under an agreement. Failure to notify FNS shall result in claim action.

(b) Recipient agency records. Each recipient agency shall maintain accurate and complete records with respect to the receipt, disposal, and inventory of donated food, including products processed from donated food, and with respect to any funds which arise from the operation of the distribution program.

(c) Refunds. A recipient agency purchasing end products under the NCP Program from a processor utilizing a refund system shall submit a refund application supplied by the processor to the processor within 30 days of receipt of the end products, except that recipient agencies may submit refund applications to a single processor on a Federal fiscal quarterly basis if the total anticipated refund due for all purchases of end product from that processor during the quarter is 25 dollars or less. Recipient agencies must insure that any funds received as a result of refund payments be designated for use by the food service department.

(d) Verification. If requested by FNS, each recipient agency shall cooperate in the verification of end product sales reported by processors under the NCP Program. The recipient agency may be requested to verify actual purchases of end products as substantiated by the recipient agency’s invoices and may also be requested to verify that the invoice correctly identifies the discount included or refund due for the value of the donated ingredient contained in the end product.

§ 252.6 Miscellaneous provisions.

(a) Improper distribution or loss of or damage to donated food. If a processor improperly distributes or uses any donated food, or causes loss of or damage to a donated food through its failure to provide proper storage, care, or handling, FNS shall require the processor to pay to the Department the value of the donated food as determined by the Department.

(b) Disposition of damaged or out-of-condition food. Donated food which is found to be damaged or out-of-condition and is declared unfit for human consumption by Federal, State, or local health officials, or by any other inspection services or persons deemed competent by the Department, shall be disposed of in accordance with instructions of the Department. This instruction shall direct that unfit donated food be sold in a manner prescribed by the Department with the net proceeds thereof remitted to the Department. Upon a finding by the Department that donated food is unfit for human consumption at the time of delivery to a recipient agency and when the Department or appropriate health officials require that such donated food be destroyed, the processor shall pay for any expenses incurred in connection with such donated food as determined by the Department. The Department may, in any event, repossess damaged or out-of-condition donated food.

(c) FNS sales verification. FNS may conduct a verification of processor reported sales utilizing a statistically valid sampling technique. If, as a result of this verification, FNS determines that the value of the donated food has not been passed on to recipient agencies or if end products have been improperly distributed, FNS may assert a claim against the processor. This claim may include a projection of the verification sample to the total NCP sales reported by the processor.

(d) Sanctions. Any processor or recipient agency which has failed to comply with the provisions of this part or any instructions or procedures issued in connection herewith, or any agreements entered into pursuant hereto, may, at the discretion of the Department, be disqualified from further participation in the NCP 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.

(e) Embezzlement, misuse, theft, or obtaining by fraud of commodities and commodity related funds, assets, or property in child nutrition programs. Whoever embezzles, willfully misapplies, steals, or obtains by fraud commodities donated for use in the NCP Program, or any funds, assets, or property deriving
from such donations, or whoever re-
ceives, conceals, or retains such com-
modities, funds, assets, or property for
his own use or gain, knowing such com-
modities, funds, assets, or property
have been embezzled, willfully mis-
applied, stolen, or obtained by fraud,
shall be subject to Federal criminal
prosecution under section 12(g) of the
National School Lunch Act, as amend-
ed, or section 4(c) of the Agriculture
and Consumer Protection Act of 1973,
as amended. For the purpose of this
paragraph “funds, assets, or property”
include, but are not limited to, com-
modities which have been processed
into different end products as provided
for by this part, and the containers in
which commodities have been received
from the Department.

§ 252.7 OMB control number.
The information collection and re-
porting requirements contained in this
part have been approved by the Office
of Management and Budget under con-
trol number 0584–0325.

PART 253—ADMINISTRATION OF
THE FOOD DISTRIBUTION PRO-
GRAM FOR HOUSEHOLDS ON IN-
DIAN RESERVATIONS

Sec. 253.1 General purpose and scope.
253.2 Definitions.
253.3 Availability of commodities.
253.4 Administration.
253.5 State agency requirements.
253.6 Eligibility of households.
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253.8 Administrative disqualification proce-
dures for intentional program violation.
253.9 Claims against households.
253.10 Commodity control, storage and dis-
tribution.
253.11 Administrative funds.

SOURCE: 44 FR 35928, June 19, 1979, unless
otherwise noted. Redesignated by Amdt. 1, 47

§ 253.1 General purpose and scope.
This part describes the terms and
conditions under which: commodities
(available under part 250 of this chap-
ter) may be distributed to households
on or near all or any part of any Indian
reservation, the program may be ad-
ministered by capable Indian tribal or-
organizations, and funds may be obtained
from the Department for the costs in-
curred in administering the program.
This part also provides for the concur-
rent operation of the Food Distribution
Program and the Food Stamp Program
on Indian reservations when such con-
current operation is requested by an
ITO.

§ 253.2 Definitions.
Disabled member means a member of a
household who:
(1) Receives supplemental security
income benefits under title XVI of the
Social Security Act or disability or
blindness payments under titles I, II,
X, XIV, or XVI of the Social Security
Act;
(2) Receives federally- or State-ad-
ministered supplemental benefits
under section 1616(a) of the Social Se-
curity Act provided that the eligibility
to receive the benefits is based upon
the disability or blindness criteria used
under title XVI of the Social Security
Act;
(3) Receives federally- or State-ad-
ministered supplemental benefits
under section 212(a) of Public Law 93–
66;
(4) Receives disability retirement
benefits from a governmental agency
because of a disability considered per-
manent under section 221(i) of the So-
cial Security Act;
(5) Is a veteran with a service-con-
nected or non-service-connected dis-
ability rated by the Veteran’s Adminis-
tration (VA) as total or paid as total
by the VA under title 38 of the United
States Code;
(6) Is a veteran considered by the VA
to be in need of regular aid and attend-
ance or permanently housebound under
title 38 of the United States Code;
(7) Is a surviving spouse of a veteran
and considered by the VA to be in need
of regular aid and attendance or per-
manently housebound or a surviving
child of a veteran and considered by
the VA to be permanently incapable of
self-support under title 38 of the United
States Code;
(8) Is a surviving spouse or surviving
child of a veteran and considered by
the VA to be entitled to compensation