

§ 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 reservation 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,