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Environmental Advocacy

Food With Benefits:

Increasing the Accessibility of Farmers Markets to SNAP Recipients

1. Introduction

In his July 2011 Proclamation of “National Farmers Market Week,” Secretary of Agriculture Tom Vilsack acknowledged that farmers markets provide agricultural producers with important marketing opportunities, promote child health by improving access to fresh fruits and vegetables, contribute to the development of local food systems, and help sustain family farms.¹ Despite such praise from the U.S. Department of Agriculture (“USDA”) and other federal entities, federal agriculture and nutrition policies fail to provide the type of substantial, sustained support that would maximize the benefits of farmers markets across all segments of society.

As the number of Americans who depend on the Supplemental Nutrition Assistance Program (“SNAP”) continues to rise, it is important that farmers markets are readily accessible to benefit recipients. Failure to vigorously support such accessibility not only bars an increasingly large segment of the population from the nutritional benefits of the fresh, local food that farmers markets provide, but also reduces the potential for markets to have positive environmental and economic effects. Despite some federal support for increasing both the number of farmers markets and the number of markets that accept SNAP benefits, these programs receive a very small amount of funding in comparison to federal subsidies that promote industrial agriculture and increase the accessibility of highly processed, nutrient poor foods. As

¹ Thomas A. Vilsack, *National Farmers Market Week*, <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5092189> (last visited Dec. 12, 2011).

the Farmers Market Coalition noted in “Real Food, Real Choice,” much more can be done to “connect nutrition policy with agricultural policy.”²

II. Benefits of Farmers Markets

The USDA defines a farmers market as a “multi-stall market at which farmer-producers sell agricultural products directly to the general public at a central or fixed location, particularly fresh fruit and vegetables (but also meat products, dairy products, and/or grains).”³ Along with other types of direct farm-to-consumer marketing, farmers markets are an important part of local food systems, and benefit the environment, the economy, and public health.

A. Farmers Markets Benefit the Environment By Providing an Alternative to Industrialized Agricultural Practices

American’s industrialized agricultural practices are environmentally destructive, focusing on few crop varieties, separation of crops and livestock, and chemical inputs in the form of fertilizers, pesticides, and herbicides.⁴ Industrialized agriculture also contributes significantly to greenhouse gas emissions, and consumes a great deal of energy in producing, processing, packaging, and transporting food.⁵

The industrialization of agriculture has encouraged the development of monocultures, in which farmers grow only one or two commodity crops.⁶ Monocultures create instability in the

² Suzanne Briggs et al., *Real Food, Real Choice: Connecting SNAP Recipients with Farmers Markets* (Jun. 2010) http://farmersmarketcoalition.org/wp-content/uploads/2010/07/EBT-SNAP_Final_Web.pdf.

³ *What is a Farmers Market?*, Food and Nutrition Service, Supplemental Nutrition Assistance Program (Nov. 30, 2011) http://www.fns.usda.gov/snap/ebt/fm-scrip-what_is_fm.htm.

⁴ Jodi Soyars Windham, *Putting Your Money Where Your Mouth Is: Perverse Food Subsidies, Social Responsibility & America’s 2007 Farm Bill*, 31 ENVIRONS ENVTL. L. & POL’Y J., 5, 21 (2007); Mary Jane Angelo et al., *Small, Slow, and Local: Essays on Building a More Sustainable and Local Food System* 12 VT. J. ENVTL. L., 353, 368 (2011); *Industrial Agriculture: Features and Policy*, Union of Concerned Scientists (May 17, 2007) http://www.ucsusa.org/food_and_agriculture/science_and_impacts/impacts_industrial_agriculture/industrial-agriculture-features.html#Monoculture.

⁵ William S. Eubanks II, *A Rotten System: Subsidizing Environmental Degradation and Poor Public Health with Our Nation’s Tax Dollars*, 28 STAN. ENVTL. L. J., 213, 266 (Jun. 2009).

⁶ Windham, *supra* note 2, at 21; Angelo, *supra* note 2, at 368; Union of Concerned Scientists, *supra* note 2.

ecosystem because they are vulnerable to pests, disease, and environmental change.⁷

Monoculture farms also require increased use of fertilizers because single-crop plantings quickly deplete nutrients in the soil.⁸ Although farmers once made use of cow manure to fertilize soil, specialized crop farmers now use chemical fertilizers, which leach into streams and rivers.⁹ Livestock operations are similarly specialized.¹⁰ Separation of crop farming and livestock is harmful, not only because it makes it more likely that crop farmers will use chemical fertilizers, but also because the high concentration of manure in feedlots and confinements can become toxic and can leach into streams and rivers.¹¹

In addition to requiring intensive application of fertilizer, industrialized agriculture also relies upon the application of pesticides and herbicides. According to the Environmental Protection Agency, 857 million pounds of conventional pesticides (such as herbicides, insecticides, fungicides) were used in the United States in 2007, with the agricultural sector accounting for 70% of the total use.¹² Pesticides can kill birds and other wildlife, and, like fertilizers and manure, can contaminate water by leaching into streams and rivers.¹³

Industrialized agriculture requires an enormous amount of energy. From nitrogen synthesis for fertilizers to transportation of products to market, fossil fuels are used heavily at every stage of industrial agricultural production; 20% of fossil fuel consumption in the United States results from growing, processing, and distributing food.¹⁴ Fossil fuel emissions contribute

⁷ Angelo, *supra* note 4, at 368.

