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7 CFR Ch. II (1-1-03 Edition)

Local agency means a public or private nonprofit agency which enters into an agreement with the State agency to administer the Program at the local level. A local agency determines the eligibility of applicants, distributes supplemental foods and provides nutrition education to low-income persons, either directly or through another agency with which it has entered into a written agreement in accordance with § 247.6. In addition, existing local agencies are required to maintain the health-ties at the same level that were effective prior to March 3, 1978. All other local agencies are encouraged to develop health services linkages and, at a minimum, are required to advise participants of the importance of health care and where low-income persons can obtain such services. The term local agency includes an IHS service unit, an Indian tribe, band or group recognized by the Department of the Interior, or an intertribal council or group that is an authorized representative of Indian tribes, bands or groups recognized by the Department of the Interior.

Nonprofit agency means a private agency which is exempt from income tax under the Internal Revenue Code of 1954, as amended.

Participants means pregnant women, breastfeeding women, postpartum women, infants, children and elderly persons who are receiving supplemental foods under the Program.

Participation means the number of persons who have received supplemental foods through the Program in the reporting period.

Postpartum women means women up to 12 months after termination of pregnancy.

Pregnant women means women determined to have one or more embryos or fetuses in utero.

Program means the Commodity Supplemental Food Program (CSFP) of the Food and Nutrition Service of the U.S. Department of Agriculture.

Secretary means the Secretary of the U.S. Department of Agriculture.

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

State means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands and the Northern Mariana Islands.

State agency means the agency of a State designated by the State to administer the Program; or an Indian tribe, band or group recognized by the Department of the Interior; or an Intertribal council or group recognized by the Department of the Interior and which has an ongoing relationship with Indian 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 of the Department of Health and Human Services.

State Agency Plan of Program Operation and Administration (State Plan) means the document which, as required by § 247.5 describes the manner in which the State agency intends to implement and operate all aspects of Program administration within its jurisdiction.

Supplemental foods means foods donated by the Department for use by eligible persons in low-income groups who are vulnerable to malnutrition.

WIC Program means the Special Supplemental Nutrition Program for Women, Infants and Children (7 CFR part 246).

[46 FR 6341, Jan. 21, 1981, as amended at 48 FR 29124, June 24, 1983; 51 FR 32900, Sept. 17, 1986; 53 FR 4838, Feb. 18, 1988]

§ 247.3 Administration.

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

(b) *Delegation of authority to State agency.* The State agency is responsible for all operations under the Program within its jurisdiction and shall administer the Program in accordance with the requirements of this part, FMC 74-4, A-90, A-95, A-102, A-110, and 7 CFR

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part 250 subchapter B where applicable. The State agency shall provide guidance to local agencies on all aspects of Program operations. If distribution of supplemental foods or other Program operations at the State level are performed by an agency of the State other than the State agency, the State agency shall enter into a written agreement with the other agency. The agreement shall outline the responsibilities of each agency under the Program and shall be included in the State Plan. In addition, when a State agency enters into an agreement with a distributing agency, the distributing agency still must enter into a separate agreement with the Department as required by 7 CFR part 250 subchapter B, Food Distribution.

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

(d) *Delegation of authority to local agency.* The local agency shall provide Program benefits to participants in the most effective and efficient manner, and shall comply with this part and the State Plan.

(Approved by the Office of Management and Budget under control number 0584-0063)

[46 FR 6341, Jan. 21, 1981, as amended at 47 FR 746, Jan. 7, 1982]

§ 247.4 Donation of supplemental foods.

The Department shall donate supplemental foods for use in the Program in accordance with the terms and conditions of this part and with the terms and conditions applicable to distributing agencies under 7 CFR part 250 subchapter B, Food Distribution Regulations, as long as these provisions are not inconsistent with this part. The State agency is strictly liable to FNS for losses of supplemental foods donated by the Department and shall safeguard items from theft, spoilage, other damage or destruction or other loss. If supplemental foods donated by the Department are lost through any cause, prior to issuance to the partici-

part, the State agency shall provide replacement in kind or submit payment to FNS in accordance with § 250.6(m) under 7 CFR part 250 subchapter B, Food Distribution regulations.

§ 247.5 State agency plan of program operation and administration.

(a) *Requirements.* State applications to continue or initiate program operations and requests for additional caseload to expand service to women, infants, children, and elderly persons shall be made through State Plan submissions. By August 15 of each year, the State agency shall submit to FNS for approval a State Plan for the following fiscal year. State agencies whose Plans are approved by the beginning of the fiscal year shall be eligible to commence program operations or receive caseload increases at the beginning of the first caseload cycle to commence after that date. Plans or Plan amendments to initiate or expand operations which are approved after this date may be considered for caseload assignment if additional resources become available during that caseload cycle. The State agency may submit the State Plan in the format provided by FNS guidance. Alternatively, the State agency may submit the Plan in combination with other federally required planning documents or develop its own format, provided that the information required below is included. FNS requests advance notification that a State agency intends to use an alternative format. The State Plan and all amendments shall be signed by the State-designated official responsible for ensuring that the program is operated in accordance with the State Plan. FNS shall provide written approval or denial of a completed State Plan or amendment within 30 days of receipt. Within 15 days after FNS receives an incomplete submission, FNS shall notify the State agency that additional information is needed to complete the Plan. Any disapproval shall be accompanied by a statement of the reasons for the disapproval. Approval of the Plan by FNS is a prerequisite to the assignment of caseload and payment of funds for administration to the State agency. In approving the State Plan or Plan amendment to initiate or