



Administrative Disqualification Hearings

Sacramento Area Counties
and all County
Teleconference

October 2014

Introductions

Panel Presentation

Lane Ruddick, Lieutenant, Special
Investigations, Program Integrity Unit,
Sacramento County

Karlen Harmison, Presiding Judge,
State Hearings Division

Scott Nielsen and Niall Stahl, Welfare Fraud
Prevention Coordinators,
California Department of Social Services

Today's Agenda

- Overview
 - CDSS CalWORKs and CalFresh Program Integrity Initiatives
 - Statewide Statistics for:
 - Completed Investigations
 - Outcomes
 - Intentional Program Violations obtained

Today's Agenda

- Chronology of an Administrative Disqualification Hearing
 - County case development
 - Lane Ruddick, Lt., Sacramento County
 - State Hearing process
 - Karlen Harmison, ALJ, State Hearings
 - Post-Hearing County Actions
 - Scott Nielsen, CDSS Fraud Bureau
 - Q & A ???

Legal Authority for Administrative Disqualifications

Federal authority:

SNAP – 7 CFR 273

TANF – 45 CFR 235.112 and .113

State authority:

22 MPP 22-200 et seq.

Screening criteria applied to client error op/oi for Intentional Program Violations

- ❑ OP/OI must have occurred for at least 2 consecutive months
- ❑ OP/OI must be from unreported earned income, unreported child support and/or unreported drug felony conviction
- ❑ CalFresh only cases must have an OI of \$250; no minimum for combined CalWORKs/CalFresh

Screening criteria continued

- Respondent must have signed all necessary case documents
- Respondent cannot be an SSI recipient, an undocumented alien, or a permanently disqualified drug felon
- EDD new hire hit must not have been ignored by County
- Must be at least 90 days from OP/OI NOA

Screening criteria continued

- Case record must show clear intent:
 - County didn't possess information that could have avoided OP/OI
 - No claimant report to WTW, job club, child care, etc.
 - No case comments indicating claimant reported voluntarily or informally.

Screening criteria continued

- NOA must have actually been sent
- Must be demonstrated knowledge of reporting
- NOA must be language compliant according to the language preference form and knowledge of primary language

Address Verification

- Current Beneficiary or left aid < 6 months
- Last Known Address verified by USPS, or forwarded address verified by USPS
- Commercial service to locate address for respondent verified by USPS

Assembling Evidentiary Documents

- Prepare separate allegation packet for each person within a household being presented to an ADH
- Must prove to clear and convincing standard for each person

Assembling Evidentiary Documents

A. Unreported Income cases

- Copy of Respondent Social Security card and ID provided at application
- Employment verification from unreported earned income showing respondent's Social Security number.
- IEVS report (showing how the county learned of the unreported income)
- SAWS 2A Rights and Responsibilities signature page signed by respondent prior to OP/OI timeframe

Assembling Evidentiary Documents

- SAR/QR 7 for relevant period showing respondent didn't report income, signed by respondent
- Statement of Facts face and signature page
- Any prior SAR/QR 7 reporting income or case comments showing respondent knew to report income
- Prior ADH decision(s), if 2nd or permanent disqualification is alleged
- Verification of address by USPS

Assembling Evidentiary Documents

B. Unreported Drug Felony Conviction

- Statement of Facts signed and dated by respondent at last annual redetermination
- Certified Judgment of Conviction showing drug felony conviction
- Rights and Responsibilities signature page
- QR 7 or Statement of Facts showing respondent did not report felony conviction signed by respondent.
- Address verification from USPS

Preparation of Allegation i.e. Statement of Position

**COUNTY ALLEGATION OF
INTENTIONAL PROGRAM VIOLATION
(Request for an Administrative Disqualification Hearing)**

County: SACRAMENTO

PROPOSED PENALTY PERIOD

CalWORKs

6 Months 12 Months Permanent

Active Closed

Food Stamps (FS)

12 Months 24 Months Permanent

Active Closed

PERSON	MAILING ADDRESS	
CASE NO.	Sacramento, CA	
SSN	PHONE (916)	LANGUAGE

JURISDICTION:**A. Status of Prosecution**

- The case will not be referred to the DA for prosecution because of an agreement with the prosecutor such as monetary limit thresholds for resulting overpayments or overissuances.
- The case was referred to the DA but was declined for prosecution.
- The case was referred to the DA or the court but the factual issues in that case are different in this case.
- The case has not yet been referred to the DA for prosecution.

B. Address Determination

The county at the hearing will affirm that the address used by the State at the time the State sent notice of this hearing was appropriate (e.g., as reflected in current county records, last known address with no reports of changed addresses, etc.)

IPV ALLEGATION:

- A. Describe the action(s) the person took and/or the occurrence(s) he/she failed to report which resulted in an Intentional Program Violation (IPV) as generally defined in regular MPP Sections 20-300.1 and 20-351i.1.

EMPLOYER REPORTED		RESPONDENT REPORTED	
Employer		Name of Respondent	
Date Paid:	Gross Amount:	Amount Reported	QR-7 Completed?