⁸ Windham, *supra* note 4, at 21.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² Arthur Grube, et al., *Pesticide Industry Sales and Usage: 2006 and 2007 Market Estimates*, U.S. ENVTL. PROT. AGENCY, 12 (Feb. 2011) http://www.epa.gov/opp00001/pestsales/07pestsales/market_estimates2007.pdf.

¹³ Eubanks, *supra* note 5, at 259.

¹⁴ Eubanks, *supra* note 5, at 270.

to poor air quality and global climate change.¹⁵ Mechanized farming using tractors, planters, and combine harvesters is heavily dependent on fossil fuels.¹⁶ Transportation of food in the United States is done primarily by truck, which is extremely energy intensive.¹⁷ Both the volume of food shipped and the average shipping distance for food items continue to increase.¹⁸ Processing of food also requires energy; the USDA reports that more energy is used in the processing and packaging of food than in growing it.¹⁹

Current agriculture policy encourages these environmentally destructive practices through farm subsidies that support monoculture. In the 2008 Farm Bill, 84% of the \$20 billion in agriculture subsidies went to just five commodity crops: corn, rice, wheat, cotton, and soybeans.²⁰ Under these policies, farmers have significant incentives to turn to monoculture (and the environmentally destructive production methods associated with monoculture), because they receive monetary support.²¹

Farmers markets are beneficial because they encourage less environmentally destructive methods of farming. They encourage crop diversification and other environmentally sustainable production practices, as well as reduce energy needed for transporting and processing food.²² Farmers who market their products directly to consumers need to have a variety of appealing, readily consumable items to offer for sale.²³ As a result, farmers who sell products at markets have an incentive to plant a wide variety of fruits and vegetables. Farmers markets also

¹⁵ Eubanks, *supra* note 5, at 268.

¹⁶ *Id.*

¹⁷ Patrick Canning et al., *Energy Use in the US Food System*, United States Department of Agriculture, 19 (Mar. 2010) <http://www.ers.usda.gov/Publications/err94/err94.pdf>.

¹⁸ *Id.*

¹⁹ Canning, *supra* note 17, at 20.

²⁰ Eubanks, *supra* note 5, at 299.

²¹ Windham, *supra* note 4, at 5.

²² Jeffrey K. O'Hara, MARKET FORCES: CREATING JOBS THROUGH PUBLIC INVESTMENT IN LOCAL AND REGIONAL FOOD SYSTEMS 8 (Union of Concerned Scientists, Aug. 2011).

²³ *Id.*

encourage genetic diversity within crop species as consumers become interested in “heirloom” varieties.²⁴ Such diversity is environmentally beneficial. Diverse crop cultures promote ecosystem stability and sustainability because they are less vulnerable to disease and pests than monocultures.²⁵ Diverse crop cultures can also reduce the need for chemical fertilizers, because they can be readily rotated to avoid depleting soil.²⁶

Farmers who sell directly to consumers at farmers markets are more likely to farm organically and utilize other environmentally sustainable methods of farming.²⁷ Organic farming counters the environmentally destructive methods of industrialized agriculture by eliminating the use of chemical fertilizers and pesticides for crops and conserving soil and water.²⁸ Local markets are an important outlet for organic produce.²⁹ According to the USDA, organic farms that market directly to consumers sell more than organic farms that market to wholesalers. At farmers markets, organic farmers earn 75% more than nonorganic farmers.³⁰ Thus, organic farmers have an incentive to sell products at farmers markets, and farmers who sell at the markets have an incentive to adopt organic methods. Supporting farmers markets, in contrast to supporting industrialized agriculture through subsidies, promotes environmentally beneficial farming methods.

Some studies suggest that local food markets are more energy efficient than conventional markets.³¹ Researchers disagree about whether the energy saved in the decreased distance to market is significant, because travel accounts for a relatively small percentage of total energy use

²⁴ *Industrial Agriculture: Features and Policy*, supra note 4.

²⁵ Angelo, supra note 4, at 368.

²⁶ *Id.*

²⁷ O'Hara, supra note 22, at 9.

²⁸ Mary V. Gold. *What is organic production?*, U.S. Dep't of Agric. Alternative Farming Systems Information Center (Jun. 2007) <http://www.nal.usda.gov/afsic/pubs/ofp/ofp.shtml>.

²⁹ O'Hara, supra note 22, at 9.

³⁰ Steve Martinez et al, *Local Food Systems: Concepts, Impacts, and Issues*, U.S. Dep't of Agric., 22 (May 2010) <http://www.ers.usda.gov/Publications/ERR97/ERR97.pdf>.

³¹ Martinez, supra note 29, at 49.

in the life of a food product.³² Other factors aside from transportation, such as whether food sold at farmers markets is more likely to have been farmed with less energy-intensive methods, or whether food sold at farmers markets minimize energy needed for processing and packaging, play a significant role in total energy use, and are difficult to account for in a generalized model of energy use.³³

B. Farmers Markets Stimulate Local Economies

In addition to environmental benefits, farmers markets have a number of economic benefits.³⁴ Farmers markets benefit farmers, because farmers are able to keep more of their revenue when they can sell directly to the consumer. In fact, farmers who sell their goods at farmers markets net up to seven times more than farmers who sell to wholesalers.³⁵ When compared to “commodity crops,” farmers make significantly more from vegetables and fruits. For every dollar a consumer spends on a corn-based product in the supermarket, the farmer makes \$.04, whereas for every dollar a consumer spends on vegetables and fruits, the farmer receives \$.40.³⁶ This increased profit is particularly important because farmers who engage in direct marketing tend to be smaller in terms of both revenue and acreage. Almost 30% of direct marketing agricultural sales were made by farms of less than 50 acres, and 96% of direct marketing farms had less than \$250,000 in annual sales.³⁷

Farmers markets also benefit local economies, particularly by creating jobs. In West Virginia, 34 farmers markets led to a gross increase of 119 jobs.³⁸ In Oklahoma, 21 farmers

³² *Id.*

³³ O'Hara, *supra* note 22, at 26.

