

## Appendix K- 7 CFR 272.1(f)- Retention of records and 7 CFR 275.1-275.4

7 CFR 272.1(f)-Retention of records

[https://www.ecfr.gov/current/title-7/part-272/section-272.1#p-272.1\(f\)](https://www.ecfr.gov/current/title-7/part-272/section-272.1#p-272.1(f))

(f) Retention of records. Each State agency shall retain all Program records in an orderly fashion for audit and review purposes for no less than 3 years from the month of origin of each record. In addition:

(1) The State agency shall retain fiscal records and accountable documents for 3 years from the date of fiscal or administrative closure. Fiscal closure means that obligations for or against the Federal government have been liquidated. Administrative closure means that the State agency has determined and documented that no further action to liquidate the obligation is appropriate. Fiscal records and accountable documents include, but are not limited to, claims and documentation of lost benefits.

(2) Case records relating to intentional Program violation disqualifications and related notices to the household shall be retained indefinitely until the State agency obtains reliable information that the record subject has died or until FNS advises via the disqualified recipient database system edit report that all records associated with a particular individual, including the disqualified recipient database record, may be permanently removed from the database because of the individual's 80th birthday.

(3) Disqualification records submitted to the disqualified recipient database must be purged by the State agency that submitted them when the supporting documents are no longer accurate, relevant, or complete. The State agency shall follow a prescribed records management program to meet this requirement. Information about this program shall be available for FNS review.

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This content is from the eCFR and is authoritative but unofficial.

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## Title 7 –Agriculture

### Subtitle B –Regulations of the Department of Agriculture

#### Chapter II –Food and Nutrition Service, Department of Agriculture

#### Subchapter C –Supplemental Nutrition Assistance and Food Distribution Program

#### Part 275 –Performance Reporting System

Authority: 7 U.S.C. 2011–2036.

#### Subpart A Administration

§ 275.1 General scope and purpose.

§ 275.2 State agency responsibilities.

§ 275.3 Federal monitoring.

§ 275.4 Record retention.

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**Editorial Note:** OMB control numbers relating to this part 275 are contained in § 271.8.

#### Subpart A—Administration

##### § 275.1 General scope and purpose.

Under the Food and Nutrition Act of 2008, each State agency is responsible for the administration of SNAP in accordance with the Act, Regulations, and the State agency's plan of operation. To fulfill the requirements of the Act, each State agency shall have a system for monitoring and improving its administration of the program. The State agency is also responsible for reporting on its administration to FNS. These reports shall identify program deficiencies and the specific administrative action proposed to meet the program requirements established by the Secretary. If it is determined, however, that a State has failed without good cause to meet any of the program requirements established by the Secretary, or has failed to carry out the approved State plan of operation, the Department shall suspend and/or disallow from the State such funds as are determined to be appropriate in accordance with part 276 of this chapter.

[Amdt. 160, 45 FR 15898, Mar. 11, 1980, as amended by Amdt. 266, 52 FR 3407, Feb. 4, 1987; Amdt. 328, 56 FR 60051, Nov. 27, 1991; 75 FR 33436, June 11, 2010]

##### § 275.2 State agency responsibilities.

(a) *Establishment of the performance reporting system.*

(1) The State agency shall establish a continuing performance reporting system to monitor program administration and program operations. The method for establishing each component of the system is identified and explained in subparts B through F of this part. The components of the State agency's performance reporting system shall be:

(i) Data collection through management evaluation (ME) reviews and quality control (QC) reviews;

