



DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 275

[FNS-2024-0030]

RIN 0584-AF05

Supplemental Nutrition Assistance Program Quality Control Review Handbook

Incorporation by Reference

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice of proposed rulemaking, incorporation by reference.

SUMMARY: The U.S. Department of Agriculture (the Department) is issuing this proposed rule to formally incorporate by reference the FNS Handbook 310 into SNAP regulations. By doing so, the Department is ensuring that the public receives a notice and comment period prior to implementation of revisions to the Handbook, which is the standard operating procedure manual for conducting quality control (QC) reviews of SNAP cases. The Department also proposes to remove reference to FNS Handbook 311 until it can be incorporated by reference. The Department requests comment on these proposed provisions.

DATES: Written comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] to ensure their consideration.

ADDRESSES: The Food and Nutrition Service, USDA, invites interested persons to submit written comments on this proposed rule. Comments may be submitted in writing by one of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- Mail: Send comments to John McCleskey, Branch Chief, Quality Control Branch, Program Administration and Nutrition Division; Food and Nutrition Service; 1320 Braddock Place, 5th Floor; Alexandria, Virginia 22314.
- E-Mail: Send comments to SM.FN.SNAPHQ-WEB@usda.gov. Include "SNAP QC Review Handbook Incorporation by Reference" in the subject line of the message.
- All written comments submitted in response to this proposed rule will be included in the record and will be made available to the public. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. FNS will make the written comments publicly available on the Internet via <http://www.regulations.gov>.
- FNS Handbook 310, Supplemental Nutrition Assistance Program Quality Control Review Handbook, can be viewed online at <https://www.fns.usda.gov/snap/qc>.

FOR FURTHER INFORMATION CONTACT: John McCleskey, 703-457-7747, Food and Nutrition Service, 1320 Braddock Place, 5th Floor; Alexandria, Virginia 22314, SM.FN.SNAPHQ-WEB@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

SNAP QC – In General

The Supplemental Nutrition Assistance Program (SNAP) is the nation's largest domestic food assistance program for Americans, reaching about 42 million people per month during fiscal year 2023.¹

Although the Federal government funds SNAP benefits per 7 U.S.C. 2020(a)(1), State agencies are responsible for general program administration of SNAP within their States,

¹ <https://www.fns.usda.gov/pd/supplemental-nutrition-assistance-program-snap>

including determining the eligibility of individuals and households to receive SNAP benefits and issuing monthly allotments of benefits.

Pursuant to Section 16 of the Food and Nutrition Act of 2008 (FNA), as amended, each State agency is responsible for monitoring and improving its administration of SNAP. The Quality Control (QC) system is necessary to help ensure State agencies measure improper payments and improve their administration of SNAP. SNAP QC reviews have four goals, identified at 7 CFR 275.10(b), which are to provide: (1) a systematic method of measuring the validity of the SNAP eligibility caseload; (2) a basis for determining all SNAP error rates; (3) a timely, continuous flow of information on which to base corrective action at all levels of administration; and (4) a basis for establishing State agency liability for payment errors that exceed the National performance measure pursuant to Section 16(c)(1)(C) of the FNA.

To comply with Section 16 of the FNA, State agencies conduct monthly reviews of a statistically representative sample of both participating SNAP households (active cases) and households for whom participation was denied, terminated, or suspended (negative cases). Once the State's review is complete, the case is submitted to FNS for possible Federal re-review. The role of the Federal reviewer is to validate the State reviews were done accurately and in accordance with Federal SNAP policies and procedures.

QC reviews measure the accuracy of SNAP eligibility and allotment determinations and ultimately serve as the basis for the SNAP payment error rate (PER) and case and procedural error rate (CAPER).² The results of these reviews provide feedback on State-by-State and national administration of the Program, including how State agencies' chosen policy options, waivers, and business processes affect the accuracy of their

² FNS refers to the negative case error rate as the case and procedural error rate, or CAPER.

eligibility determinations. In short, the QC system allows FNS and the States to assess the integrity of SNAP and ensure effective stewardship of taxpayer dollars by determining the extent to which the program is operating as required by statute and regulations.

Background Information on FNS Handbook 310

The FNS Handbook 310, the “SNAP QC Review Handbook”, is the standard operating procedure manual for conducting QC reviews of SNAP cases.³ The FNS Handbook 310 provides both State and Federal QC reviewers with procedures for the QC review process for active and negative cases. This procedural manual aligns with SNAP’s statutory and Federal regulatory program rules to ensure its process for evaluating SNAP eligibility and allotments delivers accurate results.