³⁴ O'Hara, *supra* note 22, at 16-22.

³⁵ Robert P. King et al, *Comparing the Structure, Size, and Performance of Local and Mainstream Food Supply Chains*, USDA ERR 99, (June 2010) <http://www.ers.usda.gov/Publications/ERR99/ERR99.pdf>.

³⁶ Eubanks, *supra* note 5, at 304.

³⁷ O'hara, *supra* note 22, at 7-8.

³⁸ O'hara, *supra* note 22, at 22.

markets led to an increase of 113 jobs.³⁹ In Iowa, 152 farmers markets led to 576 jobs.⁴⁰

Depending on local planning, farmers markets stimulate local economic activity, be increasing traffic to other area businesses.⁴¹

On a larger scale, farmers markets, as part of local food systems, could mitigate for some of the costly effects of industrialized agriculture. In 2004, the annual cost of environmental and health “externalities” from agricultural production were estimated to be \$5.7 billion and \$16.9 billion, respectively.⁴² Although the number of farmers markets is not currently large enough to offset such enormous costs, local food systems have the potential to provide consumers with alternatives that do not lead to such broad social costs.

C. Farmers Markets Provide Health Benefits By Increasing Access to Fresh Fruits and Vegetables

In proclaiming National Farmers Market Week, Secretary Vilsack emphasized the health benefits of improving access to fresh fruits and vegetables.⁴³ The USDA recommends that adults eat two cups of fruit and two and one-half cups of vegetables daily as a part of a 2,000 calorie diet.⁴⁴ In spite of these recommendations, nutrient-poor and calorie-heavy foods are appealing to consumers because of their low cost. Corn and soy based foods, which are heavily subsidized, cost one-fifth the amount per calorie of other vegetables.⁴⁵ High fructose corn syrup, which is produced from the most highly subsidized crop, actually decreased in cost between 1985 and 2000, while the price of unsubsidized fruits and vegetables rose 40 percent in that same period.⁴⁶ Clearly, the dual policies of promoting fruit and vegetable consumption and heavily subsidizing

³⁹ O’Hara, *supra* note 22, at 22.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² O’Hara, *supra* note 22, at 14.

⁴³ Vilsack, *supra* note 1.

⁴⁴ *Dietary Guidelines for Americans 2005*, U.S. Dep’t of Agric. (May 1, 2008) <http://www.health.gov/dietaryguidelines/dga2005/recommendations.htm>.

⁴⁵ Eubanks, *supra* note 5, at 307.

⁴⁶ *Id.* at 287.

commodity crops from which unhealthy products are made represent a contradiction in US public policy.

These health concerns only increase when low-income populations are considered. Many low-income populations are located in “food deserts,” which are areas that lack access to supermarkets, grocery stores, or other food retailers that offer fresh fruits and vegetables, as well as other food products essential for health.⁴⁷ Although the health of people who are eligible for SNAP benefits improves when they receive them, research suggests that benefit recipients are less healthy in general than those who do not receive benefits.⁴⁸

Increased access to farmers markets in food deserts and other low-income areas could encourage more healthful eating habits and lead to better health outcomes. Studies have demonstrated that simply increasing the amount of fruits and vegetables offered for sale in low-income areas led to increased fruit and vegetable consumption among shoppers.⁴⁹

III. Accessibility of Farmers Markets to SNAP Recipients

The number of farmers markets has increased dramatically since the mid-1990’s.⁵⁰ In 1994, when the USDA began publishing the National Directory of Farmers Markets, 1,755 markets were listed.⁵¹ By 2011, the number had increased to 7,175.⁵² Not only is this more than a 400 percent increase from the number of markets operating in 1994, it is also a 17 percent increase from the previous year. Even as the number of markets, and the federal support for

⁴⁷ ECON. RESEARCH SERV., ACCESS TO AFFORDABLE AND NUTRITIOUS FOOD – MEASURING AND UNDERSTANDING FOOD DESERTS AND THEIR CONSEQUENCES: REPORT TO CONGRESS 1 (Jun. 2009) <http://www.ers.usda.gov/Publications/AP/AP036/>.

⁴⁸ Curbing Childhood Obesity: Searching for Comprehensive Solutions.

⁴⁹ ECON. RESEARCH SERV., *supra* note 47, at 53.

⁵⁰ *Farmers Market Growth: 1994-2011*, U.S. Dep’t of Agric. (Aug. 8, 2011) <http://www.ams.usda.gov/AMSV1.0/ams.fetchTemplateData.do?template=TemplateS&leftNav=WholesaleandFarmersMarkets&page=WFMFarmersMarketGrowth&description=Farmers%20Market%20Growth&acct=frmrdirnkt>.

⁵¹ Id.

⁵² Id.

them, increases, they are not readily accessible to all segments of the population, particularly the poor.

