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services, and shall be signed by the designated representative of each agency. This agreement shall be submitted each year along with the State Plan.

(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.

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.

(4) Description of how the Program will achieve its dual purposes of providing a nutritional benefit to WIC (or waiting list) participants and expanding the awareness and use of farmers' markets.

(5) Outline of administrative staff and job descriptions.

(6) Detailed description of the record-keeping system including, but not limited to, the system for maintaining records pertaining to financial operations, coupon issuance and redemption, and FMNP participation.

(7) Detailed description of the financial management system, including, but not limited to documentation of how the State will meet the matching requirement and procedures for obligating funds.

(8) Detailed description of the service area including:

(i) The number and addresses of participating markets, farmstands and area WIC clinics including a map outlining the service area and proximity of markets/farmstands to clinics; and

(ii) Estimated number of WIC participants and persons on the WIC waiting list that will receive FMNP coupons.

(9) Description of the coupon issuance system including:

(i) How the State agency will target areas with highest concentrations of eligible persons and greatest access to farmers' markets within the broadest possible geographic area;

(ii) Annual benefit amount per recipient;

(iii) Method for instructing recipients on the proper use of FMNP coupons and the purpose of the FMNP; and

(iv) Method for ensuring that FMNP coupons are only issued to eligible recipients.

(10) Detailed description of the coupon and farmers' market management system including:

(i) criteria for authorizing farmers' markets;

(ii) For those State agencies desiring to authorize farmstands, justification for doing so.

(iii) Procedures for training farmers and market managers, at authorization, and annually thereafter;

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(iv) Procedures for monitoring farmers' markets;

(v) Description of system for identifying high risk farmers and farmers' markets and procedures for sanctioning farmers and farmers' markets;

(vi) Facsimile of the FMNP coupon;

(vii) Identification of the fresh, nutritious, unprepared fruits, vegetables, and herbs which are eligible for purchase under the Program;

(viii) Description of FMNP coupon replacement policy;

(ix) Procedures for handling recipient and farmer/farmers' market complaints.

(11) Detailed description of the FMNP coupon redemption process including:

(i) Procedures for ensuring the secure transportation and storage of FMNP coupons;

(ii) System for identifying and reconciling FMNP coupons;

(iii) Timeframes for FMNP coupon redemption by recipients; submission for payment by markets, and payment by the State agency;

(12) System for ensuring that FMNP coupons are redeemed only by authorized farmers/farmers' markets and only for eligible foods.

(13) System for identifying FMNP coupons which are redeemed or submitted for payment outside valid dates or by unauthorized farmers/farmers' markets.

(14) A copy of the written agreement to be used between the State agency and authorized farmers/farmers' markets. In those States which authorize farmers' markets, but not individual farmers, this agreement shall specify in detail the role of and procedures to be used by farmers' markets for monitoring and sanctioning farmers, and the appropriate procedures to be used by a farmer to appeal a sanction or disqualification imposed by a farmers' market.

(15) If available, information on the change in consumption of fresh fruits and vegetables by recipients. This information shall be submitted as an addendum to the State Plan and shall be submitted at such a date specified by the Secretary.

(16) If available, information on the effects of the program on farmers' markets. This information shall be sub-

mitted as an addendum to the State Plan and shall be submitted at such a date specified by the Secretary.

(17) A description of the procedures the State agency will use to comply with the civil rights requirements described in §248.7(a), including the processing of discrimination complaints.

(18) State agencies which have not previously participated in the FMNP, shall provide the following additional information:

(i) A statement assuring that if the State agency receives Federal funds, as specified under §248.14 to operate the FMNP, and applies those funds to similar programs operated in the previous fiscal year with State or local funds, the amount of State and local funds that were available to similar programs in the fiscal year preceding the first year of operation shall not be reduced. The State agency shall include data in the State Plan showing that it did not reduce the amount of State and local funds available to the similar program in the preceding fiscal year.

(ii) A capability statement which includes a summary description of any prior experience with farmers' market projects or programs, including information and data describing the attributes of such projects or programs.

(19) For States making expansion requests, documentation which demonstrates:

(i) The need for an increase in funding;

(ii) That the use of the increased funding will be consistent with serving WIC participants, or persons on a waiting list for WIC benefits, by expanding benefits to more persons, by enhancing current benefits, or a combination of both, and expanding the awareness and use of farmers' markets;

(iii) The ability to satisfactorily operate the existing FMNP;

(iv) The management capabilities of the State agency to expand; and

(v) Whether, in the case of a State agency that intends to use the funding to increase the value of the Federal share of the benefits received by a recipient, the funding provided will increase the rate of coupon redemption.

(20) For those State agencies requesting the extra 2 percent administrative

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rate for market development or technical assistance to promote such development in disadvantaged areas or remote rural areas, an explanation of their justification and plans for the use of such funds.

(b) *Amendments.* At any time after approval, the State agency may amend the State Plan to reflect changes. The State agency shall submit the amendments to FNS for approval. The amendments shall be signed by the State designated official responsible for ensuring that the FMNP is operated in accordance with the State Plan.

(c) *Retention of copy.* A copy of the approved State Plan shall be kept on file at the State agency for public inspection.

[59 FR 11517, Mar. 11, 1994, as amended at 60 FR 49746, Sept. 27, 1995; 64 FR 48076, Sept. 2, 1999]

§ 248.5 Selection of new State agencies.

In selecting new State agencies, the Department will use objective criteria to rank and approve State plans submitted in accordance with § 248.4. In making this ranking, the Department will consider the amount of funds necessary to successfully operate the FMNP in the State compared with other States and with the total amount of funds available to the FMNP. Approval of a State Plan does not equate to an obligation on the part of the Department to fund the FMNP within that State agency.

[64 FR 48076, Sept. 2, 1999]

Subpart C—Recipient Eligibility

§ 248.6 Recipient eligibility.

(a) *Eligibility for certification.* Individuals who are eligible to receive Federal benefits under the FMNP are those, excluding infants 4 months of age or younger, who are currently receiving benefits under WIC or who are on the waiting list to receive benefits from WIC.

(b) *Limitations on certification.* If necessary to limit the number of recipients, State agencies may impose additional eligibility requirements, such as limiting participant certification to certain geographic areas, or to high priority WIC participants such as preg-

nant and breastfeeding women. States may also preclude groups of low priority persons, such as persons on the waiting list for WIC. Each State agency must specifically identify these limitations on certification in its State Plan.

(c) *Recipient or household benefit allocation.* On a Statewide basis, State agencies shall elect to allocate and issue benefits either to recipients or households. A State agency allocating benefits on a household basis shall not issue more benefits to a household than it otherwise would if benefits were allocated to individual recipients within the household. For those State agencies issuing FMNP benefits on a household basis, each family as defined in § 246.2 of this chapter shall constitute a separate household. Foods provided, regardless of method of issuance, are intended for the sole benefit of FMNP recipients and are not intended to be shared with other non-participating household members. If a State agency issues benefits on a household basis, data concerning number and type of recipients must still be provided as required by § 248.23(b). Recipients shall receive FMNP benefits free of charge.

§ 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