

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### 7 CFR Parts 253 and 254

RIN 0584-AC65

#### Food Distribution Program on Indian Reservations: Disqualification Penalties for Intentional Program Violations

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Food and Nutrition Service is amending Food Distribution Program regulations in response to an audit recommendation by the Department of Agriculture's Office of Inspector General. The changes are intended to improve program integrity and promote consistency with the Food Stamp Program. This rule defines intentional program violations, establishes penalties for them, and requires Indian Tribal Organizations and State agencies that administer the Food Distribution Program to take appropriate action on suspected cases of intentional program violations. It also addresses the establishment and collection of claims against households for overissuances under the Food Distribution Program, and makes technical changes to correct erroneous regulatory references.

**EFFECTIVE DATE:** This rule is effective February 28, 2000.

**FOR FURTHER INFORMATION CONTACT:** Lillie F. Ragan, Assistant Branch Chief, Household Programs Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Room 510, 3101 Park Center Drive, Alexandria, Virginia 22302-1594, or by telephone at (703) 305-2662.

#### SUPPLEMENTARY INFORMATION:

- I. Procedural Matters
- II. Background and Discussion of Final Rule

##### I. Procedural Matters

###### *Executive Order 12866*

This rule has been determined to be not significant for purposes of Executive Order 12866. Therefore, it has not been reviewed by the Office of Management and Budget.

###### *Public Law 104-4*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under Section 202 of the UMRA, the Food and Nutrition Service generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, Section 205 of the UMRA generally requires the Food and Nutrition Service to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector of \$100 million or more in any one year. Therefore, this rule is not subject to the requirements of Sections 202 and 205 of the UMRA.

###### *Executive Order 12372*

The programs addressed in this action are listed in the Catalog of Federal Domestic Assistance under Nos. 10.550 and 10.570, and for the reasons set forth in the final rule in 7 CFR 3015, Subpart V, and related Notice (48 FR 29115), are included in the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

###### *Regulatory Flexibility Act*

This rule has been reviewed with regard to the requirements of the

Regulatory Flexibility Act of 1980 (5 U.S.C. 601-612). The Administrator of the Food and Nutrition Service has certified that this action will not have a significant impact on a substantial number of small entities. Indian Tribal Organizations and State agencies that administer the Food Distribution Program, and program participants will be affected by this rulemaking, but the economic effect will not be significant.

###### *Executive Order 12988*

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. The rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions, or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted.

###### *Paperwork Reduction Act*

This rule does not contain information collection requirements subject to approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

##### II. Background and Discussion of the Final Rule

On July 22, 1999, the Food and Nutrition Service (FNS) published a rule at 64 FR 39432 proposing amendments to the regulations for the Food Distribution Program at 7 CFR Parts 253 and 254. These proposed changes would have defined intentional program violations (IPV), established penalties for them, and required Indian Tribal Organizations (ITOs) and State agencies that administer the Food Distribution Program to take appropriate action on suspected cases of IPV. This proposed rule was prompted, in part, by an audit recommendation by the Department of Agriculture's Office of Inspector General. Please refer to the proposed rule for a discussion of the audit and its findings.

Comments were solicited through September 20, 1999, on the provisions of the proposed rulemaking. FNS received two comment letters, which are discussed in detail below. For a full understanding of the provisions of this

final rule, the reader should refer to the preamble of the proposed rule.

In preparing the final rule, we identified several areas discussed in the proposed rule that needed further explanation to ensure that the Department's position is clear. We wish to emphasize that these changes to the final rule are made for the purposes of clarification, and that the Department's position with regard to the necessity of the proposed changes has not altered.

In the discussion and regulatory text below, we have used the term "State agency," as defined at 7 CFR 253.2 and 254.2, to include ITOs authorized to administer the Food Distribution Program.

### 1. Initiating Administrative Disqualification Procedures

Section 253.8(a) of the proposed rule would define IPV, in part, as an act committed by an *individual* who willingly, knowingly and with deceitful intent misrepresents the household's circumstances or withholds facts in order to obtain benefits that the household is not entitled to receive. In preparing the final rule, we realized that there may be some confusion relating to the use of the term "individual" in the proposed rule. By "individual" we meant the *individual household member*. We wanted to differentiate between the individual household member and the household as a whole. Since "household" is a term defined in the Food Distribution Program regulations, we believe the use of the term "household member," rather than the term "individual," is preferable for the purposes of this rule. Therefore, we are revising the final rule to remove the term "individual" and replace it with the term "household member" throughout the regulatory text pertaining to IPV's.