A. An Increasing Number of Americans Rely Upon SNAP Benefits for their Nutritional Needs

SNAP benefits provide individuals and families that meet income guidelines with electronic benefit transfer (“EBT”) cards which can be used for purchasing groceries.⁵³ Benefits can be used to purchase food and plants that produce food.⁵⁴ Eligibility for SNAP benefits is determined by a combination of factors, including resources and income.⁵⁵ Recipients purchase food by swiping EBT cards through a Point of Sale (“POS”) machine at a participating retailer.⁵⁶

According to the Food Research and Action Center, in September 2011, 60.4 million Americans, or nearly 20 percent of our population, were eligible for most federal nutrition programs.⁵⁷ As of August, 45.8 million were receiving SNAP benefits. This number is an increase of 3.4 million over the previous year.⁵⁸

B. A Small, but Growing, Number of Markets Accept SNAP Benefits

Of the 6,132 farmers markets registered with the USDA in 2010, 1,611, or 26 percent, were authorized to accept SNAP benefits.⁵⁹ Although this means that nearly three-quarters of

⁵³ Christina Fox, *Teach a Man: Proactively Battling Food Insecurity By Increasing Access to Local Foods*, 4 J. FOOD L. & POL'Y 243, 249 (2009).

⁵⁴ *Eligible Food Items*, Supplemental Nutrition Assistance Program (Dec. 6, 2011) <http://www.fns.usda.gov/snap/retailers/eligible.htm>.

⁵⁵ *Eligibility*, Supplemental Nutrition Assistance Program (Nov. 30, 2011) http://www.fns.usda.gov/snap/applicant_recipients/eligibility.htm.

⁵⁶ *A Short History of Snap*, Supplemental Nutrition Assistance Program (Nov. 30, 2011) <http://www.fns.usda.gov/snap/rules/Legislation/about.htm>.

⁵⁷ *Poverty Data*, Food Research and Action Center, <http://frac.org/reports-and-resources/2008-poverty-statistics/> (last visited Dec. 12, 2011).

⁵⁸ *Nearly 46.3 Million Americans Received SNAP/ Food Stamps in September 2011*, Food Research and Action Center, <http://frac.org/reports-and-resources/snapfood-stamp-monthly-participation-data/> (last visited Dec. 12, 2011).

⁵⁹ *We Welcome SNAP: Putting Healthy Food Within Reach: Benefit Redemption Division 2010 Annual Report*, Supplemental Nutrition Assistance Program (2010) <http://www.fns.usda.gov/snap/retailers/pdfs/2010-annual-report.pdf>

farmers markets do not accept SNAP, the number of markets that do has increased each year.⁶⁰ In 2004, for example, only 289, or 7.8 percent, of farmers markets accepted SNAP benefits.⁶¹ The USDA reports that the past 5 fiscal years have seen a 263 percent increase in the number of authorized farmers markets.⁶² In 2010, a total of \$7,547,028 of SNAP benefits were redeemed at authorized markets.⁶³ This sum, however impressive it seems at first, is only .012 percent of total SNAP redemptions for the year.⁶⁴

C. Practical Obstacles to Accessibility

The benefits of ensuring that SNAP recipients have access to farmers markets work two ways. First, SNAP customers would realize health benefits from the increased availability of fresh, nutritious foods. Second, 100 percent of money spent at farmers markets goes directly to local farmers, providing an economic boost. The increased demand for local produce could also provide an incentive for farmers to grow diverse food products in an environmentally sustainable way. Despite these benefits, there are some practical obstacles to making farmers markets accessible to SNAP recipients. Markets can encounter difficulties with accepting benefits, and there are also challenges associated with attracting SNAP recipients to farmers markets once they are able to accept benefits.

1. Accepting SNAP Benefits Presents Challenges to Farmers Markets

There are initial costs associated with becoming registered to accept SNAP.⁶⁵ POS machines are necessary to swipe EBT cards. EBT-only machines are provided for free by the

⁶⁰ *Id.*

⁶¹ Briggs, *supra* note 2, at 2.

⁶² *We Welcome Snap*, *supra* note 53.

⁶³ *Id.*

⁶⁴ Drew Love, *Farmers Market SNAP Sales Soar in 2010*, Farmers Market Coalition (Apr. 19, 2011), <http://farmersmarketcoalition.org/snap-sales-soar-2010>

⁶⁵ *Supplemental Nutrition Assistance Program (SNAP) at Farmers Markets: A How To Handbook*, U.S. AGRIC. MKTG. SERV. & U.S. FOOD & NUTRITION SERV., 1 (Jun. 2010), <http://www.ams.usda.gov/AMsv1.0/getfile?dDocName=STELPRDC5085298>.

Food and Nutrition Service.⁶⁶ These free machines require electricity and a phone line.⁶⁷ Many farmers markets sites do not have electrical outlets and phone line connections available, so it is impossible for those markets to use the free EBT machines.⁶⁸ As an alternative to the free machines, markets can purchase wireless POS terminals that also accept credit and debit cards; however, these machines can cost nearly \$1,000.⁶⁹ Although the financial benefits of attracting customers who use credit and debit cards can offset some of the expense, the USDA cautions that it may take years for increased revenue from SNAP redemptions to justify initial costs.⁷⁰

In addition to initial costs, there are continuing costs associated with accepting SNAP benefits, particularly if the market must provide its own wireless POS terminal. Markets bear the costs of monthly wireless service, transaction fees, and additional accounting expenses.⁷¹

Markets can apply for grants to assist with these initial costs, but, as will be discussed in depth later, grant funding is limited and is awarded on a competitive basis. The USDA also suggests increasing vendor fees to offset costs;⁷² however, this could discourage individual farmers from joining a farmers market.