- (ii) Analysis and evaluation of data from all sources;
  - (iii) Corrective action planning;
  - (iv) Corrective action implementation and monitoring; and
  - (v) Reporting to FNS on program performance.
- (2) The State agency must ensure corrective action is effected at the State and project area levels.
- (b) **Staffing standards.** The State agency shall employ sufficient State level staff to perform all aspects of the Performance Reporting System as required in this part of the regulations. The staff used to conduct QC reviews shall not have prior knowledge of either the household or the decision under review. Where there is prior knowledge, the reviewer must disqualify her/himself. Prior knowledge is defined as having:
- (1) Taken any part in the decision that has been made in the case;
  - (2) any discussion of the case with staff who participated in the decision; or
  - (3) any personal knowledge of or acquaintance with persons in the case itself. To ensure no prior knowledge on the part of QC or ME reviewers, local project area staff shall not be used to conduct QC or ME reviews; exceptions to this requirement concerning local level staff may be granted with prior approval from FNS. However, local personnel shall not, under any circumstances, participate in ME reviews of their own project areas.
- (c) **Use of third party contractors.** Any State agency procuring services of a contractor for quality control related services, including any project or training that involves the interpretation of SNAP regulations, policies, or handbooks for quality control or payment accuracy purpose, must ensure that all activities and deliverables performed by the contractor within the scope of the contract adhere to Federal law, regulations, and policies. Activities performed or deliverables provided by a contractor that are not in accordance with Federal law, regulations, or policies are unallowable SNAP administrative costs and are not eligible for Federal reimbursement.
- (1) For expenses related to the hiring of a contractor for any quality control related work to qualify for SNAP administrative cost reimbursement under § 277.4(b), FNS requires the following:
- (i) The State must notify FNS in writing of its intent to hire a contractor at least 30 days prior to entering into the contract to do so. The notification must include a copy of the selected contractor's complete proposal, which must receive FNS approval before the State may proceed with the procuring the contract.
  - (ii) Once the contract is procured, the State must submit to FNS a copy of the signed contract and documentation that outlines all tasks and deliverables to be performed or produced by the contractor.
  - (iii) The State must submit to FNS a copy of all deliverables, including any training materials, provided by the contractor.
  - (iv) The State must notify FNS of the date, time, and location of any training sessions led by the contractor at least 10 days in advance of the training. FNS shall be allowed to attend any such training session with or without providing prior notice to the State agency or the contractor.
  - (v) If the State discusses individual sampled cases with the contractor, the State must document, within the case file, the contents of the discussion and any action taken by the State as a result of the discussion. If the discussion occurs orally, FNS shall be given notice 24 hours in advance

of the discussion and shall be allowed to participate in the discussion. If the discussion occurs in writing, the State must ensure that FNS is copied on all written correspondence discussing individual sampled cases.

- (2) Copies of documentation and notices required in paragraph (c)(1) of this section must be provided to the appropriate FNS Regional SNAP Director.
- (3) In accordance with the non-procurement debarment procedures under 2 CFR part 417, or successor regulations, FNS shall debar any person that, in carrying out the quality control system, knowingly submits or causes to be submitted false information to FNS.
- (d) **FNS Access to State Systems.** Subject to data and security protocols agreed to by FNS and a State agency administering SNAP, each State agency shall ensure that FNS has complete access, including remote access for QC purposes, to both the records that are used in the administration of SNAP, including but not limited to the records contained within certification and EBT systems, and the information systems in which such records are contained.

[Amdt. 160, 45 FR 15898, Mar. 11, 1980, as amended by Amdt. 266, 52 FR 3407, Feb. 4, 1987; 86 FR 44586, Aug. 13, 2021; 88 FR 23559, Apr. 18, 2023]

### § 275.3 Federal monitoring.

The Food and Nutrition Service shall conduct the review described in this section to determine whether a State agency is operating SNAP and the Performance Reporting System in accordance with program requirements. The Federal reviewer may consolidate the scheduling and conduction of these reviews to reduce the frequency of entry into the State agency. FNS regional offices will conduct additional reviews to examine State agency and project area operations, as considered necessary to determine compliance with program requirements. FNS shall notify the State agency of any deficiencies detected in program or system operations. Any deficiencies detected in program or system operations which do not necessitate long range analytical and evaluative measures for corrective action development shall be immediately corrected by the State agency. Within 60 days of receipt of the findings of each review established below, State agencies shall develop corrective action addressing all other deficiencies detected in either program or system operations and shall ensure that the State agency's own corrective action plan is amended and that FNS is provided this information at the time of the next formal semiannual update to the State agency's Corrective Action Plan, as required in § 275.17.

