

§ 248.7 Nondiscrimination.

(a) *Civil rights requirements.* The State agency shall comply with the requirements of title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Department of Agriculture regulations on nondiscrimination (7 CFR parts 15, 15a and 15b), and applicable FNS Instructions to ensure that no person shall, on the grounds of race, color, national origin, age, sex or handicap, be excluded from participation, be denied benefits, or be otherwise subjected to discrimination, under the FMNP. Because racial and ethnic participation data (as required by title VI of the Civil Rights Act of 1964) are collected at the time women, infants, and children are certified for participation in the WIC Program, the Department has determined that the WIC data collection effort is sufficient to fulfill the racial/ethnic data collection requirement for the FMNP. Therefore, no additional data collection is required. Compliance with title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and regulations and instructions issued thereunder shall include, but not be limited to:

(1) Notification to the public of the nondiscrimination policy and complaint rights of recipients and potentially eligible persons, which may be satisfied through the Department's required nondiscrimination statement on brochures and publications;

(2) Review and monitoring activity to ensure FMNP compliance with the nondiscrimination laws and regulations;

(3) Establishment of grievance procedures for handling recipient complaints based on sex and handicap.

(b) *Complaints.* Persons seeking to file discrimination complaints may file them either with the Secretary of Agriculture, or the Director, Office of Equal Opportunity, USDA, Washington, DC 20250 or with the office established by the State agency to handle discrimination grievances or complaints. All complaints received by State agencies which allege discrimination based on race, color, national origin, or age

shall be referred to the Secretary of Agriculture or the Director of the Office of Equal Opportunity, USDA. A State agency may process complaints which allege discrimination based on sex or handicap if grievance procedures are in place.

Subpart D—Recipient Benefits**§ 248.8 Level of benefits and eligible foods.**

(a) *General.* State agencies shall identify in the State Plan the fresh, nutritious, unprepared, locally grown fruits, vegetables and herbs which are eligible for purchase under the FMNP. Ineligible foods for the purpose of the FMNP include, but are not limited to: honey, maple syrup, cider, nuts and seeds, eggs, cheese, meat and seafood. Locally grown shall mean produce grown only within a State's borders but may be defined to include border areas in adjacent States. Under no circumstances can produce grown outside of the United States and its territories be considered eligible foods.

(b) *The value of the Federal benefits received.* The value of the Federal share of the FMNP benefits received by each recipient, or by each family within a household in those States which elect to issue benefits on a household basis under § 248.6(c) may not be less than \$10 per year or more than \$20 per year.

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§ 248.9 Nutrition education.

(a) *Goals.* Nutrition education shall emphasize the relationship of proper nutrition to the total concept of good health, including the importance of consuming fresh fruits and vegetables.

(b) *Requirement.* The State agency shall integrate nutrition education into FMNP operations and may satisfy nutrition education requirements through coordination with other agencies within the State. Such other agencies may include the WIC Program which routinely offers nutrition education to participants and which may wish to use the opportunity of the FMNP to reinforce nutrition messages. State agencies wishing to coordinate nutrition education with WIC shall

enter into a written cooperative agreement with WIC agencies to offer nutrition education relevant to the use and nutritional value of foods available to FMNP recipients. In cases where relevant WIC nutrition education sessions are used to meet this requirement, reimbursement to the WIC local agency shall not be permitted. In cases where FMNP recipients are not receiving relevant nutrition education from the WIC Program, the State agency shall arrange alternative methods for the provision of such nutrition education which is an allowable cost under the FMNP.

Subpart E—State Agency Provisions

§ 248.10 Coupon and market management.

(a) *General.* This section sets forth State agency responsibilities regarding the authorization of farmers/farmers' markets. The State agency is responsible for the fiscal management of, and accountability for FMNP-related activities for farmers/farmers' markets. Each State agency may decide whether to authorize farmers individually, farmers' markets, or both farmers and farmers' markets. All contracts or agreements entered into by the State agency for the management or operation of farmers/farmers' markets shall conform with the requirements of 7 CFR part 3016, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

(1) Only farmers' markets authorized by the State agency may redeem FMNP coupons. Only farmers authorized by the State agency or that have a valid agreement with an authorized farmers' market, may redeem coupons.

(2) The State agency shall establish criteria for the authorization of individual farmers and/or farmers' markets. Any authorized farmer/farmers' market must agree to sell recipients only those foods identified as eligible by the State agency, in exchange for FMNP coupons. Individuals who exclusively sell produce grown by someone else, such as wholesale distributors, cannot be authorized to participate in the FMNP, except individuals em-

ployed by a farmer otherwise qualified under these regulations, or individuals hired by a nonprofit organization to sell produce at urban farmstands on behalf of local farmers.

(3) The State agency shall ensure that an appropriate number of farmers/farmers' markets are authorized for adequate recipient convenience and access in the area(s) proposed to be served and for effective management of the farmers/farmers' markets by the State agency. The State agency may establish criteria to limit the number of authorized farmers/farmers' markets.

(4) The State agency shall ensure that face-to-face training is conducted prior to start up of the first year of FMNP participation of a farmers' market and individual farmer. The face-to-face training shall include at a minimum those items listed in paragraph (d) of this section.

(5) Authorized farmers shall display a sign stating that they are authorized to redeem FMNP coupons.

(6) Authorized farmers/farmers' markets shall comply with the requirements of Title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Department of Agriculture regulations on non-discrimination (7 CFR parts 15, 15a and 15b), and FNS Instructions as outlined in § 248.7.

(7) The State agency shall ensure that there is no conflict of interest between the State or local agency and any participating farmer/farmers' market.

(b) *Farmers' market agreements.* The State agency shall ensure that all participating farmers' markets enter into written agreements with the State agency. State agencies which authorize individual farmers shall also enter into written agreements with the individual farmers. The agreement shall be signed by a representative who has legal authority to obligate the farmers/farmers' market. Agreements shall include a description of sanctions for non-compliance with FMNP requirements and shall contain at a minimum, the following specifications, although the