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will apply to this single act of intentional program violation.

(5) If the case was referred for Tribal, Federal, State, or local prosecution and the court of appropriate jurisdiction imposed a disqualification penalty, the State agency must follow the court order.

[64 FR 73384, Dec. 30, 1999.]

§ 253.9 Claims against households.

(a) *What are the procedures for establishing a claim against a household for an overissuance?*

(1) The State agency must establish a claim against any household that has received more Food Distribution Program commodities than it was entitled to receive.

(2) The procedures for establishing and collecting claims against households are specified in FNS Handbook 501, The Food Distribution Program on Indian Reservations.

(b) *Who is responsible for repaying a household overissuance claim?*

(1) All adult household members are jointly and separately liable for the repayment of the value of any overissuance of Food Distribution Program benefits to the household.

(2) Responsibility for repayment continues even in instances where the household becomes ineligible or is not participating in the program.

[64 FR 73385, Dec. 30, 1999]

§ 253.10 Commodity control, storage and distribution.

(a) *Control and accountability.* The State agency shall be responsible for the issuance of commodities to households and the control of and accountability for the commodities upon its acceptance of the commodities at time and place of delivery.

(b) *Commodity inventories.* The State agency shall, in cooperation with the FNS Regional office, develop an appropriate procedure for determining and monitoring the level of commodity inventories at central commodity storage facilities and at each local distribution point. The State agency shall maintain the inventories at proper levels taking into consideration, among other factors, household preferences and the historical and projected vol-

ume of distribution at each site. The procedures shall provide that commodity inventories at each central storage facility and each local distribution point are not in excess, but are adequate for, an uninterrupted distribution of commodities.

(c) *Storage facilities and practices.* The State agency shall as a minimum ensure that:

(1) Adequate and appropriate storage facilities are maintained. The facilities shall be clean and neat and safe-guarded against theft, damage, insects, rodents and other pests.

(2) Department recommended dunnage, stacking and ventilation methods are followed.

(3) Commodities are stacked in a manner which facilitates an accurate inventory.

(4) Commodities are issued on a first-in, first-out basis.

(5) Commodities held in storage for a protracted period of time are re-inspected prior to issuance.

(6) Out-of-condition commodities are disposed of in accordance with Department approved methods.

(7) Notification is provided to certified households of the location of distribution sites and days and hours of distribution.

(8) An adequate supply of commodities which are available from the Department is on hand at all distribution sites.

(9) Sufficient distribution sites, either stationary or mobile, are geographically located or routed in relation to population density of eligible households.

(10) Days and hours of distribution are sufficient for caseload size and convenience.

(11) Households are advised they may refuse any commodity not desired, even if the commodities are pre-packaged by household size.

(12) Emergency issuance of commodities will be made to households certified for expedited service in accordance with the provisions of § 253.7(a)(9).

(13) Eligible households or authorized representatives are identified prior to the issuance of commodities.

(14) Authorized signatures are obtained for commodities issued and the issue date recorded.

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(15) Posters are conspicuously displayed advising program participants to accept only those commodities, and in such quantities, as will be consumed by them.

(16) Complete and current records are kept of all commodities received, issued, transferred, and on hand and of any inventory overages, shortages, and losses.

(17) A list of commodities offered by the Department is displayed at distribution sites so that households may indicate preferences for future orders.

(d) *Distribution.* The State agency shall distribute commodities only to households eligible to receive them under this part. If the State agency uses any other agency, administration, bureau, service or similar organization to effect or assist in the certification of households or distribution of commodities, the State agency shall impose upon such organization responsibility for determining that households to whom commodities are distributed are eligible under this part. The State agency shall not delegate to any such organization its responsibilities to the Department for overall management and control of the Food Distribution Program.

(e) *Improper distribution or loss of or damage of commodities.* State agencies shall take action to obtain restitution in connection with claims arising in their favor for improper distribution, use or loss, or damage of commodities in accordance with § 250.13 and § 250.15 of this chapter.

(f) *Damaged or out-of-condition commodities.* The State agency shall immediately notify the appropriate Food and Nutrition Service Regional Office (FNSRO) if any commodities are found to be damaged or out-of-condition at the time of arrival, or at any subsequent time, whether due to latent defects or any other reason. FNSRO shall advise the State agency of the appropriate action to be taken with regard to such commodities. If the commodities are declared unfit for human consumption in accordance with § 250.13(f) of this chapter, they shall be disposed of as provided for under that section. When out-of-condition commodities do not create a hazard to other food at the same location, they shall not be dis-

posed of until FNSRO or the responsible commodity contractor approves. When circumstances require prior disposal of a commodity, the quantity and manner of disposition shall be reported to the appropriate FNSRO. If any damaged or out-of-condition commodities are inadvertently issued to a household and are rejected or returned by the household because the commodities were unsound at the time of issuance and not because the household failed to provide proper storage, care or handling, the State agency shall replace the damaged or out-of-condition commodities with the same or similar kind of commodities which are sound and in good condition. The State agency shall account for such replacements on its monthly inventory report.

(Approved by the Office of Management and Budget under control number 0584-0071)

(44 U.S.C. 3506)

[44 FR 35928, June 19, 1979, as amended at 47 FR 746, Jan. 7, 1982. Redesignated by Amdt. 1, 47 FR 14137, Apr. 2, 1982, and further redesignated at 64 FR 73384, Dec. 30, 1999.]

§ 253.11 Administrative funds for State agencies.

(a) *Payments.* Within the limitation of funds available to carry out the provisions of this part, FNS shall, beginning with fiscal year 1980, make available to each State agency 75 percent of approved administrative costs. Any approval for payment of funds in excess of 75 percent shall be based on compelling justification that such additional amounts are necessary for the effective operation of the Food Distribution Program on an Indian reservation. Compelling justification may include, but not be limited to, such factors as the need for a larger Federal contribution during a State agency's first year of operation of the program, and the need to assure that no State agency currently operating the program receives a level of funding that would cause a diminution of program services. Administrative costs must be included in annual or revised budget information submitted by the State agency to FNS for approval prior to the contribution of Federal funds. Administrative costs must be allowable under part 277 of this chapter.