2. Shopping at Farmers Markets Presents Challenges to SNAP Recipients

Even when farmers markets have developed the capacity to accept benefits, there are barriers to SNAP recipients actually shopping at them. In a number of surveys, SNAP recipients expressed a perception that farmers markets had higher prices and offered fewer discounts than supermarkets.⁷³ In addition to a perception of increased cost, SNAP recipients have cited

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.* at 4.

⁷⁰ *Id.* at 3.

⁷¹ *Id.* at 4.

⁷² *Id.*

⁷³ Briggs, *supra* note 2, at 14.

convenience as a major obstacle to shopping at farmers markets.⁷⁴ When compared to supermarkets, farmers markets are open for a very limited number of hours and do not provide a wide variety of products in a single location.⁷⁵ Shoppers must still make a trip to the supermarket in addition to the farmers market, and indicate that this increased transportation burden is another barrier to redeeming their benefits at farmers market.⁷⁶ Finally, SNAP recipients may not know about farmers markets or may not be aware that they accept SNAP benefits. The USDA recommends that farmers markets develop banners, signage, and printed materials to advertise that they accept SNAP benefits;⁷⁷ however, because farmers markets do not generally have large advertising budgets, raising awareness through these means can be difficult.⁷⁸

IV. Current Federal Support for Farmers Markets is Insufficient and Fails to Provide Adequate Accessibility to SNAP Recipients

Although the bulk of federal spending on agriculture is funneled toward a small number of commodity crops,⁷⁹ federal programs have provided some federal support for farmers markets.⁸⁰ The USDA encourages existing farmers markets to accept SNAP benefits and provides guidance for how to do so.⁸¹ SNAP's Benefit Redemption Division ("BRD") also attempts to increase the accessibility of farmers markets to benefit recipients. In their 2010 annual report, the agency announced a goal of authorizing 200 additional farmers markets each

⁷⁴ *Id.* at 15.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Supplemental Nutrition Assistance Program (SNAP) at Farmers Markets*, *supra* note 59, at 11.

⁷⁸ Briggs, *supra* note 2, at 16.

⁷⁹ Eubanks, *supra* note 5, at 299.

⁸⁰ GEOFFREY S. BECKER, CONG. RESEARCH SERV., RL RS2156D, FARMERS' MARKETS: THE USDA ROLE, 1 (Jan 3, 2006).

⁸¹ See *Supplemental Nutrition Assistance Program (SNAP) at Farmers Markets: A How To Handbook*, U.S. AGRIC. MKTG. SERV. & U.S. FOOD & NUTRITION SERV. (Jun. 2010), <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5085298>.

year.⁸² The Congressional Research Service lists a number of programs that it says are “aimed at promoting farmers’ markets.”⁸³ It lists the Federal –State Marketing Improvement Program (“FSMIP”), the Community Food Projects Competitive Grants Program (“CRPCGP”), the Farmers’ Market Promotion Program (“FMPP”), and the WIC and Seniors Farmers’ Market Nutrition Program (“FMNP”).⁸⁴ In addition to providing support for farmers markets in general, some of these programs specifically address the accessibility of markets to low-income populations, including SNAP recipients.⁸⁵

A. USDA Efforts to Provide Support

The USDA provides guidance for farmers markets to become authorized to accept SNAP benefits.⁸⁶ Markets are required to be licensed by the Food and Nutrition Service to accept benefits.⁸⁷ Commonly, a market will get a single license for all vendors. In that case, one POS machine is used for the entire market.⁸⁸ SNAP customers swipe their cards and receive a desired amount in tokens or receipts (“script”) which are used to make purchases.⁸⁹

The agency provides a “How-To” handbook that describes how to become licensed by the Food and Nutrition Service, how to install EBT machines, and how to manage scripts.⁹⁰ In

⁸² Supplemental Nutrition Assistance Program, Food & Nutrition Service, & Benefit Redemption Division, *We Welcome Snap: Putting Healthy Food Within Reach* (2010) <http://www.fns.usda.gov/snap/retailers/pdfs/2010-annual-report.pdf>.

⁸³ BECKER, *supra* note 80, at 1.

⁸⁴ *Id.*

⁸⁵ The WIC Farmers’ Market Nutrition Program and the Senior Farmers’ Market Nutrition Program, for example, both provide funding for specific low-income populations; the Community Food Projects Competitive Grants Program supports programs directed toward low-income communities. BECKER, *supra* note 80, at 3.

⁸⁶ *Supplemental Nutrition Assistance Program (SNAP) at Farmers Markets*, *supra* note 59, at 1.