### 2. Referral to Authorities for Prosecution

Section 253.8(e)(7) of the proposed rule would require State agencies to refer all substantiated cases of intentional program violations to *Federal, State, or local authorities* for prosecution under applicable statutes. It was our intent that the term "local" include Tribal authorities. However, in preparing the final rule we realized that "local" is commonly used to refer to County-level entities. Some readers may not associate "Tribal authorities" with the term "local authorities." To avoid such confusion, we are revising the final rule to specifically include the term "Tribal," as appropriate, throughout regulatory text.

### 3. Notification Requirements

Section 253.8(e)(2) of the proposed rule would require State agencies to inform households in writing of the disqualification penalties for intentional program violation each time they apply for benefits (including recertifications). This notice is intended to advise the household of the consequences of committing an intentional program violation. One of those consequences may be prosecution by Tribal, Federal, State, or local authorities. In preparing the final rule we realized that the notification requirements did not clearly specify that households be informed of the possibility of prosecution. To ensure that households are properly informed of all the consequences of committing an intentional program violation, we are revising section 253.8(e)(2) to require State agencies to include a statement in the notice informing households of the possibility of prosecution by authorities.

### 4. Application of the Disqualification Penalties

We wish to clarify that the procedures proposed at section 253.8(h) would require imposition of the disqualification penalties without regard to the household member's current eligibility status. Because of an oversight, this policy was not stated correctly in one section of the preamble to the proposed rule that concerns fair hearing notices. However, it was stated correctly elsewhere in the preamble and the regulatory text. We apologize for any confusion caused by this oversight. Although there is no change to the final rule, we wish to confirm that the State agency must proceed with imposition of the disqualification penalty, even if the household member is not certified to participate in the Food Distribution Program at the time the disqualification is to begin.

### 5. Claims Against Households

One commenter suggested that we allow households to repay an overissuance claim by voluntarily taking less commodities than they are entitled to receive. The value of the commodities not taken each month would be applied to the outstanding claim.

Current policy on the collection of overissuance claims is addressed in FNS Handbook 501, Chapter V, Section 6, State Agency Claims Procedures Against Households. Subsection 5670 prohibits the recovery of benefits from households through a reduction in the amount of commodities the household would otherwise receive. We do not feel that this policy should be changed by this action. Such a change would place

an undue burden on State agencies. They would be required to determine the value of each commodity not selected by the household each month. They would also be required to track the "payments" until the claim is paid in full. We are reluctant to impose a new burden on State agencies and make a change in policy without first providing an opportunity for public comment. Therefore, we are not incorporating the commenter's proposal in the final rule.

Another commenter, who expressed strong support for administrative disqualification penalties for intentional program violations, recommended stronger penalties against households that fail to repay overissuance claims. The procedures for the collection of overissuance claims and actions to be taken against households that fail to repay claims are addressed in FNS Handbook 501, Chapter V, Section 6, State Agency Claims Procedures Against Households. We are reluctant to change these procedures by instituting a new penalty without first providing an opportunity for public comment. Therefore, we are not incorporating the commenter's recommendation in the final rule.

### List of Subjects

#### 7 CFR Part 253

Administrative practice and procedure, Food assistance programs, Grant programs, Social programs, Indians, Reporting and recordkeeping requirements, Surplus agricultural commodities.

#### 7 CFR Part 254

Administrative practice and procedure, Food assistance programs, Grant programs, Social programs, Indians, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, 7 CFR parts 253 and 254 are amended as follows:

### PART 253—ADMINISTRATION OF THE FOOD DISTRIBUTION PROGRAM FOR HOUSEHOLDS ON INDIAN RESERVATIONS

1. The authority citation for part 253 is revised to read as follows:

**Authority:** 91 Stat. 958 (7 U.S.C. 2011–2036).

2. In § 253.2, redesignate paragraphs (f) through (i) as paragraphs (g) through (j), respectively, and add new paragraph (f) as follows:

#### § 253.2 Definitions.

\* \* \* \* \*

(f) *Overissuance* means the dollar value of commodities issued to a

household that exceeds the dollar value of commodities it was eligible to receive.

