

Food and Consumer Service, USDA

§ 250.18

processor or entity shall be subject to the provisions of §250.13(e).

(b) *Length of maintenance.* All records required by this Section shall be retained for a period of three years from the close of the fiscal year to which they pertain. However, in instances when claims action and/or audit findings have not been resolved, the records shall be retained as long as required for the resolution of such action or findings.

§250.17 Reports.

(a) *Monthly Report of Receipt and Distribution of Donated Foods (FCS-155).* Distributing agencies shall complete and submit to the FCSRO monthly inventory reports covering the receipt and distribution of donated foods on Form FCS-155 or other format approved by FCS. The report shall be submitted no later than 30 calendar days after the end of the reporting month. The distributing agency shall submit a list of individual food orders received for each food item delivered by the Department as an attachment to the FCS-155.

(b) *Processing inventory reports.* Distributing agencies shall complete and submit a quarterly processing inventory report in accordance with §250.30(o).

(c) *Performance reports.* Monthly reports of performance shall be submitted by processors to distributing agencies in accordance with §250.30(m).

(d) *Commodity acceptability reports.* Distributing agencies shall submit to the FCSRO reports relative to the types and forms of donated foods which are most useful to recipient agencies in accordance with §250.13(k) of this part.

(e) *Other reports.* Distributing agencies shall complete and submit other reports relative to distribution operations in such form as may be required from time to time by the Department.

(f) *Report transmission.* Where a report is to be postmarked by a specific date and such report is transmitted by means of a facsimile machine, the date printed by the facsimile machine on

the facsimile copy may serve as the postmark.

(Reporting requirements contained in paragraph (a) approved by the Office of Management and Budget under control number 0584-0001. Reporting requirements contained in paragraph (e) approved by the Office of Management and Budget under control numbers 0584-0028, 0584-0109, 0584-0288 and 0584-0293)

[53 FR 20426, June 3, 1988, as amended at 53 FR 27476, July 21, 1988; 59 FR 62983, Dec. 7, 1994]

§250.18 Audits.

(a) *Right of inspection and audit.* The Secretary, the Comptroller General of the United States, or any of their duly authorized representatives, may inspect and inventory donated foods in storage or the facilities used in the handling or storage of such donated foods, and may inspect and audit all records, including financial records, and reports pertaining to the distribution of donated foods and may review or audit the procedures and methods used in carrying out the requirements of this part at any reasonable time. Subdistributing agencies, recipient agencies, processors, food service management companies and warehouses shall be required to permit similar inspection and audit by such entities or their representatives. Fiscal matters shall continue to be reviewed in audits under the Single Audit Act (31 U.S.C. 7501-07) and the Department's Uniform Federal Assistance Regulations (7 CFR part 3015).

(b) *Independent CPA audits of multi-State processors.* (1) For any year in which a multi-State processor receives more than \$250,000 in donated foods, the processor shall obtain an independent CPA (certified public accountant) audit for that year. Multi-State processors which receive \$75,000 to \$250,000 in donated food each year shall obtain an independent CPA audit every two years and those which receive less than \$75,000 in donated foods each year shall obtain an independent CPA audit every three years. Those multi-State processors which are in the two or three-year audit cycle shall move into the next audit cycle at the point in time in

which the value of donated foods received reaches \$75,000 or \$250,000 in any year. The total value of donated food received shall be computed by adding the value of food received under State and National Commodity Processing contracts. In instances in which the Department determines that the audit is not acceptable or that the audit has disclosed serious deficiencies, the processor shall be subject to additional audits at the request of FCS.

(2) Audits shall be conducted in accordance with the auditing provisions set forth under the Uniform Federal Assistance Regulations (7 CFR part 3015, subpart I) and the FCS Audit Guide for Multi-State Processors. At the discretion of FCS, auditors will be required to attend training sessions conducted by the Department.

(3) The costs of the audits, including those costs associated with training, shall be borne by the processors.

(4) Audit findings relative to those elements associated with the processing of donated food shall be submitted to the processor and to FCS concurrently.

(5) Noncompliance with the audit requirements in paragraph (b)(1) of this section will render the processor ineligible to enter into another processing contract with any contracting agency until the required audit has been conducted and deficiencies corrected.

(6) *Processor response.* Multi-State processors shall develop a written response to FCS addressing deficiencies which have been identified in the audit. Such responses shall include:

(i) Corrective action which has already been taken to eliminate the deficiency;

(ii) Corrective action which the processor proposes to take to eliminate the deficiency;

(iii) The timeframes for the implementation and completion of the corrective action;

(iv) A determination of what caused the deficiency; and

(v) Deficiencies which have been identified that the processor takes exception to and an explanation for the exception.

Multi-State processors shall submit a written response to FCS in accordance with timeframes established by FCS.

[53 FR 20426, June 3, 1988, as amended at 54 FR 7525, Feb. 22, 1989]

§250.19 Reviews.

(a) *General.* Each distributing agency shall establish a review system in order to assess the effectiveness of its food distribution program in meeting the requirements of these regulations.

(b) *Responsibilities of distributing agencies.* (1) Each distributing agency shall establish review procedures encompassing eligibility, food ordering procedures, storage practices, inventory controls, reporting and recordkeeping requirements and compliance with non-discrimination provisions. The procedures shall include:

(i) An on-site review of all charitable institutions, nutrition programs for the elderly and nonprofit summer camps for children under agreement in accordance with §250.12(b) at least once every 4 years, with not fewer than 25 percent of each of these recipient agency categories being reviewed each year. These reviews shall also include on-site reviews of storage facilities to ensure compliance with §250.14(a);

(ii) An on-site review at least once every 2 years of all processors except those that are multi-State processors as defined in §250.3, with no fewer than 50 percent being reviewed each year;

(iii) An annual on-site review of each storage facility utilized by the distributing agency. On-site reviews conducted by FCS may be considered as contributing to the fulfillment of the minimum coverage required by this paragraph; and

(iv) A biennial review of all food service management companies under contract with recipient agencies in accordance with §250.12(c) which are not under contract with a school participating in the National School Lunch Program or a Commodity School under part 210 of this chapter, or a school participating in the School Breakfast Program under part 220 of this chapter.

(2) Each distributing agency shall design and implement a system to verify sales of end products to all recipient agencies under that distributing agency's authority in instances when a