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.* at 5-7.

addition, the handbook provides a list of other organizations that offer assistance with boosting SNAP use at farmers markets, as well as additional USDA funding resources.⁹¹

To enable benefit recipients to find retailers that accept SNAP benefits, the USDA provides an interactive online benefit locator.⁹² A user can enter his or her zip code and will be provided with a list of nearby retailers, including farmers markets, and directions to them.⁹³

B. Federal-State Marketing Improvement Program

FSMIP is a program that assists State agencies in “exploring new market opportunities for U.S. food and agricultural products.”⁹⁴ State Departments of Agriculture, State agricultural experiment stations, and other State agencies can apply for FSMIP grants, which provide matching funds for research projects that address “barriers, challenges or opportunities manifesting at any stage of the marketing chain including direct, wholesale, and retail.”⁹⁵ Grants are to be used only for research purposes; recipients are not permitted to use the grant money for advertising, equipment, or promotional items not associated with research purposes.⁹⁶ FSMIP awards an average of \$50,000 to 25-30 recipients each year.⁹⁷

Even though some FSMIP grants have been awarded for direct marketing projects that include farmers markets,⁹⁸ the program does not express a particular preference for direct farm-

⁹¹ *Id.* at 12, 20.

⁹² *SNAP Retail Locator*, U.S. Dep’t of Agric., <http://www.snapretailerlocator.com/> (last visited Dec. 12, 2011).

⁹³ *Id.*

⁹⁴ U.S. DEP’T OF AGRIC., *Federal-State Marketing Improvement Program FY 2011 Application Guidelines*, 3 (2011) <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5081443&acct=gpfsmip>.

⁹⁵ *Id.*

⁹⁶ *Id.* at 8.

⁹⁷ BECKER, *supra* note 80, at 2.

⁹⁸ BECKER, *supra* note 80, at 3

to-consumer marketing.⁹⁹ In fact, it is difficult to see how this program is “aimed at promoting farmers’ markets.”¹⁰⁰ For 2011, 25 recipients received \$1.3 million in state grants under FSMIP.¹⁰¹ Out of these 25 projects, only two granted research funds for farmers markets, for a total of approximately \$90,000.¹⁰² This total represents less than 10% of the total FSMIP funds for the year. Although FSMIP may have the potential to provide some minimal assistance to research on marketing and farmers markets, the competitive nature of the program and the requirement of matching funds may prove to be an obstacle in high-need areas. States that are faced with difficult budget choices may find it impossible to guarantee the matching funds that a FSMIP grant requires. Further, the competitive nature of the application process may discourage applicants who do not already have a highly developed infrastructure to disperse funds for such projects. Thus, states that are poor or have had fewer farmers markets historically may be at a disadvantage.

C. Community Food Projects Competitive Grants Program

Like FSMIP, CFPCGP does not specifically focus on grants that promote farmers markets. CFPCGP was developed to “promote self-sufficiency and food security in low-income communities.”¹⁰³ CFPCGP was established by the Community Food Security Act, which passed as part of the 1996 Farm Bill.¹⁰⁴ Funding began at \$2.5 million annually, and in 2003 was

⁹⁹ See U.S. DEPT OF AGRIC., *Federal-State Marketing Improvement Program FY 2011 Application Guidelines* (2011) <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5081443&acct=gpfsmip>.

¹⁰⁰ BECKER, *supra* note 80, at 1.

¹⁰¹ U.S. AGRIC. MKTG. SERV., *FY 2011 FSMIP Projects*, <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5092680> (last visited Dec. 12, 2011).

¹⁰² *Id.*

¹⁰³ *Program Synopsis: Community Food Projects*, National Institute of Food and Agriculture (Oct. 31, 2011) http://www.csrees.usda.gov/funding/cfp/cfp_synopsis.html.

¹⁰⁴ Maya Taylor & Andy Fisher, *A Guide to Community Good Projects*, COMMUNITY FOOD SECURITY COALITION 1 (last visited Dec. 12, 2011) http://www.foodsecurity.org/cfsc_case_studies.pdf.

increased to \$5 million.¹⁰⁵ Non-profit entities may apply for a one-time grant of funds, which require a 50 percent matching contribution from the recipient.¹⁰⁶ CFPCGP grants focus on long-term solutions to community food security, by linking food production to economic and environmental enhancement.¹⁰⁷ The CFPCGP application includes farmers markets as examples of successful projects.¹⁰⁸

The projects funded by CFPCGP are very diverse, and, like the projects funded by FSMIP, do not particularly focus on farmers markets. In 2004, out of the programs that were awarded grants, only three were designed to promote farmers markets.¹⁰⁹ Similarly, in 2007, out of the 25 recipients, three were for the development and support of farmers markets.¹¹⁰ Although the goals of the program are admirable, and can award money to farmers markets, it seems a stretch to claim, as does the Congressional Report on Farmers Markets, that it is “aimed at promoting farmers markets.¹¹¹” Like FSMIP, CFPCGP is competitive and requires matching funds, and may therefore present similar obstacles to the areas most in need of assistance.

D. Farmers’ Market Promotion Program

Unlike FSMIP, FMPP provides grants specifically to “establish, improve and promote farmers’ markets and other direct marketing activities.”¹¹² Agricultural cooperatives, producer networks, producer associations, local governments, nonprofit corporations, public benefit

¹⁰⁵ Id.

¹⁰⁶ Id.

¹⁰⁷ *Topic Areas: Community Food Projects*, Nat’l Inst. of Food & Agric. (Mar. 18, 2009) http://www.csrees.usda.gov/funding/cfp/cfp_topics.html.

¹⁰⁸ U.S. DEP’T OF AGRIC., *Community Food Projects Competitive Grants Program: FY 2010 Request for Applications*, 7 (2009) http://www.csrees.usda.gov/funding/rfas/pdfs/10_community_food.pdf.

¹⁰⁹ U.S. DEP’T OF AGRIC., *FY 04 CFP Awards*, http://www.csrees.usda.gov/funding/cfp/pdfs/04_grantees.pdf (last visited Dec. 12, 2011).