\* \* \* \* \*

#### § 253.5 [Amended]

3. In § 253.5:

a. Amend paragraph (a)(1) by removing the reference “§ 253.9” and adding, in its place, the reference “part 250 of this chapter”;

b. Amend paragraph (a)(2)(vii) by removing the reference “part 283 of this subchapter” and adding, in its place, the words “this part”;

c. Amend paragraph (d)(1) by removing the references “§ 283.7(a)(2) and (b)(3)” and adding, in its place, the references “§ 253.7(a)(2) and (b)(3)”, and by removing the reference “§ 283.7(c)” and adding, in its place, the reference “§ 253.7(c)”;

d. Amend paragraph (k)(1) by removing the reference “§ 283.9(g) of this part” and adding, in its place, the reference “§ 253.11(g)”;

e. Amend paragraph (k)(2) by removing the reference “§ 283.4” and adding, in its place, the reference “§ 253.4”;

f. Amend paragraph (l)(1)(iii) by removing the reference “§ 283.5(k) or § 283.9(g)” and adding, in its place, the reference “paragraph (k) of this section or § 253.11(g)”;

g. Amend paragraph (l)(3)(i) by removing the reference “§ 283.4(d)(2)” and adding, in its place, the reference “paragraph (m) of this section”, and removing the reference “§ 283.5” and adding, in its place, the reference “§ 253.4(e)(2)”.

#### § 253.6 [Amended]

4. In § 253.6:

a. Amend paragraph (a)(3) by removing the reference “§ 283.7(a)(10)(i) and § 283.7(a)(10)(ii)” and adding, in its place, the reference “§ 253.7(a)(10)(i) and § 253.7(a)(10)(ii)”;

b. Amend paragraph (b)(2) by removing the reference “§ 283.6(a)(3)(iv)” and adding, in its place, the reference “paragraph (a)(2)(iv) of this section”;

c. Amend paragraph (c)(1) by removing the reference “§ 283.6(a)(2)(ii)” and adding, in its place, the reference “paragraph (a)(2)(ii) of this section”;

d. Amend paragraph (d)(2)(iii) by removing the reference “§ 283.7(b)(1)(iii)” and adding, in its place, the reference “§ 253.7(b)(1)(iii)”;

e. Amend paragraph (e)(1)(i) by removing the reference “§ 283.6(a)(2)(ii)” and adding, in its place, the reference “paragraph (a)(2)(ii) of this section”, and removing the

reference “§ 283.6(c)” and adding, in its place, the reference “paragraph (c) of this section”;

f. Amend paragraph (e)(2)(ii)(F) by removing the reference “§ 283.7” and adding, in its place, the reference “§ 253.7”; and

g. Amend paragraph (e)(3)(ix) by removing the reference “§ 283.7(b)(1)(iii)” and adding, in its place, the reference “§ 253.7(b)(1)(iii)”.

5. In § 253.7:

a. Amend paragraph (a)(2) by removing the reference “§ 283.7(f)” and adding, in its place, the words “paragraph (g) of this section”;

b. Amend paragraph (a)(5) by removing the reference “§ 283.7(a)(7) or § 283.7(a)(9)” and adding, in its place, the reference “paragraphs (a)(7) and (a)(9) of this section”;

c. Add two new sentences to the end of paragraph (b)(3)(iii)(A);

d. Amend the second sentence of paragraph (b)(3)(iii)(B) by removing the words “and no more than 20”, and by removing the word “mailed” and adding, in its place, the word “issued”;

e. Revise paragraph (b)(3)(iii)(C);

f. Add new paragraph (b)(3)(iii)(E);

g. Amend paragraph (c)(1) by removing the reference “§ 283.6(e)(1)” and adding, in its place, the reference “§ 253.6(e)(1)”;

h. Remove paragraph (e)(3);

i. Redesignate paragraphs (f) and (g) as paragraphs (g) and (h), respectively, and add a new paragraph (f);

j. Amend newly redesignated paragraph (g)(1) by removing the reference “§ 283.6(c)(2)” and adding, in its place, the reference “§ 253.6(c)(2)”;

k. Amend newly redesignated paragraph (g)(2) by removing the reference “§ 283.7(a)(7) and § 283.7(a)(9)” and adding, in its place, the reference “paragraphs (a)(7) and (a)(9) of this section”;

l. Revise newly redesignated paragraph (h)(2)(i);

m. Revise newly redesignated paragraph (h)(11)(iii); and

n. Add new paragraph (h)(11)(iv).

