

Food and Nutrition Service, USDA

§ 253.3

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§ 253.1 General purpose and scope.

This part describes the terms and conditions under which: commodities (available under part 250 of this chapter) may be distributed to households on or near all or any part of any Indian reservation, the program may be administered by capable Indian tribal organizations, and funds may be obtained from the Department for the costs incurred in administering the program. This part also provides for the concurrent operation of the Food Distribution Program and the Food Stamp Program on Indian reservations when such concurrent operation is requested by an ITO.

§ 253.2 Definitions.

(a) *Exercises governmental jurisdiction* means the active exercise of the legislative, executive or judicial powers of government by an Indian tribal organization.

(b) *Food distribution program* means a food distribution program for households on Indian reservations operated pursuant to sections 4(b) and 1304(a) of Pub. L. 95–113.

(c) *Indian tribal household* means a household in which at least one household member is recognized as a tribal member by any Indian tribe, as defined in paragraph (d) of this section.

(d) *Indian tribe* means (1) any Indian tribe, Band, or other organized Indian group, for example, a Rancheria, Pueblo, or colony, and including any Alaska Native village or regional or village corporation (established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688)), and that is on a res-

ervation and recognized as eligible for Federal programs and services provided to Indians because of their status as Indians; or (2) any Indian tribe or Band on a reservation holding a treaty with a State government.

(e) *Indian tribal organization (ITO)* means: (1) The recognized governing body of any Indian tribe on a reservation; or (2) the tribally recognized intertribal organization which the recognized governing bodies of two or more Indian tribes on a reservation authorize to operate the Food Stamp Program or a Food Distribution Program on their behalf.

(f) *Overissuance* means the dollar value of commodities issued to a household that exceeds the dollar value of commodities it was eligible to receive.

(g) *Reservation* means the geographically defined area or areas over which an ITO exercises governmental jurisdiction so long as such area or areas are legally recognized by the Federal or a State government as being set aside for the use of Indians.

(h) *State* means any one of the fifty States, the District of Columbia, and the reservation of an Indian tribe whose ITO meets the requirements of the Food Stamp Act of 1977 for participation as a State agency.

(i) *State agency* means:

(1) The agency of State government, including the local offices thereof, which enters into an agreement with FNS for the distribution of commodities on all or part of an Indian reservation, and

(2) The ITO of any Indian tribe, determined by the Department to be capable of effectively administering a Food Distribution Program, which enters into an agreement with FNS for the distribution of commodities on all or part of an Indian reservation.

(j) *Urban place* means a town or city with a population of 10,000 or more.

[44 FR 35928, June 19, 1979. Redesignated and amended by Amdt. 1, 47 FR 14137, Apr. 2, 1982; 59 FR 1449, Jan. 11, 1994; 64 FR 73382, Dec. 30, 1999]

§ 253.3 Availability of commodities.

(a) *Conditions for distribution.* In jurisdictions where the Food Stamp Program is in operation, there shall be no

distribution of commodities to households under the authority of any law, except that distribution may be made (1) on a temporary basis under programs authorized by law to meet disaster relief needs, (2) for the purpose of the Commodity Supplemental Food Program, and (3) whenever a request for concurrent or separate Food Distribution Program on a reservation is made by an ITO.

(b) *Concurrent or separate food program operation.* Distribution of commodities, with or without the Food Stamp Program, shall be made whenever an ITO submits to FNS a completed application for the Food Distribution Program on all or part of a reservation and the application is approved by FNS.

(1) Except as provided in paragraph (b)(2) of this section, when the Food Distribution Program is operating on all or part of a reservation, all eligible households within those boundaries may participate in the Food Distribution Program, or, if the ITO has elected concurrent operation of the Food Stamp Program, may elect to participate in either program, without regard to whether the household is an Indian tribal household.

(2) FNS may determine, based on the number of non-Indian tribal households located on all or part of a reservation, that concurrent operation is necessary. When such a determination has been made all households residing in such areas may apply to participate in either the Food Stamp or the Food Distribution Program.

(c) *Household distribution.* Commodities acquired under section 416 of the Agricultural Act of 1949, as amended; section 32 of Pub. L. 320, 74th Congress, as amended; section 709 of the Food and Agricultural Act of 1963, as amended; and section 4(a) of the Agriculture and Consumer Protection Act of 1973, as amended, by section 1304 of the Food and Agriculture Act of 1977, may be made available under part 250 of this chapter for distribution to households in accordance with the provisions of that part and the additional provisions and requirements of this part.

(d) *Food distribution program benefits.* Households eligible under this part shall receive a monthly food package

based on the number of household members. The food package offered to each household shall consist of a quantity and variety of commodities made available by the Department to provide eligible households with an opportunity to obtain a more nutritious diet and shall represent an acceptable nutritional alternative to Food Stamp Program benefits. The food package offered to each household by the State agency shall contain a variety of foods from each of the food groups in the Food Distribution Program on Indian Reservations Monthly Distribution Guide Rates by Household Size—Vegetables, Fruit, Bread-Cereal-Rice-Pasta, Meat-Poultry-Fish-Dry Beans-Eggs-Nuts, Milk-Yogurt-Cheese, and Fats-Oils-Sweets. FNS shall periodically notify State agencies of the kinds of commodities it proposes to make available based, insofar as practicable, on the preferences of eligible households as determined by the State agency. In the event one or more of the proposed commodities cannot be delivered, the Department shall arrange for delivery of a similar commodity within the same food group.

[44 FR 35928, June 19, 1979. Redesignated by Amdt. 1, 47 FR 14137, Apr. 2, 1982, as amended at 65 FR 47833, Aug. 4, 2000]

§ 253.4 Administration.

(a) *Federal administration.* Within the Department of Agriculture, the Food and Nutrition Service (FNS) shall be responsible for the Food Distribution Program. FNS shall have the power to determine the amount of any claim and to settle and adjust any claim.

(b) *State agency administration.* (1) If FNS determines that the ITO is capable of effective and efficient administration, the ITO shall administer the Food Distribution Program on all or part of the reservation. If FNS determines that the ITO is not capable of effective and efficient administration of the Food Distribution Program, the appropriate agency of the State government shall be responsible for the Food Distribution Program on all or part of the Indian reservation. In addition, the appropriate agency of the State government may administer the Program on behalf of an otherwise capable tribe if agreed to in writing by both parties.