¹¹⁰ NAT’L INST. OF FOOD & AGRIC., *FY 07 Community Food Projects Program Grantees*, http://www.nifa.usda.gov/funding/cfp/pdfs/07_grantees.pdf.

¹¹¹ BECKER, *supra* note 80, at 1.

¹¹² BECKER, *supra* note 80, at 2.

corporations, economic development corporations, regional farmers market authorities, and Tribal Governments are eligible for grants to fund projects that expand producer-to-consumer marketing opportunities.¹¹³ Applicants must demonstrate that projects directly benefit farmers and vendors.¹¹⁴ Projects must be completed within two years of the award of funding, and grants cannot be awarded consecutively.¹¹⁵

FMPP also promotes the accessibility of farmers markets to low-income communities, particularly SNAP recipients. The 2008 Farm Bill mandated that 10 percent of the total FMPP funding be used for projects that initiate new EBT capacity in farmers markets.¹¹⁶ For the 2011 awards, the USDA particularly solicited projects aimed at increasing the accessibility of fresh foods in “food deserts” and other low income communities.¹¹⁷

FMPP was authorized by the 2002 Farm Bill,¹¹⁸ and funds were first allocated in 2006.¹¹⁹ Funding for FMPP has grown since the programs’ inception, as has the maximum award possible. In 2006, Congress appropriated \$1 million for the program, and the maximum grant was \$75,000.¹²⁰ That amount increased to \$5 million in 2010 and to \$10 million for both 2011

¹¹³ U.S. AGRIC. MKTG. SERV., *Farmers Market Promotion Program (FMPP) Pre-Application Guide for 2010*, <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5082928&acct=fmpp> (last visited Dec. 12, 2011).

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ U.S. AGRIC. MKTG. SERV., *2009 Farmers’ Market Promotion Program Guidelines*, 9 (2009) <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5075760>.

¹¹⁷ Press Release, Soo Kim, USDA Supports Diverse Food Access Through Farmers Market Promotion Grants (Oct. 13, 2011) <http://www.ams.usda.gov/AMSV1.0/ams.fetchTemplateData.do?template=TemplateU&navID=LatestReleases&page=Newsroom&topNav=Newsroom&leftNav=&rightNav1=LatestReleases&rightNav2=&resultType=Details&dDocName=STELPRDC5094637&dID=157543&wf=false&description=USDA+Supports+Diverse+Food+Access++Through+Farmers+Market+Promotion+Program+Grants>.

¹¹⁸ 7 U.S.C. § 3005.

¹¹⁹ BECKER, *supra* note 80, at 2.

¹²⁰ BECKER, *supra* note 80, at 2.

and 2012.¹²¹ The maximum award is currently \$100,000.¹²² For 2011, 149 projects received \$9.2 million dollars.¹²³ The USDA reports that, in response to the agency's emphasis on increasing the accessibility of fresh foods in low income areas, nearly 40 percent of the recipients were located in food deserts and 20 percent were located in other high poverty communities.¹²⁴ Further, 24 percent of the total funding was awarded to EBT projects.¹²⁵

E. WIC and Senior Farmers Market Nutrition Programs

Unlike each of the previous programs, FMNP provides coupons directly to WIC recipients and low-income seniors.¹²⁶ The Special Supplemental Nutrition Program for Women, Infants and Children ("WIC") provides free food and nutrition education to pregnant women, children, and mothers of infants.¹²⁷ Participants are issued FMNP coupons for use at eligible farmers markets or roadside stands.¹²⁸ Federal benefits are capped at \$30 annually per recipient, although states can supplement this amount if they wish.¹²⁹ For 2010, 2.15 million WIC recipients received FMNP benefits, and 3,647 farmers markets were authorized to accept FMNP coupons.¹³⁰ For 2011, Congress has appropriated \$19.96 million for the program.¹³¹

¹²¹ *Farmers Markets and Local Food Marketing: Farmers Market Promotion Program (FMPP)*, U.S. DEP'T OF AGRIC. (Oct. 18, 2011) <http://www.ams.usda.gov/AMSV1.0/FMPP>.

¹²² *Id.*

¹²³ *Soo, supra* note 20.

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ BECKER, *supra* note 80, at 2.

¹²⁷ *WIC Farmers Market Nutrition Program*, U.S. Dep't of Agric., <http://www.fns.usda.gov/wic/fmnp/fmnpfaqs.htm> (last visited Dec. 12, 2011).

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *WIC FMNP Fact Sheet*, U.S. Dep't of Agric. (May 2010) <http://www.fns.usda.gov/wic/WIC-FMNP-Fact-Sheet.pdf>.

¹³¹ *Id.*

The Senior Farmers Market Nutrition Program (“SFMNP”) provides farmers market coupons to seniors with an income of no more than 185 percent of the federal poverty line.¹³² Federal benefits for SFMNP are capped at \$50 annually per individual recipient or household.¹³³ For 2010, 844,999 seniors received benefits.¹³⁴ The 2008 Farm Bill authorized \$2.6 million per year through 2012.¹³⁵

Neither the WIC nor the Senior FMNP requires farmers markets to use EBT machines. Farmers markets that participate in the program simply redeem the coupons at a bank or through a State agency.¹³⁶ Eliminating the necessity of the machine may make these FMNP coupons more convenient for farmers markets to accept than SNAP benefits. Further, many of the individuals who are qualified for WIC or Senior FMNP also receive SNAP benefits.¹³⁷ These factors make FMNP an appealing program for those who are interested in ensuring that poor people have access to farmers markets.