- (a) **Reviews of State Agency's Administration/Operation of SNAP.** FNS shall conduct an annual review of certain functions performed at the State agency level in the administration/operation of the program. FNS will designate specific areas required to be reviewed each fiscal year.
- (b) **Reviews of State Agency's Management Evaluation System.** FNS will review each State agency's management evaluation system on a biennial basis; however, FNS may review a State agency's management evaluation system on a more frequent basis if a regular review reveals serious deficiencies in the ME system. The ME review will include but not be limited to a determination of whether or not the State agency is complying with FNS regulations, an assessment of the State agency's methods and procedures for conducting ME reviews, and an assessment of the data collected by the State agency in conducting the reviews.
- (c) **Reviews of State Agency's Quality Control System.** FNS will conduct a management evaluation (ME) of at least two State Quality Control systems annually, to the maximum extent practicable. The ME will include, but not be limited to, a determination of whether the State agency is complying with FNS regulations; an

assessment of the State agency's methods and procedures for conducting and managing the Quality Control system; and an assessment of the data collected by the State agency and submitted to the FNS Regional Office for conducting reviews.

(d) **Validation of State Agency error rates.** FNS shall validate each State agency's payment error rate, as described in § 275.23(c), during each annual quality control review period. Federal validation reviews shall be conducted by reviewing against the Food and Nutrition Act of 2008 and the regulations, taking into account any FNS-authorized waivers to deviate from specific regulatory provisions. FNS shall validate each State agency's reported negative error rate. Any deficiencies detected in a State agency's QC system shall be included in the State agency's corrective action plan. The findings of validation reviews shall be used as outlined in § 275.23(d)(4).

(1) **Payment error rate.** The validation review of each State agency's payment error rate shall consist of the following actions:

(i) FNS will select a subsample of a State agency's completed active cases, as follows:

(A) For State agencies that determine their active sample sizes in accordance with § 275.11(b)(1)(ii), the Federal review sample for completed active cases is determined as follows:

Average monthly reviewable caseload (N)	Federal subsample target (n')
31,489 and over	n' = 400
10,001 to 31,488	n' = .011634 N + 33.66
10,000 and under	n' = 150

(B) For State agencies that determine their active sample sizes in accordance with § 275.11(b)(1)(iii), the Federal review sample for completed active cases is determined as follows:

Average monthly reviewable caseload (N)	Federal subsample target (n')
60,000 and over	n' = 400
10,001 to 59,999	n' = .005 N + 100
10,000 and under	n' = 150

(C) In the above formula, n' is the minimum number of Federal review sample cases which must be selected when conducting a validation review, except that FNS may select a lower number of sample cases if:

- (1) The State agency does not report a change in sampling procedures associated with a revision in its required sample size within 10 days of effecting the change; and/or
- (2) The State agency does not complete the number of case reviews specified in its approved sampling plan.

(D) The reduction in the number of Federal cases selected will be equal to the number of cases that would have been selected had the Federal sampling interval been applied to the State agency's shortfall in its required sample size. This number may not be exact due to random starts and rounding.

- (E) In the above formula, N is the State agency's minimum active case sample size as determined in accordance with § 275.11(b)(1).
- (ii) FNS Regional Offices will conduct case record reviews to the extent necessary to determine the accuracy of the State agency's findings using the household's certification records and the State agency's QC records as the basis of determination. The FNS Regional Office may choose to verify any aspects of a State agency's QC findings through telephone interviews with participants or collateral contacts. In addition, the FNS Regional Office may choose to conduct field investigations to the extent necessary.
- (iii) Upon the request of a State agency, the appropriate FNS Regional Office will assist the State agency in completing active cases reported as not completed due to household refusal to cooperate.
- (iv) FNS will also review the State agency's sampling procedures, estimation procedures, and the State agency's system for data management to ensure compliance with §§ 275.11 and 275.12.
- (v) FNS validation reviews of the State agency's active sample cases will be conducted on an ongoing basis as the State agency reports the findings for individual cases and supplies the necessary case records. FNS will begin the remainder of each State agency's validation review as soon as possible after the State agency has supplied the necessary information regarding its sample and review activity.
- (2) **Underissuance error rate.** The validation review of each State agency's underissuance error rate shall occur as a result of the Federal validation of the State agency's payment error rate as outlined in paragraph (c)(1) of this section.
- (3) **Negative case error rate.** The validation review of each State agency's negative case error rate shall consist of the following actions:
  - (i) FNS will select a subsample of a State agency's completed negative cases, as follows:

Average monthly reviewable negative caseload (N)	Federal subsample target (n')
5,000 and over	n' = 160
501 to 4,999	n' = .0188 N + 65.7
Under 500	n' = 75

- (A) In the above formula, n' is the minimum number of Federal review sample cases which must be selected when conducting a validation review, except that FNS may select a lower number of sample cases if:
  - (1) The State agency does not report a change in sampling procedures associated with a revision in its required sample size within 10 days of effecting the change; and/or
  - (2) The State agency does not complete the number of case reviews specified in its approved sampling plan.
- (B) The reduction in the number of Federal cases selected will be equal to the number of cases that would have been selected had the Federal sampling interval been applied to the State agency's shortfall in its required sample size. This number may not be exact due to random starts and rounding.

- (C) In the above formula, N is the State agency's minimum negative case sample size as determined in accordance with § 275.11(b)(2).
  - (ii) FNS Regional Offices will conduct case record reviews to the extent necessary to determine whether the household case record contained sufficient documentation to justify the State agency's QC findings of the correctness of the State agency's decision to deny, suspend or terminate a household's participation.
  - (iii) FNS will also review each State agency's negative case sampling and review procedures against the provisions of §§ 275.11 and 275.13.
  - (iv) FNS will begin each State agency's negative sample case validation review as soon as possible after the State agency has supplied the necessary information, including case records and information regarding its sample and review activity.
- (4) **Arbitration.**
- (i) Whenever the State agency disagrees with the FNS regional office concerning individual QC case findings and the appropriateness of actions taken to dispose of an individual case, the State agency may request that the dispute be arbitrated on a case-by-case basis by an FNS Arbitrator, subject to the following limitations.
    - (A) The State agency may only request arbitration when the State agency's and FNS regional office's findings or disposition of an individual QC case disagree.
    - (B) The arbitration review shall be limited to the point(s) within the Federal findings or disposition that the State agency disputes. However, if the arbitrator in the course of the review discovers a mathematical error in the computational sheet, the arbitration shall correct the error while calculating the allotment.
  - (ii) The FNS Arbitrator(s) shall be an individual or individuals who are not directly involved in the validation effort.
  - (iii) With the exception of the restrictions contained in paragraph (c)(4)(iii), for an arbitration request to be considered, it must be received by the appropriate FNS regional office within 20 calendar days of the date of receipt by the State agency of the regional office case findings. In the event the last day of this time period falls on a Saturday, Sunday, or Federal or State holiday, the period shall run to the end of the next work day. The State agency shall be restricted in its eligibility to request arbitration of an individual case if that case was not disposed of and the findings reported in accordance with the timeframes specified in § 275.21(b)(2). For each day late that a case was disposed of and the findings reported, the State agency shall have one less day to request arbitration of the case.
  - (iv) When the State agency requests arbitration, it shall submit all required documentation to the appropriate FNS regional office addressed to the attention of the FNS Arbitrator. The FNS regional office QC staff may submit an explanation of the Federal position regarding a case to the FNS Arbitrator.
    - (A) A complete request is one that contains all information necessary for the arbitrator to render an accurate, timely decision.
    - (B) If the State agency's request is not complete the arbitrator shall make a decision based solely on the available documents.

(v) The FNS Arbitrator shall have 20 calendar days from the date of receipt of a State agency's request for arbitration to review the case and make a decision.