B. Describe why you believe the person's actions and/or failure to report the occurrence was intentional (on purpose).

C. In CalWORKs cases, also explain why the county believes the respondent committed the IPV for the purpose of establishing or maintaining the family's eligibility for CalWORKs for increasing or preventing a reduction in the amount of the grant.

(This section is not applicable to CalFresh cases)

D. Describe how and when the person was made aware of his/her responsibility to report the information which caused the IPV.

The respondent demonstrated knowledge of her reporting responsibilities when she reported the following:

E. Describe the exact period of time in which the action and/or occurrence took place and the amounts and period of any resulting CalWORKs overpayment and Food Stamp overissuance.

The respondent had unreported income during the period Month 2013 through Month 2013. This resulted in \$ ____ CalWORKs overpayment during the period Month 2013 to Month 2013 and a \$ _____ CalFresh overissuance during the period Month 2013 to Month 2013.

OR

Because the respondent failed to report that he/she had been convicted of a drug related felony on Month, XX, 2010 he/she was not eligible to receive CalFresh benefits effective Month 20XX. This period of ineligibility resulted in an \$ _____ CalFresh overissuance during the period Month 20XX to Month 20XX.

WHEN ALLEGING A Second or Permanent Disqualification ONLY:

- F. Describe any prior IPV history.

- G. Describe any prior State Hearing history.

Appeals Specialist Review of Allegation of Intentional Program Violation

- Checking sufficiency of documents
- Address re-verification
- Reviewing for defects or vulnerabilities
- Applying case experience

Allegation Filed with SHD

- Timelines for submission and scheduling
- Documents to be filed: Allegation without exhibits
- Case scheduled
- Service of Process completed by SHD

Meeting with respondent to review evidence

- Respondent requested to come into office to review evidence for ADH

Pre-hearing Meeting Discussion

1. Hello, my name is _____. I am an Investigative Assistant with Sacramento County. This interview is being tape-recorded. Anything you say may be used against you at the Administrative Disqualification Hearing or any later civil or criminal proceeding. Please state your name and Social Security number. Do you mind if I continue tape-recording this meeting?
2. The purpose of this meeting is for me to review with you the proposed violation you allegedly committed, explain the Administrative Disqualification Hearing process, or ADH process, and give you the opportunity to sign a hearing waiver form. You are not required to sign the hearing waiver form. If you choose to sign the hearing waiver form, it will count as a violation so I will start by explaining what a violation is and what it means.

3. I would like to explain the ADH process.
Refer to Administrative Disqualification Hearing (ADH) Information (Temp. DPA 353A).
4. I will now review the County's allegation(s) and evidence against you.
Review County Position Statement and Evidence.
5. Let me explain the penalties as they pertain to your case.
6. Let's review the ADH Waiver form.
Refer to ADH Waiver form (DPA 479).
7. Do you have any questions?
8. Would you like to sign the ADH waiver form?

Hearing Day arrives

- ALJ opens the record
- Jurisdiction established
 - Address for service of the Allegation verified to ensure service on respondent was accomplished
- ALJ may review the evidence on the record

Possible issues at hearing

- Identity – or Mistaken Identity
 - Someone used respondent's SSN without permission
 - Respondent didn't sign the Statement of Facts or the QR-7 or other report
- Insufficient knowledge of reporting requirements
 - Language barrier
 - New recipient didn't understand
 - No literacy requirement

