

*Local Agency Appeals of State Agency Actions, Section 247.35*

Currently, under § 247.22, the State agency must establish a hearing procedure to allow local agencies to appeal any State agency decision that adversely affects a local agency's program participation. Such adverse action may include a denial or termination of participation, or a claim against the local agency. We propose to include this requirement in this proposed § 247.35 without substantial change. As at present, the State agency must include specific procedures to allow the local agency to make an adequate presentation of its case at the hearing. The hearing decision must be made by an impartial person, and must be based solely on the evidence presented at the hearing and on program legislation and regulations. We propose only to revise the format to include three separate paragraphs in this new section, and to reduce the detail in current regulatory language to improve clarity.

*Confidentiality of Applicants or Participants, Section 247.36*

Currently, under § 247.23(c), State and local agencies must restrict the use or disclosure of information provided by program applicants or participants to only those persons directly connected with the administration or enforcement of the program. We propose to include the requirements for protection of confidentiality of program applicants or participants in this proposed § 247.36. In paragraph (a), we propose to clarify that the disclosure of information to persons connected to the enforcement of the program includes those persons investigating or prosecuting program violations. This includes State or local agency WIC administrators investigating dual participation in CSFP and WIC. We also propose to allow the State or local agency to exchange information related to the determination of an individual's eligibility for other health or welfare programs, or for program outreach, with the participant's consent. Before doing this, however, the State agency must sign an agreement with the administering agencies for those programs to ensure that the information will be used only for the specified purposes, and that agencies receiving the information will not further share it. This exchange of information is currently allowed in the WIC program, and allows WIC agencies to provide information necessary for CSFP and other agencies to effectively outreach to, and enroll, eligible individuals. It is important that CSFP regulations also

allow this sharing of information to ensure that CSFP agencies may similarly assist WIC agencies.

Currently, under § 247.16(b), the State agency must protect the confidentiality, and other rights in the program, of any person making allegations or complaints against any participant or program official, except as necessary to conduct an investigation, hearing, or judicial proceeding. We propose to include this requirement in paragraph (b) of this proposed section, as it relates to the protection of the confidentiality of program applicants or participants.

*Civil Rights Requirements, Section 247.37*

Currently, under § 247.19, the State agency must comply with the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), FNS Civil Rights Instruction 113-2, and the Department's regulations (7 CFR Part 15) regarding nondiscrimination. We propose to include civil rights requirements under this proposed § 247.37, and to add references to the more recent legislation relating to nondiscrimination, including Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 790 *et seq.*), the Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*), and Titles II and III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*). In accordance with the legislation, we also propose to amend the current regulatory language to state that no person shall, on the grounds of race, color, national origin, age, sex, or disability, be subjected to discrimination under the program. We also propose to include in this proposed section the current instructions under § 247.19 for the filing of a complaint of discrimination.

We propose to delete the current § 247.23(d), which indicates how interested persons may acquire program information and includes a list of the addresses of all FNS Regional Offices. We believe that program materials provided by State and local agencies and information on the FNS Web site at <http://www.fns.usda.gov/fns> are readily accessible sources of program contacts and information, and may also be more easily revised in the event any changes are made regarding this information.

**List of Subjects in 7 CFR Part 247**

Agricultural commodities, Food assistance programs, Infants and children, Maternal and child health, Public assistance programs, nutrition, women, aged.

Accordingly, 7 CFR part 247 is proposed to be revised to read as follows:

**PART 247—COMMODITY SUPPLEMENTAL FOOD PROGRAM****Sec.**

- 247.1 Definitions.
- 247.2 The purpose and scope of CSFP.
- 247.3 Administering agencies.
- 247.4 Agreements.
- 247.5 State and local agency responsibilities.
- 247.6 State Plan.
- 247.7 Selection of local agencies.
- 247.8 Individuals applying to participate in CSFP.
- 247.9 Eligibility requirements.
- 247.10 Distribution and use of CSFP commodities.
- 247.11 Applicants exceed caseload levels.
- 247.12 Rights and responsibilities.
- 247.13 Provisions for non-English or limited English speakers.
- 247.14 Other public assistance programs.
- 247.15 Notification of eligibility or ineligibility of applicant.
- 247.16 Certification period.
- 247.17 Notification of discontinuance of participant.
- 247.18 Nutrition education.
- 247.19 Dual participation.
- 247.20 Program violations.
- 247.21 Caseload assignment.
- 247.22 Allocation and disbursement of administrative funds to State agencies.
- 247.23 State provision of administrative funds to local agencies.
- 247.24 Recovery and redistribution of caseload and administrative funds.
- 247.25 Allowable uses of administrative funds and other funds.
- 247.26 Return of administrative funds.
- 247.27 Financial management.
- 247.28 Storage and inventory of commodities.
- 247.29 Reports and recordkeeping.
- 247.30 Claims.
- 247.31 Audits and investigations.
- 247.32 Termination of agency participation.
- 247.33 Fair hearings.
- 247.34 Management reviews.
- 247.35 Local agency appeals of State agency actions.
- 247.36 Confidentiality of applicants or participants.
- 247.37 Civil rights requirements.

**Authority:** Sec. 5, Pub. L. 93-86, 87 Stat. 249, as added by Sec. 1304(b)(2), Pub. L. 95-113, 91 Stat. 980 (7 U.S.C. 612c note); sec. 1335, Pub. L. 97-98, 95 Stat. 1293 (7 U.S.C. 612c note); sec. 209, Pub. L. 98-8, 97 Stat. 35 (7 U.S.C. 612c note); sec. 2(8), Pub. L. 98-92, 97 Stat. 611 (7 U.S.C. 612c note); sec. 1562, Pub. L. 99-198, 99 Stat. 1590 (7 U.S.C. 612c note); sec. 101(k), Pub. L. 100-202; sec. 1771(a), Pub. L. 101-624, 101 Stat. 3806 (7 U.S.C. 612c note); sec. 402(a), Pub. L. 104-127, 110 Stat. 1028 (7 U.S.C. 612c note).

**§ 247.1 Definitions.**

Following is a list of definitions that apply to the Commodity Supplemental Food Program (CSFP).