

and for contracts with storage facilities, are contained under § 250.14 of this chapter.

Under paragraph (b) of this proposed section, we propose to include the current requirement that a physical inventory of all USDA commodities be conducted annually at each State and local agency storage and distribution site where these commodities are stored. We also propose to include the current requirement under 7 CFR 250.14 that results of the physical inventory be reconciled with inventory records and maintained on file by the State or local agency.

#### *Reports and Recordkeeping, Section 247.29*

Currently, under §§ 247.9 and 247.13, State and local agencies are required to maintain records to demonstrate that the receipt, disposal, and inventory of commodities, and the use of administrative funds, are in accordance with program regulations. Records must also indicate the results of any claims brought by the State agency. Also, under current §§ 247.7 and 247.20, State and local agencies are required to maintain records relating to applicant eligibility and fair hearings. Additionally, under 7 CFR 250.16(a)(5), State and local agencies must maintain records related to the determination of participant eligibility for receipt of foods.

Currently, under §§ 247.13 and 247.18, the State agency must report financial data on Form SF-269, on a quarterly basis, and must submit a closeout report, using this form, within 90 days of the end of the fiscal year. The State agency must submit data on the receipt, disposal, and inventory of commodities on a monthly basis, utilizing Form FNS-153, Monthly Report of the Commodity Supplemental Food Program. Each local agency must submit data on racial/ethnic participation on an annual basis, utilizing Form FNS-191, Racial/Ethnic Group Participation.

We propose to include the reporting and recordkeeping requirements in this proposed § 247.29. In paragraph (a), we propose to consolidate recordkeeping requirements from this part and from 7 CFR part 250 without substantial change. However, in the interest of clarity, we propose to be more specific in referring to some of the areas for which records must be maintained. We propose to require State and local agencies to maintain accurate and complete records relating to the receipt, disposal, and inventory of commodities, the receipt and disbursement of administrative funds and other funds, eligibility determinations, fair hearings,

and other program activities. We propose to retain the present language that State and local agencies must also maintain records pertaining to liability for any improper distribution, use of, loss of, or damage to commodities, and the results obtained from the pursuit of claims arising in favor of the State or local agency. At present, all records must be retained for a period of three years from the end of the fiscal year to which they pertain, or, if they are related to unresolved claims actions, audits, or investigations, until those activities have been resolved. Also, all records must be available during normal business hours for use in management reviews, audits, or investigations, except medical case records of participants (unless they are the only source of certification data). We propose to remove current language under § 247.13 that all reports must be traceable to their source documentation. While it is true that the data in reports must coincide with source data, we do not believe that it is necessary to state this in the regulations. We also propose to remove the language indicating that FNS will use reports in evaluating the program performance of State and local agencies, which need not be stated in the regulations.

In paragraph (b) of this proposed section, we propose to include the reporting requirements. Currently, under 7 CFR 250.17(a), the FNS-153 is required to be submitted monthly, but FNS may require less frequent submission, or submission in another format, if this is determined to be sufficient to meet program needs. This allows FNS to reduce the reporting requirement in the future without regulatory action. For the sake of clarity, we propose to incorporate this language into this section. We also propose to include the major data elements that are reported on the FNS-153: The number of program participants in each population category; the distribution and receipt of commodities; beginning and ending inventories; and quarterly use of administrative funds. A number of years ago, a policy change moved the quarterly reporting of administrative funds use to the FNS-153 from the previous quarterly submission of the SF-269.

Although the CSFP regulations currently reference the SF-269, Financial Status Report, that reference is imprecise because the underlying Departmental regulations at 7 CFR part 3016 recognize two variations of this form: The SF-269 (Long Form) and the SF-269A (Short Form). OMB Circular A-102 and 7 CFR part 3016 require Federal grant-making agencies to require

one or the other of these forms for use by their grantees in reporting the status of funds for non-construction programs. We have required the SF-269A for this purpose because this form is more appropriate for programs that do not have matching requirements or other complicating transactions. Therefore, we propose to clarify in this regulation the existing requirement for State agencies to use the SF-269A in reporting end-of-year financial data. Since use of administrative funds is reported quarterly on the FNS-153, we propose, in this new section, to formally require the SF-269A to be submitted only at the end of the fiscal year, as the closeout report. For the same reason, we propose to remove the current requirement, under § 247.18(a), that the State agency submit a preliminary financial report within 30 days of the end of the fiscal year. We also propose to remove the current language that refers to submittal of Form FNS-155. This form, which also reports data on commodity inventories, is not required for CSFP, and was included in this part in error.

Currently, under § 247.23(b), FNS may require that State and local agencies provide data collected in the program to aid in the evaluation of the effect of program benefits on the low-income populations served. Such data requests must not include information on particular individuals. We propose to include this requirement, without change, in paragraph (c) of this proposed § 247.29.

#### *Claims, Section 247.30*

Currently, under § 247.17, FNS must pursue a claim against the State agency if it determines that the State or local agency has misused program funds through negligence, fraud, theft, embezzlement, or other causes. The State agency must repay to FNS the full value of the misused funds. Currently, the requirements for pursuit of claims for the loss, or improper distribution, of commodities are contained under 7 CFR 250.15(c). FNS may initiate and pursue a claim against the State agency for commodities improperly distributed, or lost, stolen, spoiled or damaged as a result of improper care, storage, or handling. The State agency has the option of replacing the misused commodities with like foods. The State agency is responsible for initiating and pursuing claims against local agencies, subdistributing agencies, or other agencies or organizations for such losses.

We propose to include the basic requirements for the initiation and pursuit of claims for the misuse of