system that will be implemented to prevent dual participation.

Submission of such information is necessary in order for FCS to determine if the situation warrants the simultaneous distribution of food stamps and commodities and to ensure that the State has a viable system to prevent dual benefits from being provided to households.

Collection of Household Information

While various forms have been developed by States for use in collecting household data, current regulations contain no provisions concerning the collection of information from households for the receipt of donated foods during a disaster. Under the provisions contained in this proposed rule, food stamp benefits can be issued and commodities distributed for home consumption in areas where it has been determined by the Department that the situation warrants such simultaneous operations. However, the Department is concerned that in such instances food stamp benefits and commodities may be provided to the same household simultaneously. In an effort to ensure that information necessary to prevent the issuance of dual benefits and for establishing and pursuing claims action is available, this rule proposes to amend section 250.43(c) to require that organizations distributing donated foods to households in areas where the Food Stamp Program is in operation obtain, at a minimum, the name of the household member applying for assistance, number of members in the household, and the household's address. Such information must be recorded in whatever format the State deems appropriate.

In addition to providing the above information, organizations distributing donated foods to households would be required to obtain a signed statement of assurance from the adult member of the household applying for benefits to the effect that the household: (1) Is in need of food assistance as a result of the disaster; (2) understands that misrepresentation of need and the sale or exchange of the donated food are prohibited and could result in a fine, imprisonment, or both; (3) is not residing in a shelter which provides food assistance; and (4) is not receiving food stamp assistance. While the intent of this signed statement is to prevent applicants from receiving duplicative food assistance benefits, it should be reasonably interpreted in the context of the individual case. For example, a household which applies for commodity assistance en route from a shelter where food assistance was provided to reoccupy its permanent residence

should not be considered to be "residing in a shelter." The signing of such statements will ensure that households understand the conditions under which the food assistance is being provided. Such statements will also provide further support for pursuing a claim against a household in instances in which both food stamp and commodity assistance were provided. Under the proposal, all signed statements must be provided to the distributing agency unless the organization distributing the commodities is an agency of the State. At the discretion of the distributing agency, non-State agencies may be assigned responsibility of retaining such statements rather than forwarding them to the State.

In instances when it is determined that claims action against a household is warranted due to the receipt of both food stamp and commodity assistance, the Department intends to pursue such action through establishment of a claim against the household for the value of the food stamps issued. This course of action is preferred since the recordkeeping requirements that would have to be imposed on a disaster organization to ensure availability of information necessary to establish a claim for the value of commodities would be significant, while recording the value of the food stamp benefit provided is already required and much less time consuming.

There have been instances in past years in which other Federal agencies have been involved in providing food assistance to disaster victims with USDA commodities. Questions were raised as to whether these agencies were subject to the requirements set forth for disaster situations. In instances in which it has been determined that the collection of certain information is necessary and the regulations contain information collection requirements, all organizations, regardless of the type, must comply with the requirements. This proposed rule will clarify that any entity, including Federal, State, and local agencies, involved in the distribution of USDA commodities must comply with all such regulatory requirements. In addition, this proposed rule will clarify that State and Federal agencies can act as a disaster organization in providing food assistance during disasters and situations of distress.

Replacement of Commodities

Section 250.43(g) of the current regulations states that USDA commodities used from the State's inventory for a major disaster or emergency will be replaced by FCS to the extent that foods are available.

Section 413(b) of the DREAA authorizes the use of funds under section 32 of the Act of August 24, 1935, to purchase food necessary to provide adequate supplies for use in a major disaster or emergency. This rule proposes to amend paragraph (g) of Section 250.43 to reflect the statutory authority. This change will guarantee that USDA commodities used by a State for disaster assistance are replaced, provided that a timely request is submitted by the distributing agency.

Use of Commodities in Situations of Distress

The primary difference between a disaster and a situation of distress, with regard to USDA food assistance, is that a situation of distress is not of a magnitude to warrant an emergency or disaster declaration by the President. This section of the preamble addresses only such situations of distress.

Section 250.44 of the current regulations permits, upon approval by the Secretary, the distribution of donated foods to organizations for use in preparing meals in situations in which the need for food assistance cannot be met through other provisions of Part 250 regulations. Prior to the overall revision of Part 250, which was published as an interim rule in the Federal Register on June 3, 1988, (53 FR 20416), the regulations also permitted the Department to authorize distribution of commodities to households in all such situations. In drafting the overall revision, the Department decided to delete those provisions relative to household distribution in situations of distress on the premise that food assistance to households can be provided through the Food Stamp Program.

Since implementation of the interim rule, the Department has determined that the Food Stamp Program may not be able to meet the nutritional needs of all affected households in situations of distress. For example, it may not be possible for some households to obtain food stamp benefits due to certain eligibility requirements, such as resource limits on the value of vehicles, or citizenship. In addition, there may be instances in which certain areas are hard hit by a non-Presidentially declared disaster (i.e., situation of distress) and using food stamps is not feasible because commercial channels of trade in those particular areas are disrupted.

Therefore, to ensure that food assistance can be made available to households in these types of situations,