to five-year disqualification and a possible claim.

Comply with eligibility determination factors. SNAP regulations establish that staple foods are those items intended for home preparation and consumption in the following categories: meat, poultry or fish; bread or cereals; vegetables or fruits; and dairy products. Farmers' Markets must either offer for sale, on a continuous basis, a variety of qualifying foods, including perishable foods in at least two of the four staple food categories, or have more than 50 percent of the total gross retail sales of the store in staple foods. The U.S. Department of Agriculture may withdraw a Farmers' Market's authorization for failure to comply.

Do not redeem SNAP Benefits in excess of food sales. A Farmers' Market whose SNAP benefit redemptions exceed its food sales for a given period of time may be disqualified from the program for three to five years.

Submit only truthful information to the USDA. The maximum penalty under SNAP regulations for knowingly submitting false information to the USDA is permanent disqualification. In addition, failing to provide truthful information may constitute lying to the United States government, the penalty for which may be a fine and imprisonment.

Treat SNAP customers the same as other customers. Farmers' Markets must accept SNAP benefits for eligible foods at the same prices, terms and conditions applicable to cash purchases of the same food at the same Farmers' Market. However, eligible food purchased with SNAP benefits is tax exempt. Farmers' Markets may not single out coupon users for special treatment in any way. The USDA may withdraw a Farmers' Market's authorization for failure to comply.

Don't accept SNAP benefits from unauthorized individuals. Farmers' Markets may not knowingly

accept SNAP benefits from individuals who have no right to their possession. If a Farmers' Market is suspicious, the Farmers' Market should request identification. Farmers' Markets that knowingly accept SNAP benefits from unauthorized users are subject to disqualification for five years.

Don't accept SNAP benefits unless authorized by the USDA. Farmers' Markets may not accept SNAP benefits if not authorized, nor may Farmers' Markets accept SNAP benefits after the effective date of a Farmers' Market's disqualification. If found in violation, Farmers' Markets may be fined \$1,000 for each violation plus an amount equal to three times the face value of the illegally accepted SNAP benefits.

Woods Rogers can help your Farmers' Market avoid penalties under the SNAP by creating an effective compliance policy, developing a personnel and/or farmers training program, or responding to USDA charges. If you have any questions concerning the SNAP regulations or how Woods Rogers can help your business come into compliance, please contact Paul Thomson at (540) 983-7742 or Nicholas Albu at (540) 983-7735.



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