(5) **Household cooperation.** Households are required to cooperate with Federal QC reviewers. Refusal to cooperate shall result in termination of the household's eligibility. The Federal reviewer shall follow the procedures in § 275.12(g)(1)(ii) in order to determine whether a household is refusing to cooperate with the Federal QC reviewer. If the Federal reviewer determines that the household has refused to cooperate, as opposed to failed to cooperate, the household shall be reported to the State agency for termination of eligibility.

(e) **Assessment of Corrective Action.**

(1) FNS will conduct will conduct a comprehensive annual assessment of a State agency's corrective action process by compiling all information relative to that State agency's corrective action efforts, including the State agency's system for data analysis and evaluation. The purpose of this assessment and review is to determine if: identified deficiencies are analyzed in terms of causes and magnitude and are properly included in either the State or Project Area/Management Unit corrective action plan; the State agency is implementing corrective actions according to the appropriate plan; target completion dates for reduction or elimination of deficiencies are being met; and, corrective actions are effective. In addition, FNS will examine the State agency's corrective action monitoring and evaluative efforts. The assessment of corrective action will be conducted at the State agency, project area, and local level offices, as necessary.

(2) In addition, FNS will conduct on-site reviews of selected corrective actions as frequently as considered necessary to ensure that State agencies are implementing proposed corrective actions within the timeframes specified in the State agency and/or Project Area/Management Unit corrective action plans and to determine the effectiveness of the corrective action. The on-site reviews will provide State agencies and FNS with a mechanism for early detection of problems in the corrective action process to minimize losses to the program, participants, or potential participants.

[Amdt. 160, 45 FR 15898, Mar. 11, 1980, as amended by Amdt. 237, 47 FR 57669, Dec. 28, 1982; Amdt. 260, 49 FR 6303, Feb. 17, 1984; Amdt. 266, 52 FR 3407, Feb. 4, 1987; 53 FR 1604, Jan. 21, 1988; 54 FR 23951, June 5, 1989; Amdt. 309, 55 FR 1672, Jan. 18, 1990; Amdt. 328, 56 FR 60051, Nov. 27, 1991; Amdt. 366, 62 FR 29658, June 2, 1997; Amdt. 373, 64 FR 38294, July 16, 1999; 68 FR 59523, Oct. 16, 2003; 75 FR 33436, June 11, 2010; 86 FR 44586, Aug. 13, 2021]

## § 275.4 Record retention.

(a) The State agency shall maintain Performance Reporting System records to permit ready access to, and use of, these records. Performance Reporting System records include information used in data analysis and evaluation, corrective action plans, corrective action monitoring records in addition to ME review records and QC review records as explained in paragraphs (b) and (c) of this section. To be readily accessible, system records shall be retained and filed in an orderly fashion. Precautions should be taken to ensure that these records are retained without loss or destruction for the 3-year period required by these regulations. Information obtained on individual households for Performance Reporting System purposes shall be safeguarded in accordance with FNS policies on disclosure of information for SNAP.

(b) ME review records consist of thorough documentation of review findings, sources from which information was obtained, procedures used to review SNAP requirements including sampling techniques and lists, and ME review plans. The State agency must submit documented evidence of review findings to the FNS Regional Office upon request for purposes of evaluating State corrective action plans.



- (c) QC review records consist of Forms FNS–380, Worksheet for Supplemental Nutrition Assistance Program, FNS–380–1, Quality Control Review Schedule, FNS–245, Negative Quality Control Review Schedule; other materials supporting the review decision, including all correspondence with the household and all case notes, digital or otherwise, taken or used by the eligibility worker that are applicable to the review period; sample lists; sampling frames; tabulation sheets; and reports of the results of all quality control reviews during each review period.

*[Amdt. 160, 45 FR 15898, Mar. 11, 1980, as amended by Amdt. 260, 49 FR 6304, Feb. 17, 1984; Amdt. 262, 49 FR 50597, Dec. 31, 1984; 75 FR 33436, June 11, 2010; 86 FR 44586, Aug. 13, 2021]*