such action shall be made in accord-
ance with the rules of civil procedure
for the U.S. district courts. The copy of
the summons and complaint required
by the rules to be served on the agency
whose order is being attacked shall be
sent by using any delivery method as
long as the method provides evidence
of delivery to the person in charge of
the applicable regional office of FNS.

(c) Trial de novo. The suit in the U.S.
district court or in the State court, as
the case may be, shall be a trial de
novo by the court in which the court
shall determine the validity of the ques-
tioned administrative action. If
the court determines that the adminis-
trative action is invalid, it shall enter
a judgment or order which it deter-
mines is in accordance with the law
and the evidence.

(d) Stay of action. During the pend-
ency of any judicial review, or any ap-
peal therefrom, the administrative ac-
tion under review shall remain in force
unless the firm makes a timely appli-
cation to the court and after hearing
thereon, the court stays the adminis-
trative action after a showing that ir-
reparable injury will occur absent a
stay and that the firm is likely to pre-
vail on the merits of the case. However,
permanent disqualification actions
taken in accordance with §278.6(e)(1) of
this chapter shall not be subject to
such a stay of administrative action. If
the disqualification action is reversed
through administrative or judicial re-
view, the Secretary shall not be liable
for the value of any sales lost during
the disqualification period.

[Amtd. 136, 43 FR 43279, Aug. 15, 1978, as
amended by Amtd. 274, 51 FR 18752, May 21,
1986; Amtd. 334, 57 FR 3913, Feb. 5, 1992. Redesignated at
68 FR 41053, July 10, 2003]

PART 280—EMERGENCY FOOD AS-
SISTANCE FOR VICTIMS OF DIS-
ASTERS


EDITORIAL NOTE: OMB control numbers re-
lying to this part 280 are contained in §271.8.

§ 280.1 Interim disaster procedures.

The Secretary shall, after consulta-
tion with the official empowered to ex-
ercise the authority provided for by
section 302(a) of the Disaster Relief Act
of 1974, establish temporary emergency
standards of eligibility for the duration
of the emergency for households who
are victims of a disaster which disrupts
commercial channels of food distribu-
tion, if such households are in need of
temporary food assistance and if com-
mercial channels of food distribution
have again become available to meet
the temporary food needs of such
households. Such standards as are pre-
scribed for individual emergencies may
be promulgated without regard to sec-
tion 4(c) of this Act or the procedures
set forth in section 553 of Title 5 of the
United States Code. In addition to es-
tablishing temporary emergency standards
of eligibility, the Secretary shall
provide for emergency allotments to
temporary food assistance and if com-
mercial channels of food distribution
have again become available to meet
the temporary food needs of such
households. Such standards as are pre-
scribed for individual emergencies may
be promulgated without regard to sec-
tion 4(c) of this Act or the procedures
set forth in section 553 of Title 5 of the
United States Code. In addition to es-
tablishing temporary emergency standards
of eligibility, the Secretary shall
provide for emergency allotments to
eligible households to replace food de-
stroyed in a disaster. Such emergency
allotments would be equal to the value
of the food actually lost in such dis-
aster but not greater than the applica-
able maximum monthly allotment for
the household size. The Secretary may
also approve alternate methods for
issuing food stamp benefits during a
disaster when reliance on Electronic
Benefits Transfer (EBT) systems is im-
practicable.

[Amtd. 192, 46 FR 8922, Jan. 27, 1981, as
amended by Amtd. 334, 57 FR 3913, Feb. 5, 1992. Redesignated at
68 FR 41053, July 10, 2003]
PART 281—ADMINISTRATION OF THE FOOD STAMP PROGRAM ON INDIAN RESERVATIONS

Sec.
281.1 General purpose and scope.
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281.4 Determining Indian tribal organization capability.
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281.8 Transfer of program administration.
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281.10 Appeals.

SOURCE: 44 FR 35925, June 19, 1979, unless otherwise noted.

§ 281.1 General purpose and scope.
(a) These regulations govern the operation of the Food Stamp Program on Indian reservations either separately or concurrently with the Food distribution program. In order to assure that the Food Stamp Program is responsive to the needs of Indians on reservations, State agencies are required to consult with Indian tribal organizations about the implementation and operation of the Food Stamp Program on reservations. Also, under certain specified conditions Indian tribal organizations on reservations can administer the Food Stamp Program. The Act authorizes the Secretary to pay such amounts for administrative costs as are determined to be necessary for the effective operation of the Food Stamp Program on Indian reservations.
(b) The operation of the Food Stamp Program on Indian reservations is governed by all of the terms and conditions set forth in the Food Stamp Act of 1977 as amended and the regulations of this chapter.
(c) Additionally, under no circumstances shall any household participate simultaneously in the Food Stamp Program and the Food Distribution Program. Policy governing this prohibition is found in §283.7(e).

§ 281.2 Administration.
(a) Qualification. (1) The appropriate ITO of an established Indian reservation will qualify for participation under the provisions of this part, when that ITO files an application which demonstrates the status of an area as an established reservation, unless FNS determines that such area(s) does not qualify as a reservation, as that term is defined in these regulations. For purposes of this part, established reservation means the geographically defined area(s) currently recognized and established by Federal or State treaty or by Federal statute whereby such geographically defined area(s) is set aside for the use of Indians. Where such established areas exist, the appropriate ITO is presumed to exercise governmental jurisdiction, unless otherwise determined by FNS:
(ii) That the ITO exercises governmental jurisdiction over a geographic area(s) which enjoys legal recognition from the Federal or a State government and is set aside for the use of Indians.
(ii) A clear and precise description of the boundaries of such geographic area(s).
(3) Otherwise qualified areas for which the responsible ITO has requested operation of the Food Distribution Program alone in accordance with §283.4, rather than concurrent operation with the Food Stamp Program, shall be exempt from the requirements of this part, and shall not be considered food stamp areas for any other purposes of this subchapter. Indian tribal households (households in which at least one adult member is recognized by the appropriate ITO as a tribal member) resident in these areas shall be ineligible for food stamp benefits. However, non-Indian tribal households resident in these areas may apply and be certified for food stamps at the State agency’s certification office which would otherwise service the area. Otherwise qualified areas for which the responsible ITO has requested operation of the food distribution Program concurrently with the Food Stamp Program or areas within the reservation where FNS has determined that concurrent operation is necessary in accordance with