The revisions and additions read as follows:

#### § 253.7 Certification of households.

\* \* \* \* \*

(b) *Eligibility determinations.* \* \* \*

(3) *Certification notices.* \* \* \*

(iii) *Notice of adverse action.*

(A) \* \* \* The notice must be issued within 10 days of determining that an adverse action is warranted. The adverse action must take effect with the next scheduled distribution of commodities that follows the expiration of the advance notice period, unless the household requests a fair hearing.

\* \* \* \* \*

(C) The notice of adverse action must include the following in easily understandable language:

(1) The reason for the adverse action;

(2) The date the adverse action will take effect;

(3) The household’s right to request a fair hearing and continue to receive benefits pending the outcome of the fair hearing;

(4) The date by which the household must request the fair hearing;

(5) The liability of the household for any overissuances received while awaiting the outcome of the fair hearing, if the fair hearing official’s decision is adverse to the household;

(6) The telephone number and address of someone to contact for additional information; and

(7) The telephone number and address of an individual or organization that provides free legal representation, if available.

\* \* \* \* \*

(E) If the State agency determines that a household received more USDA commodities than it was entitled to receive, it must establish a claim against the household in accordance with § 253.9. The initial demand letter for repayment must be provided to the household at the same time the notice of adverse action is issued. It may be combined with the notice of adverse action.

\* \* \* \* \*

(f) *Treatment of disqualified household members.* (1) The following are not eligible to participate in the Food Distribution Program:

(i) Household members disqualified from the Food Distribution Program for an intentional program violation under § 253.8. These household members may participate, if otherwise eligible, in the Food Distribution Program once the period of disqualification has ended.

(ii) Household members disqualified from the Food Stamp Program for an intentional program violation under § 273.16 of this chapter. These household members may participate, if otherwise eligible, in the Food Distribution Program once the period of disqualification under the Food Stamp Program has ended. The State agency must, in cooperation with the appropriate food stamp agency, develop a procedure that ensures that these household members are identified.

(iii) Households disqualified from the Food Distribution Program for failure to pay an overissuance claim. The circumstances under which a disqualification is allowed for such failure are specified in FNS Handbook 501.

(2) During the time a household member is disqualified, the eligibility and food distribution benefits of any remaining household members will be determined as follows:

(i) *Resources.* The resources of the disqualified member will continue to count in their entirety to the remaining household members.

(ii) *Income.* A pro rata share of the income of the disqualified member will be counted as income to the remaining members. This pro rata share is calculated by dividing the disqualified member's earned (less the 20 percent earned income deduction) and unearned income evenly among all household members, including the disqualified member. All but the disqualified member's share is counted as income to the remaining household members.

(iii) *Eligibility and benefits.* The disqualified member will not be included when determining the household's size for purposes of assigning food distribution benefits to the household or for purposes of comparing the household's net monthly income with the income eligibility standards.

\* \* \* \* \*

(h) *Fair hearing.* \* \*

(2) *Timely action on hearings—(i) Time frames for the State agency.* The State agency must conduct the hearing, arrive at a decision, and notify the household of the decision within 60 days of receipt of a request for a fair hearing. The fair hearing decision may result in a change in the household's eligibility or the amount of commodities issued to the household based on household size. The State agency must implement these changes to be effective for the next scheduled distribution of commodities following the date of the fair hearing decision. If the commodities are normally made available to the household within a specific period of time (for example, from the first day of the month through the tenth day of the month), the effective date of the disqualification will be the first day of that period.

\* \* \* \* \*

(11) *Hearing decisions.* \* \* \*

(iii) Within 10 days of the date the fair hearing decision is issued, the State agency must issue a notice to the household advising it of the decision.

(A) If the decision upheld the adverse action by the State agency, the notice must advise the household of the right to pursue judicial review.

(B) If the decision upheld a disqualification, the notice must also include the reason for the decision, the date the disqualification will take effect,

and the duration of the disqualification (that is, 12 months; 24 months; or permanent). The State agency must also advise any remaining household members if the household's benefits will change, or if the household is no longer eligible as a result of the disqualification.