The FNS Handbook 310 was first introduced into regulation in the July 29, 1983, proposed rule titled, *Food Stamp Program; Technical Amendments to the Quality Control Review Process*.⁴ Following publication of the proposed rule, the Department received comments indicating State agencies needed a consistent, complete, national handbook for conducting QC reviews of SNAP cases that would also be continually updated as SNAP policies are updated and changed. The handbook provisions were implemented with the February 17, 1984, final rule titled, *Food Stamp Program, Quality Control Reviews*.⁵ The provisions in the final rule require State agencies to use FNS-designed handbooks, worksheets, and coding forms in the QC review process to ensure consistency of reviews nationwide.

Incorporation by Reference

³ https://fns-prod.azureedge.net/sites/default/files/snap/FNS_310_Handbook.pdf

⁴ <https://www.govinfo.gov/content/pkg/FR-1983-07-29/pdf/FR-1983-07-29.pdf>

⁵ https://archives.federalregister.gov/issue_slice/1984/2/17/6278-6313.pdf

The Department proposes, at 7 CFR 275.14(b), to incorporate by reference the FNS Handbook 310, “SNAP QC Review Handbook”, dated October 2024, and add a centralized IBR paragraph at 7 CFR 275.14(f). In the 1984 final rule, the Department included the FNS Handbook 310 in the code of Federal regulations but did not specifically undertake the incorporation by reference (IBR) process. This rule addresses that oversight.

The FNS Handbook 310 is readily available to all interested parties. The FNS Handbook 310 is publicly available as listed in the ADDRESSES section of this proposed rule. Additionally, the FNS Handbook 310 has been consistently available on the FNS public website since 2003 and on the USDA Partner Web since 2008. The Partner Web is a web-based SharePoint site accessible with Federal e-authentication.

The FNS Handbook 310 does not detract from the legal or practical attributes of the Federal Register since it does not introduce new program requirements, but rather details operational procedures for the QC review process to evaluate compliance with existing SNAP laws and regulations. Publishing the entire FNS Handbook 310 in the Federal Register is impractical due not only due to its extensive 300-page length, but also for readability. The Federal Register is limited to strict formatting capabilities and a procedural manual requires examples using bullets, indentions, text boxes, side by side comparisons, as well as flow charts, etc. and many times on the same pages as one another, which is why incorporation by reference is most appropriate.

The Department also proposes to remove reference to the FNS Handbook 311 until it can be incorporated by reference. The Department proposes to reserve new paragraphs (e) and (f)(2) in anticipation of incorporating FNS Handbook 311 in the future.

Procedural Matters

Executive Order 12866, 13563, and 14094

Executive Orders 12866, 13563, and 14094 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Under Executive Order 12866, as amended, OMB's Office of Information and Regulatory Affairs (OIRA) determines whether a regulatory action is significant and, therefore, subject to OMB review. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 14094 focuses on modernizing regulatory review and updates the definition of a significant regulation.

This proposed rule has been determined to be not significant and was not reviewed by the Office of Management and Budget (OMB) in conformance with Executive Order 12866.

Regulatory Impact Analysis

This rule has been designated as not significant by the Office of Management and Budget, therefore, no Regulatory Impact Analysis is required.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires Agencies to analyze the impact of rulemaking on small entities and consider alternatives that would minimize any significant impacts on a substantial number of small entities. The entities impacted by this rule are State SNAP agencies that conduct QC reviews, which are not considered small entities for purposes of this analysis.

Pursuant to our review, the Department certifies that this rule will not have a significant impact on a substantial number of small entities.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 et seq.), the Office of Information and Regulatory Affairs designated this rule as not a 'major rule', as defined by 5 U.S.C. 804(2).

Unfunded Mandates Reform Act

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 Department 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 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 Department to identify and consider a reasonable number of regulatory alternatives and adopt the most cost effective or least burdensome alternative that achieves the objectives of the rule.

This rule does not contain 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. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12372

SNAP is listed in the sam.gov Assistance Listings under Number 10.551. For the reasons set forth in the Final Rule codified in 7 CFR part 3015, subpart V and the related Notice

(48 FR 29115), this Program is excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Federalism Summary Impact Statement

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under Section (6)(b)(2)(B) of Executive Order 13121.

