

§ 247.28

7 CFR Ch. II (1-1-11 Edition)

§ 247.28 Storage and inventory of commodities.

(a) *What are the requirements for storage of commodities?* State and local agencies must provide for storage of commodities that protects them from theft, spoilage, damage or destruction, or other loss. State and local agencies may contract with commercial facilities to store and distribute commodities. The required standards for warehousing and distribution systems, and for contracts with storage facilities, are included under § 250.14 of this chapter.

(b) *What are the requirements for the inventory of commodities?* A physical inventory of all USDA commodities must be conducted annually at each storage and distribution site where these commodities are stored. Results of the physical inventory must be reconciled with inventory records and maintained on file by the State or local agency.

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§ 247.29 Reports and recordkeeping.

(a) *What recordkeeping requirements must State and local agencies meet?* State and local agencies must 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. State and local agencies must also maintain records pertaining to liability for any improper distribution of, 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. 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. All records must be available during normal business hours for use in management reviews, audits, investigations, or reports of the General Accounting Office.

(b) *What reports must State and local agencies submit to FNS?* State agencies must submit the following reports to FNS:

(1) *SF-269A, Financial Status Report.* The State agency must submit the SF-269A, Financial Status Report, to report the financial status of the program at the close of the fiscal year. This report must be submitted within 90 days after the end of the fiscal year. Obligations must be reported for the fiscal year in which they occur. Revised reports may be submitted at a later date, but FNS will not be responsible for reimbursing unpaid obligations later than one year after the end of the fiscal year in which they were incurred.

(2) *FNS-153, Monthly Report of the Commodity Supplemental Food Program and Quarterly Administrative Financial Status Report.* The State agency must submit the FNS-153 on a monthly basis. FNS may permit the data contained in the report to be submitted less frequently, or in another format. The report must be submitted within 30 days after the end of the reporting period. On the FNS-153, the State agency reports:

(i) The number of program participants in each population category (e.g., infants, children, and elderly);

(ii) The receipt and distribution of commodities, and beginning and ending inventories, as well as other commodity data; and

(iii) On a quarterly basis, the cumulative amount of administrative funds expended and obligated, and the amount remaining unobligated.

(3) *FNS-191, Racial/Ethnic Group Participation.* Local agencies must submit a report of racial/ethnic participation each year, using the FNS-191.

(c) *Is there any other information that State and local agencies must provide to FNS?* FNS may require State and local agencies to provide data collected in the program to aid in the evaluation of the effect of program benefits on the low-income populations served. Any such requests for data will not include identification of particular individuals.

(d) *What data must the State agency collect related to local agencies?* (1) Each State agency must collect data related to local agencies that have an agreement with the State agency to participate in the program for each of Federal fiscal years 2006 through 2009; including those local agencies that participated

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only for part of the fiscal year. Such data shall include:

- (i) The name of each local agency;
- (ii) The city in which each participating local agency was headquartered and the name of the state;
- (iii) The amount of funds provided to the participating organization, i.e., the amount of federal administrative funds provided to each participating local agency; and
- (iv) The type of participating organization, e.g., government agency, educational institution, non-profit organization/secular, non-profit organization/faith-based, and "other."

(2) On or before August 31, 2007, and each subsequent year through 2010, State agencies must report to FNS data as specified in paragraph (d)(1) of this section for the prior Federal fiscal year. State agencies must submit this data in a format designated by FNS.

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[70 FR 47063, Aug. 11, 2005 as amended at 72 FR 24184, May 2, 2007]

§ 247.30 Claims.

(a) *What happens if a State or local agency misuses program funds?* If FNS determines that a State or local agency has misused program funds through negligence, fraud, theft, embezzlement, or other causes, FNS must initiate and pursue a claim against the State agency to repay the amount of the misused funds. The State agency will be given the opportunity to contest the claim. The State agency is responsible for initiating and pursuing claims against redistributing and local agencies if they misuse program funds.

(b) *What happens if a State or local agency misuses program commodities?* If a State or local agency misuses program commodities, FNS must initiate a claim against the State agency to recover the value of the misused commodities. The procedures for pursuing claims resulting from misuse of commodities are detailed in §250.15(c) of this chapter. Misused commodities include commodities improperly distributed or lost, spoiled, stolen, or damaged as a result of improper storage, care, or handling. The State agency is responsible for initiating and pursuing

claims against redistributing agencies, local agencies, or other agencies or organizations if they misuse program commodities. The State agency must use funds recovered as a result of claims for commodity losses in accordance with §250.15(c) of this chapter.

(c) *What happens if a participant improperly receives or uses CSFP benefits through fraud?* The State agency must ensure that a local agency initiates a claim against a participant to recover the value of CSFP commodities improperly received or used if the local agency determines that the participant, or the parent or caretaker of the participant, fraudulently received or used the commodities. For purposes of this program, fraud includes intentionally making false or misleading statements, or intentionally withholding information, to obtain CSFP commodities, or the selling or exchange of CSFP commodities for non-food items. The local agency must advise the participant of the opportunity to appeal the claim through the fair hearing process, in accordance with §247.33(a). The local agency must also disqualify the participant from CSFP for a period of up to one year, unless the local agency determines that disqualification would result in a serious health risk, in accordance with the requirements of §247.20(b).

(d) *What procedures must be used in pursuing claims against participants?* 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. In pursuing a claim against a participant, the local agency must:

(1) Issue a letter demanding repayment for the value of the commodities improperly received or used;

(2) If repayment is not made in a timely manner, take additional collection actions that are cost-effective, in accordance with the standards established by the State agency; and

(3) Maintain all records regarding claims actions taken against participants, in accordance with §247.29.

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