

program funds and commodities in this proposed § 247.30, without substantial change from current requirements. We propose to address actions in response to misuse of funds in paragraph (a), and to address actions in response to the loss of commodities in paragraph (b). We propose to include in the regulations reference to 7 CFR 250.15(c) for procedural requirements relative to claims.

Under 7 CFR 250.15, State agencies are required to pursue claims for improper distribution or loss of commodities. However, specific criteria relative to the establishment and pursuit of claims against CSFP participants are not currently addressed in 7 CFR parts 247 or 250. We propose to establish such criteria in paragraph (c) of this proposed section. The WIC Program, under 7 CFR 246.23(c), requires that a State agency initiate a claim to recover the value of benefits improperly obtained or disposed of as the result of a participant violation. We propose to include a similar requirement, but to tie the initiation and pursuit of claims to those cases involving fraud, as defined in these regulations. As under the proposed § 247.20, we propose to consider the selling of CSFP commodities, or their exchange for non-food items, as fraud, in addition to intentional false or misleading statements or the withholding of information by the participant, or the parent or caretaker. The State or local agency must also disqualify the participant from CSFP, unless the local agency determines that disqualification would result in a serious health risk, in accordance with the requirements of proposed § 247.20(b). The State or local agency must advise the participant of the opportunity to appeal the claim through the fair hearing process, in accordance with proposed § 247.33(a).

In paragraph (d) of this proposed section, we propose to address the procedures that State and local agencies must follow in pursuing claims against participants. We propose to include the following requirements, which correspond to similar requirements in the WIC regulations:

(1) The State agency must establish standards, based on a cost-benefit review, for determining when the pursuit of a claim is cost-effective, and must ensure that local agencies use these standards in determining if a claim is to be pursued.

(2) The local agency must issue a letter demanding repayment for the value of the commodities improperly received or used.

(3) If repayment is not made in a timely manner, the local agency must

take additional collection actions that are cost-effective, in accordance with the standards established by the State agency.

(4) The local agency must maintain all records regarding claims actions taken against participants, in accordance with proposed § 247.29.

We believe that inclusion of these criteria would prove an effective deterrent, and would help to ensure that more program resources will be available to those who really need the assistance. These benefits would outweigh the small extra burden placed on State and local agencies in initiating and pursuing claims. State and local agencies would be able to exercise their judgment in determining if the actions necessary to recover the value of improperly obtained benefits are cost-effective, in accordance with the State-established standards.

Audits and Investigations, Section 247.31

Currently, requirements for Federal and State-sponsored audits are contained under § 247.15. Under § 247.16, the Department is authorized to conduct investigations of any allegation that the State or local agency has not complied with Federal regulations. We propose to address audit requirements and the Department's authority to conduct investigations in this proposed § 247.31. Legislation, and subsequent regulatory action by the Department, have modified requirements for State-sponsored audits somewhat, and this proposed section contains the amended requirements. All changes to current provisions described here merely reflect current audit requirements contained in 7 CFR part 3052, which contains the audit requirements for State and local governments and for nonprofit organizations.

The Single Audit Act of 1984 (31 U.S.C. 7501 *et seq.*), and the Single Audit Act Amendments of 1996 (Pub. L. 104–156), amended Federal requirements for State-sponsored audits of agencies operating Federal programs. The OMB implemented the laws by publishing OMB Circular A–133, on June 30, 1997, and the Department implemented the provisions of the law and circular by publishing regulations under 7 CFR part 3052 on August 29, 1997. OMB Circular A–128 was repealed, while OMB Circular A–102 now addresses only Federal agency audits.

The audit requirements were amended to increase the dollar threshold that determines when an audit is required from \$25,000 to

\$300,000. Thus, Federal regulations do not require State and local governments or nonprofit organizations which expend less than \$300,000 in Federal awards in any fiscal year to have an audit for that year. This allows limited resources for audits to be used more efficiently. However, the new audit requirements require State and local agencies to have an audit conducted for each fiscal year in which they expend at least \$300,000 in Federal awards, as detailed in 7 CFR part 3052. Thus, fewer agencies are now required to conduct audits; however, for those agencies that are required to conduct them, the requirement is now annual, instead of the two-year audit cycles previously required. As before, not all of the programs administered by an agency must be included in the audit, if the agency chooses to conduct a single, and not a program-specific, audit. The new audit requirements also modified the way in which auditors select which of the agency's programs are to be included in a single audit.

In paragraph (a) of this proposed § 247.31, we propose to describe the purpose of an audit, as currently described under § 247.15(d). In paragraph (b), we propose to clarify that the Department may conduct an audit of the program at the State or local agency level at its discretion, and may conduct an investigation of an allegation that the State or local agency has not complied with program requirements.

In paragraph (c), we propose to include the following current responsibilities of the State agency in responding to a Departmental audit:

(1) The State agency must provide access to records or documents compiled by State or local agencies or contractors.

(2) The State agency must submit a corrective action plan, with time frames for implementation and completion of corrective actions, and must take additional actions, if determined necessary by the Department.

In paragraph (d), we propose to include the current requirements under 7 CFR part 3052, as described above, that determine when a State and local agency audit is required. We propose to clarify that the value of CSFP commodities distributed by the agency or organization must be considered as part of the Federal award, in determining if an audit is required.

In paragraph (e) of this proposed § 247.31, we propose to note that State and local agency audits must be conducted in accordance with the requirements of 7 CFR part 3052. We also propose to include current requirements that State and local