

agencies are responsible for follow-up and corrective actions in response to audit findings. Lastly, we propose to include that the State agency must ensure that local agencies meet audit requirements, and must ensure that all State or local agency audit reports are available for FNS review.

*Termination of Agency Participation, Section 247.32*

Currently, under § 247.18, FNS may terminate a State agency's participation in CSFP, in whole or in part, if the State agency does not comply with program requirements. The State agency must terminate a local agency's program, in whole or in part, if the State agency or FNS determines that the local agency has not complied with program requirements. Termination of a program must be effected by written notification, including the reasons and effective date. The State agency must provide the local agency with an opportunity to appeal the action. The State or local agency may also terminate its program, in whole or in part, by written notification to the administering agency (FNS or the State agency, as applicable), stating the reasons and effective date. Finally, program participation may also be terminated, in whole or in part, upon the agreement of both parties. The specific actions and procedures in program termination are more fully described in 7 CFR part 3016.

In paragraph (a) of this proposed § 247.32, we propose to describe when a State agency's program participation may be terminated, in whole or in part, without change to current requirements. However, for clarification, we propose to include the reference that 7 CFR part 3016 contains the specific actions and procedures relative to program termination. We propose to remove the description of specific procedures relating to the return and recovery of funds currently included under § 247.18, as these procedures are included in 7 CFR part 3016. We also propose to include a reference to the requirement, in the proposed § 247.4(b), that either party to the program agreement provide 30 days' written notice of termination of the agreement.

In paragraph (b), we propose to describe when a local agency's program participation may be terminated, in whole or in part. In accordance with the language contained in 7 CFR part 3016, we propose to state that the State agency may terminate a local agency's participation, or may be required to terminate the local agency's participation, in whole or in part, if the local agency does not comply with program requirements. This would

allow the State agency to take less drastic actions than termination, whether complete or partial, in response to less serious violations. It also preserves the right of FNS, as the awarding agency, to require termination if the State agency does not take the action. We also propose to clarify in this paragraph that termination requires 30 days' written notification, in accordance with the agreements signed to operate the program.

*Fair Hearing Procedures, Section 247.33*

Currently, under § 247.20, the State agency must establish a fair hearing process to allow individuals to appeal the denial or discontinuance of CSFP benefits, or disqualification from CSFP. The specific procedures that the State agency is required to include in this process are also described in this section. We propose to include the fair hearing requirements in this proposed § 247.33, with a clearer explanation of the nature and purpose of a fair hearing, and the procedures that State and local agencies must follow in providing individuals with an opportunity to request a hearing, and in conducting the hearing. Additionally, in paragraph (a) of this proposed section, we propose to include the appeal of a claim brought against a participant as one of the adverse actions for which a fair hearing may be requested.

In paragraph (f) of this proposed section, we include the current provision that a participant who appeals the discontinuance of benefits within the 15-day advance notification period required under §§ 247.17 and 247.20 must be permitted to continue to receive benefits until a decision on the appeal is made (unless the certification period ends before the decision is made). However, we propose to include that, if the hearing decision finds that a participant received program benefits fraudulently, the local agency must include the value of benefits received for the period of time that the hearing was pending, as well as for any previous period, in its initiation and pursuit of a claim against the participant.

*Management Reviews, Section 247.34*

Currently, under § 247.21, FNS and the State agency must establish a management evaluation system to assess the accomplishment of program objectives and compliance with program regulations. Specific responsibilities of FNS and the State agency are outlined. Currently, as part of its management review, the State agency must conduct annual reviews of local agencies that include a review of all aspects of program administration. More frequent

reviews may be conducted if the State agency determines that this is necessary. The evaluation must include on-site reviews, including reviews of storage facilities. The State agency must then identify problem areas and follow up to ensure that all problems are corrected.

We propose to include the management review requirements for State agencies in this proposed § 247.34, but to remove the FNS requirements. While FNS will continue its role in program oversight, these regulations should address only requirements for State and local agencies in monitoring the program. In paragraph (a), we propose to clarify that State agencies must establish a management review system to ensure that local agencies, subdistributing agencies, and other agencies conducting program activities meet program requirements and objectives. As part of the system, the State agency must perform on-site reviews of local agencies that include an evaluation of all aspects of program administration, and must also review program reports, including financial and inventory reports, food orders, and audits, on an ongoing basis. As at present, on-site reviews must include a review of all storage facilities. However, to reduce the burden on State agencies in conducting reviews, we propose to require that the State agency perform on-site reviews of local agencies and storage facilities at least once every two years, instead of annually. We believe that, in most cases, effective communication and review of reports, in conjunction with the less frequent on-site reviews, will be sufficient to ensure the effective and efficient operation of the program at the local level.

In paragraph (b), we propose to clearly state what the State agency must do if it finds that a local agency or subdistributing agency is deficient in any aspect of program administration. As at present, the State agency must record all deficiencies identified during the review, and ensure that the deficiencies are corrected within a reasonable period of time. Currently, the State agency must also require local agencies to establish review procedures for their programs irrespective of their program success or efficiency. We propose to state instead that, to ensure improved efficiency in program operations for the future, the State agency may require that local agencies adopt specific review procedures for their programs.