(iv) The State agency must revise the demand letter for repayment issued previously to the household to include the value of all overissued commodities provided to the household during the appeal process, unless the fair hearing decision specifically requires the cancellation of the claim. The State agency must also advise the household that collection action on the claim will continue, in accordance with FNS Handbook 501, unless suspension is warranted.

\* \* \* \* \*

**§ 253.8 [Redesignated as § 253.10 and Amended]**

6. § 253.8 is redesignated as § 253.10 and amended as follows:

a. Amend paragraph (c)(12) by removing the reference “§ 283.7(b)(9)” and adding, in its place, the reference “§ 253.7(a)(9)”;

b. Amend paragraph (e) by removing the words “the State agency's agreement with the Department under § 250.6(b) of part 250 of this chapter and the requirements of § 250.6(l) of this same chapter” and adding, in its place, the reference “§ 250.13 and § 250.15 of this chapter”; and

c. Amend paragraph (f) by removing the reference “§ 250.7 of part 250” and adding, in its place, the reference “§ 250.13(f)”.

7. Add new § 253.8 to read as follows:

**§ 253.8 Administrative disqualification procedures for intentional program violation.**

(a) *What is an intentional program violation?* An intentional program violation is considered to have occurred when a household member knowingly, willingly, and with deceitful intent:

(1) Makes a false or misleading statement, or misrepresents, conceals, or withholds facts in order to obtain Food Distribution Program benefits which the household is not entitled to receive; or

(2) Commits any act that violates a Federal statute or regulation relating to the acquisition or use of Food Distribution Program commodities.

(b) *What are the disqualification penalties for an intentional program violation?* Household members determined by the State agency to have committed an intentional program violation will be ineligible to participate in the program:

(1) For a period of 12 months for the first violation;

(2) For a period of 24 months for the second violation; and

(3) Permanently for the third violation.

(c) *Who can be disqualified?* Only the household member determined to have committed the intentional program violation can be disqualified. However, the disqualification may affect the eligibility of the household as a whole, as addressed under paragraphs (e)(5) and (h) of this section.

(d) *Can the disqualification be appealed?* Household members determined by the State agency to have committed an intentional program violation may appeal the disqualification, as provided under § 253.7(h)(1).

(e) *What are the State agency's responsibilities?*

(1) Each State agency must implement administrative disqualification procedures for intentional program violations that conform to this section.

(2) The State agency must inform households in writing of the disqualification penalties for intentional program violations each time they apply for benefits, including recertifications. This notice must also advise households that an intentional program violation may be referred to authorities for prosecution.

(3) The State agency must attempt to substantiate all suspected cases of intentional program violation. An intentional program violation is considered to be substantiated when the State agency has clear and convincing evidence demonstrating that a household member committed one or more acts of intentional program violation, as defined in paragraph (a) of this section.

(4) Within 10 days of substantiating that a household member has committed an intentional program violation, the State agency must provide the household member with a notice of disqualification, as described in paragraph (f) of this section. A notice must still be issued in instances where the household member is not currently eligible or participating in the program.

(5) The State agency must advise any remaining household members if the household's benefits will change or if the household will no longer be eligible as a result of the disqualification.

(6) The State agency must provide the household member to be disqualified with an opportunity to appeal the disqualification through a fair hearing, as required by § 253.7(h).

(7) The State agency must refer all substantiated cases of intentional

program violations to Tribal, Federal, State, or local authorities for prosecution under applicable statutes. However, a State agency that has conferred with its legal counsel and prosecutors to determine the criteria for acceptance for possible prosecution is not required to refer cases that do not meet the prosecutors' criteria.

(8) The State agency must establish claims, and pursue collection as appropriate, on all substantiated cases of intentional program violation in accordance with § 253.9.

(f) *What are the requirements for the notice of disqualification?*

(1) Within 10 days of substantiating the intentional program violation, the State agency must issue to the household member a notice of disqualification. The notice must allow an advance notice period of at least 10 days. The disqualification must begin with the next scheduled distribution of commodities that follows the expiration of the advance notice period, unless the household member requests a fair hearing. A notice must still be issued in instances where the household member is not currently eligible or participating in the program.

(2) The notice must conform to the requirements of § 253.7(b)(3)(iii)(C) for notices of adverse action.