The Department has considered the impact of this proposed rule, with comment, on State and local governments and has determined that this rule does not have federalism implications. Therefore, under Section 6(b) of the Executive Order, a federalism summary is not required.

Executive Order 12988, Civil Justice Reform

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This 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 and timely implementation. This rule is not intended to have retroactive effect unless so specified in the Effective Dates section of the final rule. Prior to any judicial challenge to the provisions of the final rule, all applicable administrative procedures must be exhausted.

Civil Rights Impact Analysis

FNS has reviewed this rule in accordance with the Department Regulation 4300-004, "Civil Rights Impact Analysis," to identify and address any major civil rights impacts

that the rule might have on minorities, women, and persons with disabilities. After a careful review of the rule's intent and provisions, FNS has determined that this rule has no likely impact on any of the protected classes. These changes primarily affect the QC review process and not individuals' eligibility for or participation in SNAP.

Executive Order 13175

Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. After a careful review of the rule's intent, FNS has determined that this rule has no intended impact on Tribal implications.

Paperwork Reduction Act

Reporting and recordkeeping requirements associated with the use of the FNS Handbook 310 are already permitted by the Office of Management and Budget (OMB) under four separate, approved information collections under the Paperwork Reduction Act of 1995. Those collections are: 0584-0074, FNS-380, Worksheet for the Supplemental Nutrition Assistance Program Quality Control Reviews (expires 7/31/2025); 0584-0299, FNS-380-1 Supplemental Nutrition Assistance Program's Quality Control Review Schedule (expires 9/30/2026); 0584-0034, FNS-245: SNAP Negative Case Action Review Schedule (expires 12/31/2024); and 0584-0303, Supplemental Nutrition Assistance Program Regulations, Part 275 - Quality Control (expires 7/31/2025).

E-Government Act Compliance

The Department is committed to complying with the E-Government Act, 2002 to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

List of Subjects

7 CFR Part 275

Grant programs-social programs, Incorporation by reference, Reporting and recordkeeping requirements.

Accordingly, the Food and Nutrition Service proposes to amend 7 CFR part 275 as follows:

PART 275—PERFORMANCE REPORTING SYSTEM

1. The authority citation for part 275 continues to read as follows:

Authority: 7 U.S.C. 2011-2036.

2. In § 275.14:

- a. Revise paragraphs (a) and (b);

- b. Amend paragraph (c) introductory text by removing the word "the" at the beginning of the text and adding in its place "OMB 0584-0074,";

- c. Amend paragraph (d) introductory text by adding at the end of the sentence the phrase “, OMB 0584-0299”, adding at the end of the second sentence the phrase “, OMB 0584-0074”, and in the last sentence remove the phrase “Negative Quality Control Review Schedule, Form FNS–245” and adding in its place the phrase “OMB 0584-0034, Form FNS-245: SNAP Negative Case Action Review Schedule”;

d. Reserve paragraph (e); and

e. Add paragraph (f).

The revisions and additions read as follows:

§ 275.14 Review Processing.

(a) *General.* Each State agency shall use FNS handbooks, OMB approved quality control information collection forms, and SNAP QC policy memos in the quality control review process. QC reviews are consistent with SNAP’s statutory and regulatory requirements.

(b) *Review Handbook.* The reviewer shall follow the procedures outlined in the Quality Control Review Handbook, the FNS Handbook 310, to conduct quality control reviews.

* * * * *

(e) [Reserved]

(f) *Incorporation by Reference.* The material listed in this paragraph (f) is incorporated by reference into this section with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved material is available for inspection at the Food and Nutrition Service (FNS) and at the National Archives and Records Administration (NARA). Contact the FNS at: 1320 Braddock Place, 5th Floor; Alexandria, Virginia 22314; email: SM.FN.SNAPHQ-WEB@usda.gov, website: <https://www.fns.usda.gov/snap/qc>. For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations or email fr.inspection@nara.gov.

(1) FNS Handbook 310, SNAP QC Review Handbook, dated October 2024, through PM 25-01. (Available at: <https://www.fns.usda.gov/snap/qc> under the “Policy and Guidance Documents” section.)

(2) Reserved.

Tameka Owens

Acting Administrator and Assistant Administrator,
Food and Nutrition Service

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