

## Food and Nutrition Service, USDA

## § 248.3

*Nutrition education* means individual or group education sessions and the provision of information and educational materials designed to improve health status, achieve positive change in dietary habits, and emphasize relationships between nutrition and health, all in keeping with the individual's personal, cultural, and socioeconomic preferences.

*OIG* means the Department's Office of the Inspector General.

*Program or FMNP* means the WIC Farmers' Market Nutrition Program authorized by section 17(m) of the Child Nutrition Act of 1966 (CNA) (42 U.S.C. 1786(m)), as amended. The Special Supplemental Nutrition Program for Women, Infants and Children (WIC) is authorized by section 17 of the CNA, as amended. Within section 17, section 17(m) authorizes the FMNP.

*Recipient* means a person chosen by the State agency to receive FMNP benefits. Such person must be a woman, infant over 4 months of age, or child, who receives benefits under the WIC Program or is on the waiting list to receive benefits under the WIC Program.

*Roadside stand* means a location at which an individual farmer sells his/her produce directly to consumers. This is in contrast to a group or association of farmers selling their produce at a farmers' market.

*SFPD* means the Supplemental Food Programs Division of the Food and Nutrition Service of the U.S. Department of Agriculture.

*Similar programs* means other farmers' market projects or programs which serve low-income women, infants and children, or other categories of recipients, such as, but not limited to, elderly persons.

*State* means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands.

*State agency* means the agriculture department, the health department or any other agency approved by the chief executive officer of the State; an Indian tribe, band or group recognized by the Department of the Interior; an intertribal council or group which is an authorized representative of Indian tribes, bands or groups recognized by

the Department of the Interior and which has an ongoing relationship with such tribes, bands or groups for other purposes and has contracted with them to administer the Program; or the appropriate area office of the Indian Health Service (IHS), an agency of the Department of Health and Human Services.

*State Plan* means a plan of FMNP operation and administration that describes the manner in which the State agency intends to implement, operate and administer all aspects of the FMNP within its jurisdiction in accordance with §248.4.

*Total FMNP funds* means the sum of the Federal funds provided to the State agency and non-Federal contributions provided by the State agency for FMNP purposes.

*WIC* means the Special Supplemental Nutrition Program for Women, Infants and Children authorized by section 17 of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1771 *et. seq.*).

[59 FR 11517, Mar. 11, 1994, as amended at 60 FR 49745, Sept. 27, 1995; 64 FR 48076, Sept. 2, 1999; 73 FR 65249, Nov. 3, 2008]

### § 248.3 Administration.

(a) *Delegation to FNS.* Within the Department, FNS shall act on behalf of the Department in the administration of the FMNP. Within FNS, SFPD and the FNS Regional Offices are responsible for FMNP administration. FNS shall provide assistance to State agencies and evaluate all levels of FMNP operations to ensure that the goals of the FMNP are achieved in the most effective and efficient manner possible.

(b) *Delegation to State agency.* The State agency is responsible for the effective and efficient administration of the FMNP in accordance with the requirements of this part; the requirements of the Department's regulations governing nondiscrimination (7 CFR parts 15, 15a and 15b), administration of grants (7 CFR part 3016), nonprocurement debarment/suspension (7 CFR part 3017), drug-free workplace (7 CFR part 3017), and lobbying (7 CFR part 3018); and, Office of Management and Budget Circular A-130, FNS guidelines, and Instructions issued under the FNS Directives Management System. The State agency shall provide guidance to

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cooperating WIC State and local agencies on all aspects of FMNP operations. Pursuant to section 17(m)(2) of the CNA, State agencies may operate the FMNP locally through nonprofit organizations or local government entities and must ensure coordination among the appropriate agencies and organizations.

(c) *Agreement and State Plan.* (1) Each State agency desiring to administer the FMNP shall annually submit a State Plan and enter into a written agreement with the Department for administration of the Program in the jurisdiction of the State agency in accordance with the provisions of this part.

(2) The written agreement must include a statement that supports full use of Federal funds provided to State agencies for the administration of the FMNP, and excludes such funds from State budget restrictions or limitations, including hiring freezes, work furloughs, and travel restrictions.

(d) *State agency ineligibility.* A State agency shall be ineligible to participate in the FMNP if State or local sales tax is collected on Program food purchases in the area in which it administers the Program, except that, if sales tax is collected on Program food purchases by sovereign Indian entities which are not State agencies, the State agency shall remain eligible so long as any farmers' markets collecting such tax are disqualified.

(e) *Coordination with WIC agency.* The Chief Executive Officer of the State shall ensure coordination between the designated administering State agency and the WIC State agency, if different, by ensuring that the two agencies enter into a written agreement. Such coordination between agencies is necessary for the successful operation of the FMNP, because WIC participants or persons on the waiting list for WIC services are the only persons eligible to receive Federal benefits under the FMNP. The written agreement shall delineate the responsibilities of each agency, describe any compensation for services, and shall be signed by the designated representative of each agency. This agreement shall be submitted each year along with the State Plan.

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(f) *State staffing standards.* Each State agency shall ensure that sufficient staff is available to efficiently and effectively administer the FMNP. This shall include, but not be limited to, sufficient staff to provide nutrition education in coordination with the WIC Program, coupon and market management, fiscal reporting, monitoring, and training. The State agency shall provide an outline of administrative staff and job descriptions for staff whose salaries will be paid from program funds in their State Plans.

[59 FR 11517, Mar. 11, 1994, as amended at 76 FR 37983, June 29, 2011]

### Subpart B—State Agency Eligibility

#### § 248.4 State Plan.

(a) *Requirements.* By November 15 of each year, each applying or participating State agency shall submit to FNS for approval a State Plan for the following year as a prerequisite to receiving funds under this section. The State Plan shall be signed by the State designated official responsible for ensuring that the Program is operated in accordance with the State Plan. FNS will provide written approval or denial of a completed State Plan or amendment within 30 days. Portions of the State Plan which do not change annually need not be resubmitted. However, the State agency shall provide the title of the sections that remain unchanged, as well as the year of the last Plan in which the sections were submitted. At a minimum, the Plan must address the following areas in sufficient detail to demonstrate the State agency's ability to meet the requirements of the FMNP:

(1) A copy of the agreement between the designated administering State agency and the WIC State agency, if different, for services such as nutrition education, and documentation of coordinated efforts as required in § 248.3(e), as well as copies of agreements with agencies other than the WIC State agency.

(2) Estimated number of recipients for the fiscal year, and proposed months of operation.

(3) Estimated cost of the FMNP, including a minimum amount necessary to operate the FMNP.