Even though FMNP is praised for providing low income individuals direct access to farmers markets,¹³⁸ this program does little to substantially address the accessibility of farmers markets to SNAP recipients. First, the annual benefits are capped at an extremely low level. Thirty dollars per year for a woman and her children, or \$50 per year for an elderly couple, is not sufficient to make fruits and vegetables much more than an occasional treat. Further, these programs target very narrow populations. Combined, the WIC and Senior FMNP benefitted

¹³² *Senior Farmers’ Market Nutrition Program*, U.S. Dep’t of Agric., <http://www.fns.usda.gov/wic/seniorfmnp/seniorfmnpoverview.htm> (last visited Dec. 12, 2011).

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ *Id.*

¹³⁶ *WIC Farmers Market Nutrition Program*, *supra* note 95.

¹³⁷ *Senior Farmers’ Market Nutrition Program*, *supra* note 98.

¹³⁸ See *How the Farm Bill Can Support Farmers Markets and Healthy Communities*, Project for Public Spaces, http://www.pps.org/markets/farm_bill/ (last visited Dec. 12, 2011) (calls FMNP the “most important federally funded programs for farmers markets”).

fewer than 3 million individuals for 2010. Recalling that, in August 2011, 45.8 million Americans received SNAP benefits, it is clear that FMNP's ability to address the lack of accessibility of farmers markets to poor people is severely limited.

V. Suggestions to Increase Accessibility of Farmers Markets to SNAP Recipients

Despite the number of federal programs designed to support farmers' markets in general, and their accessibility to benefit recipients in particular, the level of support is minimal compared to the amount that Congress spends on subsidies to industrial agriculture and traditional food assistance programs.¹³⁹ To increase the accessibility of farmers markets to SNAP recipients, Congress should allocate increased funding to address both the difficulties of farmers markets with accepting benefits and the obstacles of SNAP recipients to shopping at farmers markets.

One of the most significant obstacles to the acceptance of SNAP benefits at farmers markets is the EBT machine. Because many markets do not have the electric or phone outlets required for the free EBT machines, funding should be allocated to provide wireless POS machines. President Obama's 2011 budget proposal included \$4 million to provide these machines to farmers markets.¹⁴⁰ Also, in September 2011, Senator Kirsten Gillibrand introduced a bill that would require wireless EBT terminals to be provided to wireless retail food stores or for funds to be provided for alternate technologies.¹⁴¹ Although President's Obama's request for funds would certainly be beneficial, Senator Gillibrand's proposal would be a more effective way to address the problem because it would affect the way all farmers markets are required to be treated, rather than requesting a finite amount of money that might not cover all markets.

¹³⁹ BECKER, *supra* note 80, at 6.

¹⁴⁰ Briggs, *supra* note 2, at 35.

¹⁴¹ S. 1593, 112th Cong. § 1(a)(2)(I)-(J) (2011).

Further, since FMPP is the grant that has the potential to most directly benefit both farmers markets and SNAP recipients, it should be expanded. Rather than two year projects, start-up grants should be awarded based upon the typical amount of time a farmers market requires to recoup initial costs. The USDA indicates that this period could be “a few years”;¹⁴² clearly, a more precise figure would be needed. Further, rather than being required to sit out consecutive funding cycles, grantees should be permitted to apply for extensions if their start-up projects have taken longer to recoup the initial investment than was initially thought. Adding this flexibility to FMPP would ensure that farmers markets that started to accept SNAP benefits would be able to continue to do so.

Funding should also be allocated to addressing barriers to SNAP recipient’s redemption of benefits at farmers markets. Funding for education and outreach should be increased, to provide information about the nutritional benefits of fresh produce and to address misconceptions that recipients may have about the price of food at farmers markets. In addition to requesting funding for POS machines, President Obama’s 2011 budget also requested additional funding for SNAP-Ed, which provides such education to SNAP recipients.¹⁴³

Finally, Congress should support incentivizing farmers market purchases by matching a portion of SNAP benefits redeemed at those markets. In one instance, redemption rates for SNAP benefits increased 300 percent when doubling vouchers were offered.¹⁴⁴ Although a number of non-profit organizations provide matching incentives for particular markets, Congress should appropriate funding for all farmers markets to provide incentives for SNAP benefit redemption. The Healthy Incentives Program (HIP) was created in 2008 to support food-purchase incentive pilot programs for the Food and Nutrition Service to evaluate. This study is

¹⁴² *Supplemental Nutrition Assistance Program (SNAP) at Farmers Markets*, *supra* note 59, at 4.

¹⁴³ Briggs, *supra* note 2, at 36.

¹⁴⁴ O’Hara, *supra* note 22, at 24.

not scheduled to be completed until 2013.¹⁴⁵ The agency should consider, however, evaluating preliminary data prior to the 2012 Farm Bill, in order to make recommendations about including incentives in that Bill.

VI. Conclusion

While there is no single strategy that will make every farmers market authorized to accept SNAP benefits or make every benefit recipient want to shop at a farmers market, a more concerted effort should be made at the Federal level to provide incentives and support for markets and beneficiaries to come together. Increased access to farmers markets will result in better nutrition for SNAP recipients, and will provide economic and environmental benefits for communities.

¹⁴⁵ Briggs, *supra* note 2, at 36.