

respective needs. We propose to include this provision in paragraph (c) of this proposed § 247.23, and also to include the statement that the State agency must apportion funds in a manner that ensures that the funds will be used to achieve program objectives.

*Recovery and Redistribution of Caseload and Administrative Funds, Section 247.24*

Currently, under § 247.10(c), FNS may recover, and reassign, caseload slots that are not being utilized, and may recover, and reallocate, administrative funds that are not being utilized. In redistributing these resources, FNS must use the same procedures used in the initial assignment of the resources. We propose to include in § 247.24 FNS's authority to recover and redistribute caseload and administrative funds. The redistribution of resources will be accomplished using the same procedures described in the proposed §§ 247.21(a) and 247.22(b). FNS will reassign caseload using the most up-to-date data on participation and caseload utilization, as well as other information provided by State agencies. We propose to make clear that whether a State agency voluntary gives up caseload slots or FNS takes action to recover caseload slots, the State must use 95 percent of its original caseload allocation to be eligible for expansion caseload.

We are requesting that State and local agencies provide specific comments regarding procedures FNS should use in recovering caseload and administrative funds (e.g., is there a specific time during the caseload cycle that should be used to determine if there is a need to recover caseload and administrative funds?).

The current limitation, found at § 247.10(b)(4), which allows FNS to recover no more than 25 percent of a State agency's administrative funds allocation during any fiscal year is included in this proposed rule. However, we are considering increasing or eliminating the 25 percent limitation. Therefore, we are requesting specific comments regarding what, if any, limitation should be imposed, and the potential impact on program administration at the State and local level should the current limitation be increased or eliminated. We also propose to clarify that in instances in which the State agency requests that FNS recover any portion of its assigned caseload, no limitation, should one be retained, will apply.

*Allowable Uses of Administrative Funds and Other Funds, Section 247.25*

Currently, under § 247.11, State and local agencies may use administrative funds only for costs identified by Federal regulations or circulars as allowable, and determined by the State agency to be necessary to carry out the program. Some examples of allowable costs in CSFP are included, as well as a list of costs allowable only with prior approval of FNS. Current regulations describe unallowable costs as those costs "not applicable to program objectives" and include some examples.

Currently, under § 247.14, State and local agencies may use the procurement and property management requirements established by their State and local regulations in procuring equipment or services with program funds, and utilizing and disposing of the equipment, provided that they do not conflict with the requirements of applicable Federal regulations.

Currently, § 247.12 contains the requirements for the use of program income, which is income directly generated from program activities. Program income does not include income from the sale of property. The State agency is currently required to use program income to further program objectives.

We propose to include regulatory guidance on allowable uses of administrative funds, program income, and funds recovered as a result of claims actions, in this proposed § 247.25. In paragraph (a), we propose to state that administrative funds may be used for costs that are necessary to ensure the efficient and effective administration of the program, in accordance with 7 CFR part 3016 and 7 CFR part 3019. 7 CFR part 3016 contains the rules for management of Federal grants to State, local, and Indian tribal governments, and incorporates the provisions of OMB Circular A-87 (Cost Principles for State and Local Governments) relating to allowable costs. 7 CFR part 3019 contains the grants management rules for nonprofit organizations and incorporates the provisions of OMB Circular A-122 relating to allowable costs. Since a discussion of the principles that determine whether specific costs are allowable is contained in the OMB circulars, we propose to include reference to the circulars as well as the Federal regulations. Reference to FMC 74-4 is removed, as this document has been superseded by the regulations and the OMB circulars. We also propose to include, in proposed § 247.25(a), some examples of allowable costs, including:

Storing, transporting, and distributing foods, eligibility determination, program outreach, nutrition education, audits and fair hearings, monitoring and review of program operations, and transportation of participants to and from the local agency, as necessary. This list is meant only to be representative of allowable costs in the program and is not meant to exclude other costs. If there is a question as to whether a particular cost is allowable, State and local agencies should refer to the above documents, or contact FNS.

In paragraph (b), we propose to include the examples of unallowable costs currently included in the regulations and make clear that the applicable Federal regulations must be referenced to determine if other costs are allowable or not.

Currently, under § 247.11(c), specific costs that require FNS approval are listed. These include automatic data processing equipment and system purchases, capital expenditures over \$2,500, rental or lease of facilities or equipment, and management studies performed by agencies or organizations other than the State or local agencies. However, the OMB Circulars referenced above, and parts 3016 and 3019 of this title, which incorporated their provisions, do not currently include rental or lease costs or management studies as costs requiring prior FNS approval. The regulations also currently define equipment as items with a cost of \$5,000 or more per unit. Accordingly, we propose to amend 7 CFR part 247 to conform with these revisions.

We propose to remove the current prior approval requirements for rental or lease costs and the cost of management studies. In paragraph (c) of this proposed § 247.25, we propose to require prior approval for capital expenditures, but to clarify that capital expenditures include the acquisition of facilities or equipment, or enhancements to such capital assets, with a cost per unit of at least \$5,000. We also propose to clarify that equipment includes automated information systems, automated data processing equipment, and other computer hardware and software, which are currently listed separately from capital expenditures. Equipment costs per unit under \$5,000 are considered supplies, and not capital expenditures, and may be made without prior FNS approval.

We propose to include the requirements for procuring property and services with program funds, and utilizing and disposing of property, in paragraph (d) of this proposed section, rather than in a separate section, as at