

**§ 250.20**

entity reviewed. The report shall include:

- (i) Each deficiency found;
- (ii) The factors contributing to each deficiency;
- (iii) Recommendations for needed corrective action, including timetables for completion and/or claims action to be pursued, if any; and
- (iv) Provisions for evaluating effectiveness of corrective actions.

A copy of each processor review report shall be provided to the appropriate FNSRO.

(4) Distributing agencies shall monitor progress toward completion and the effectiveness of corrective actions taken in eliminating program deficiencies.

(5) In addition to the review requirements of paragraph (b)(1) of this section, each distributing agency shall make a continuing evaluation of all recipient agencies, and processors by monitoring performance reports, food requests, participation data, and data regarding refunds and discounts to recipient agencies and distributors for the receipt of end products.

(6) Distributing agencies shall, where applicable, require that subdistributing agencies monitor and review their operations in accordance with this paragraph.

(c) *Corrective action plans.* Corrective action plans shall be submitted whenever a distributing agency is found by the FNSRO to be substantially out of compliance with a performance standard or any other provision of this part. The corrective action plan shall identify the corrective actions and the timeframes needed to correct the deficiencies found by the FNSRO. The plan shall be written, signed by the proper official in the State, and submitted to the FNSRO within 60 days after the distributing agency receives notification from the FNSRO of a deficiency. Extensions beyond 60 days may be made, for cause, with written justification to and approved by the FNSRO.

[53 FR 20426, June 3, 1988, as amended at 54 FR 7525, Feb. 22, 1989, 54 FR 25564, June 16, 1989; 54 FR 42477, Oct. 17, 1989; 62 FR 53731, Oct. 16, 1997; 73 FR 46184, Aug. 8, 2008]

**§ 250.20 Sanctions.**

Any distributing agency which has failed to comply with the provisions of this part or any instructions or procedures issued in connection with it or any agreements entered into pursuant to it, may, at the discretion of the Department, be disqualified from further participation in any distribution program. Reinstatement may be made at the option of the Department. Disqualification shall not prevent the Department from taking other action through other available means when considered necessary, including prosecution under applicable Federal statutes.

**§ 250.21 Civil rights.**

Distributing agencies, subdistributing agencies and recipient agencies shall comply with the Department's nondiscrimination regulations (7 CFR parts 15, 15a, and 15b) and the FNS civil rights instructions to ensure that in the operation of the program no person is discriminated against because of race, color, national origin, age, sex or handicap.

**§ 250.22 Complaints.**

Distributing agencies shall investigate promptly complaints received in connection with the distribution or use of donated foods. Irregularities which are disclosed shall be corrected immediately. Serious irregularities shall be promptly reported to the Department. Distributing agencies shall maintain or file evidence of such investigations and actions. The Department also reserves the right to make investigations and shall have the final determination as to when a complaint has been properly handled. Complaints alleged on the basis of race, color, national origin, age, sex or handicap shall be handled in accordance with § 250.21.

**§ 250.23 Buy American.**

(a) *Purchase requirements.* When purchasing food products with Federal funds, whenever possible, recipient agencies shall purchase only food products that are produced in the United States (U.S.). Food products produced in the U.S. means:

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(1) An unmanufactured food product produced in the U.S.; or

(2) A food product manufactured in the U.S. primarily using food grown in the U.S.

(b) *Exceptions.* The purchase requirements described in paragraph (a) of this section shall not apply in instances when the recipient agency determines: (1) Recipients have unusual or ethnic food preferences which can only be met through purchases of products not produced in the U.S.; (2) the product is not produced or manufactured in the U.S. in sufficient and reasonably available quantities of a satisfactory quality; (3) the cost of U.S. produced food products is significantly higher than foreign products, or (4) the recipient agency is located in Alaska, Hawaii, Guam, American Samoa, Puerto Rico, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands.

[53 FR 27476, July 21, 1988, as amended at 58 FR 39122, July 22, 1993; 67 FR 65015, Oct. 23, 2002]

### § 250.24 Distributing agency performance standards.

This section establishes basic performance standards which must be followed by distributing agencies responsible for intrastate distribution of donated commodities and products. The seven standards address the level of service that shall be provided to recipient agencies. The basic standards include the following:

(a) *Program management and evaluation.* Distributing agencies shall conduct reviews in accordance with § 250.19. Distributing agencies shall also assess the adequacy of the service provided to recipient agencies.

(b) *Information dissemination.* Distributing agencies shall provide recipient agencies with all information needed for informed participation in the program. Distributing agencies shall provide program information relative to:

- (1) Current program regulations,
- (2) Summaries of commodity specifications upon request (§ 250.13(j)) and commodity fact sheets,
- (3) Results of any test evaluations and surveys,
- (4) Recipes, and

(5) Written procedures for ordering commodities, handling commodities which are stale, spoiled, out-of-condition or not in compliance with specifications (including procedures for replacement by the Department under § 250.13(g)), submitting complaints and other written policy which affects program operations.

(c) *Fiscal responsibility.* Distributing agencies shall maintain a financial management system which ensures fiscal integrity and accountability for all funds and includes a recordkeeping system which conforms to generally accepted accounting practices. Distributing agencies shall submit information relative to distribution charges to FNS in accordance with § 250.15(a).

(d) *Ordering and allocation.* Distributing agencies shall ensure that donated food is provided on an equitable basis and, to the extent practicable, in the types and forms most usable by recipient agencies. Distributing agencies shall be responsible for:

(1) Obtaining and utilizing commodity acceptability information in accordance with § 250.13(k);

(2) Providing recipient agencies with information regarding commodity availability;

(3) Providing recipient agencies with information regarding commodity assistance levels;

(4) Ordering and allocating donated food based on participation data for those programs which serve meals;

(5) Ensuring the availability of commodities, to the extent possible, in quantities requested and at times specified by recipient agencies;

(6) Permitting recipient agencies to refuse all or a portion of a commodity prior to delivery to the distributing agency if time permits;

(7) Permitting recipient agencies to change orders for Group B (grain, dairy, peanut and oil products) and unlimited bonus commodities prior to submission of an order to the Department;

(8) Providing recipient agencies with ordering options and commodity values, and considering the specific needs and capabilities of such agencies in ordering donated foods;