(g) *What are the appeal procedures for administrative disqualifications?*

(1) *Appeal rights.* The household member has the right to request a fair hearing to appeal the disqualification in accordance with the procedures at § 253.7(h).

(2) *Notification of hearing.* The State agency must provide the household member with a notification of the time and place of the fair hearing as described in § 253.7(h)(7). The notice must also include:

(i) A warning that if the household member fails to appear at the hearing, the hearing decision will be based solely on the information provided by the State agency; and

(ii) A statement that the hearing does not prevent the Tribal, Federal, State, or local government from prosecuting the household member in a civil or criminal court action, or from collecting any overissuance(s).

(h) *What are the procedures for applying disqualification penalties?*

(1) If the household member did not request a fair hearing, the disqualification must begin with the next scheduled distribution of commodities that follows the expiration of the advance notice period of the notice of adverse action. If the commodities are normally made available to the household within a

specific period of time (for example, from the first day of the month through the tenth day of the month), the effective date of the disqualification will be the first day of that period. The State agency must apply the disqualification period (that is, 12 months, 24 months, or permanent) specified in the notice of disqualification. The State agency must advise any remaining household members if the household's benefits will change or if the household is no longer eligible as a result of the disqualification.

(2) If the household member requested a fair hearing and the disqualification was upheld by the fair hearing official, the disqualification must begin with the next scheduled distribution of commodities that follows the date the hearing decision is issued. If the commodities are normally made available to the household within a specific period of time (for example, from the first day of the month through the tenth day of the month), the effective date of the disqualification will be the first day of that period. The State agency must apply the disqualification period (that is, 12 months, 24 months, or permanent) specified in the notice of disqualification. No further administrative appeal procedure exists after an adverse fair hearing decision. The decision by a fair hearing official is binding on the State agency. The household member, however, may seek relief in a court having appropriate jurisdiction. As provided under § 253.7(h)(11)(iii)(B), the State agency must advise any remaining household members if the household's benefits will change, or if the household is no longer eligible as a result of the disqualification.

(3) Once a disqualification has begun, it must continue uninterrupted for the duration of the penalty period (that is, 12 months; 24 months; or permanent). Changes in the eligibility of the disqualified household member's household will not interrupt or shorten the disqualification period.

(4) The same act of intentional program violation continued over a period of time will not be separated so that more than one penalty can be imposed. For example, a household intentionally fails to report that a household member left the household, resulting in an overissuance of benefits for 5 months. Although the violation occurred over a period of 5 months, only one penalty will apply to this single act of intentional program violation.

(5) If the case was referred for Tribal, Federal, State, or local prosecution and the court of appropriate jurisdiction

imposed a disqualification penalty, the State agency must follow the court order.

**§ 253.9 [Redesignated as § 253.11]**

8. Redesignate § 253.9 as § 253.11.

9. Add new § 253.9 to read as follows:

**§ 253.9 Claims against households.**

(a) *What are the procedures for establishing a claim against a household for an overissuance?*

(1) The State agency must establish a claim against any household that has received more Food Distribution Program commodities than it was entitled to receive.

(2) The procedures for establishing and collecting claims against households are specified in FNS Handbook 501, The Food Distribution Program on Indian Reservations.

(b) *Who is responsible for repaying a household overissuance claim?*

(1) All adult household members are jointly and separately liable for the repayment of the value of any overissuance of Food Distribution Program benefits to the household.

(2) Responsibility for repayment continues even in instances where the household becomes ineligible or is not participating in the program.

**PART 254—ADMINISTRATION OF THE FOOD DISTRIBUTION PROGRAM FOR INDIAN HOUSEHOLDS IN OKLAHOMA**

1. The authority citation for part 254 continues to read as follows:

**Authority:** Pub. L. 97-98, sec. 1338; Pub. L. 95-113.

2. In § 254.2, redesignate paragraphs (f) and (g) as paragraphs (g) and (h), respectively, and add new paragraph (f) to read as follows:

**§ 254.2 Definitions.**

\* \* \* \* \*

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

\* \* \* \* \*

Dated: December 23, 1999.

**Samuel Chambers, Jr.,**

*Administrator, Food and Nutrition Service.*  
[FR Doc. 99-33932 Filed 12-29-99; 8:45 am]

BILLING CODE 3410-30-P