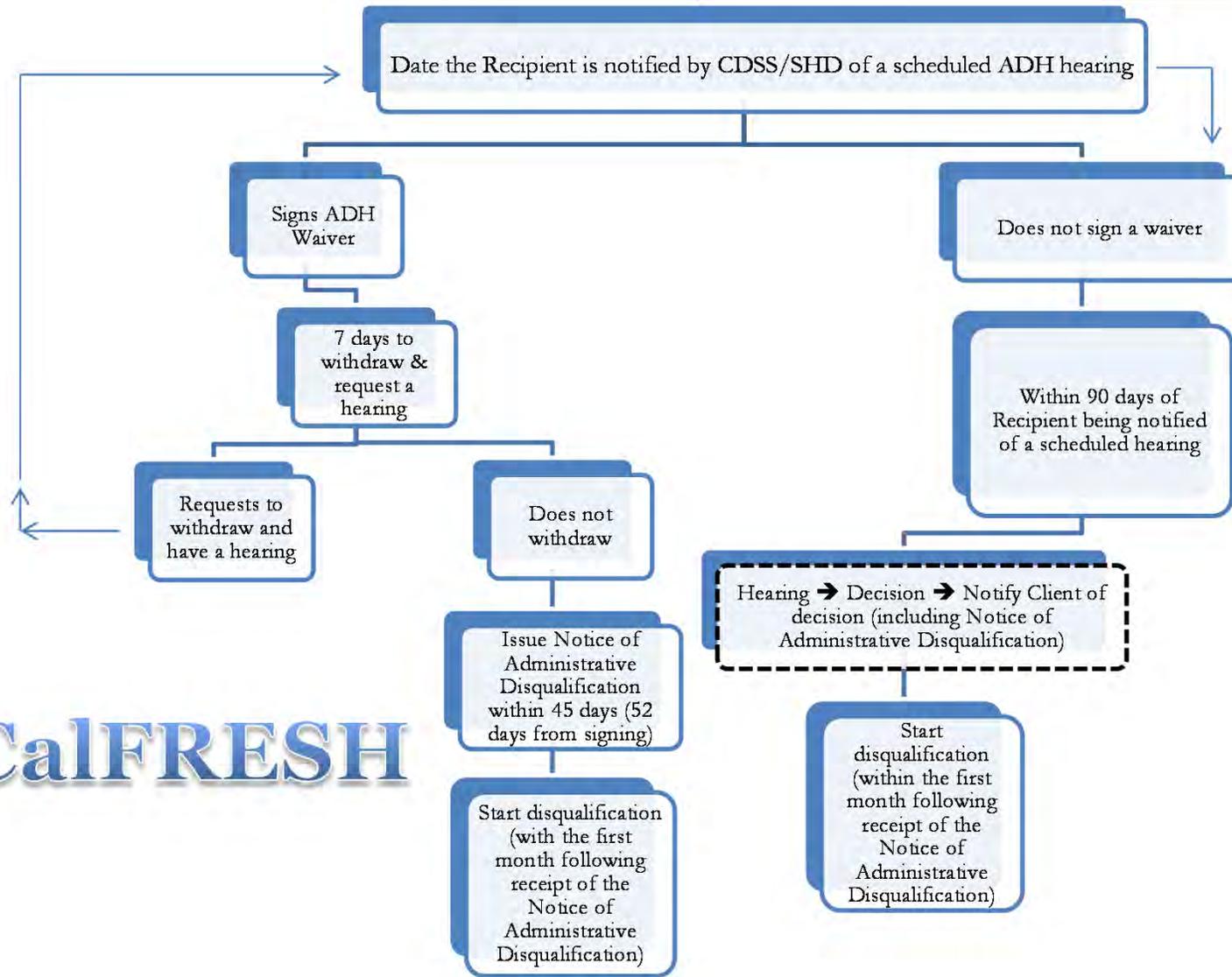
Questions??

Accurate Determination of Disqualification Penalties - CalFresh

- Disqualification penalties vary from 12 months to permanent depending on the type of violation.
- Not all disqualification penalties may be issued through the ADH process.
- References:
 - 7 CFR 273.16(b)
 - MPP 20-300.3

Accurate Determination of Disqualification Penalties - CalFresh

- **Disqualification takes place regardless of eligibility:**
 - Only the individuals found to have committed an IPV and not the entire household.
 - The period of disqualification shall continue uninterrupted regardless of the eligibility of the disqualified member's household.
 - If the individual is not eligible when the disqualification penalty starts, the period of disqualification shall start as if the individual was eligible.
- References:
 - MPP 20-300.34, .35, and .36
 - 7 CFR 273.16(b)(13) and (f)(2)



CalFRESH

Timely Initiation - CalFresh

Signed ADH Waiver (DPA 479)

- Notice of Administrative Disqualification (DFA 377.7A)
 - The respondent has 7 days to withdraw the Waiver and request a Hearing
 - The Notice of Administrative Disqualification should be issued within 45 days of the 7th day following the date the Waiver was signed (*based on DCA per MPP 20-300.43*)
 - References:
 - MPP 22-202.4

Timely Initiation - CalFresh

Signed ADH Waiver (DPA 479)

- **Initiate the disqualification penalty**
 - The period of disqualification shall begin with the first month which follows the date the household member receives written notification of the disqualification.
 - References:
 - 7 CFR 273.16 (f)(2)(i)
 - MPP 20-300.41, and .411

Timely Initiation - CalFresh

Upheld ADH decision:

- **Notice of Administrative Disqualification (DFA 377.7A)**

Within 90 days of the date the household member is notified in writing that a State hearing initiated by the State agency has been scheduled, the State agency shall conduct the hearing, arrive at a decision and notify the household member and local agency of the decision. This includes issuing a Notice of Administrative Disqualification.

- References:
 - 7 CFR 273.16 (e)(2)(iv)
 - MPP 22-230.1

Timely Initiation - CalFresh

Upheld ADH decision

- **Initiate the disqualification penalty**

If the hearing authority rules that the household member has committed an IPV, the CWD shall disqualify the household member beginning with the first month following the date the household member receives the Administrative Disqualification Notice. Five days from the date the notice is mailed shall be considered sufficient time provided it has not been returned as undeliverable by the post office.

- References:
 - MPP 20-300.41, and .411

Timely Initiation - CalFresh

Upheld ADH decision

- **Initiate the disqualification penalty**

The disqualification period shall begin no later than the second month which follows the date the individual receives written notice of the disqualification.

- References:
 - 7 CFR 273.16(b)(13)

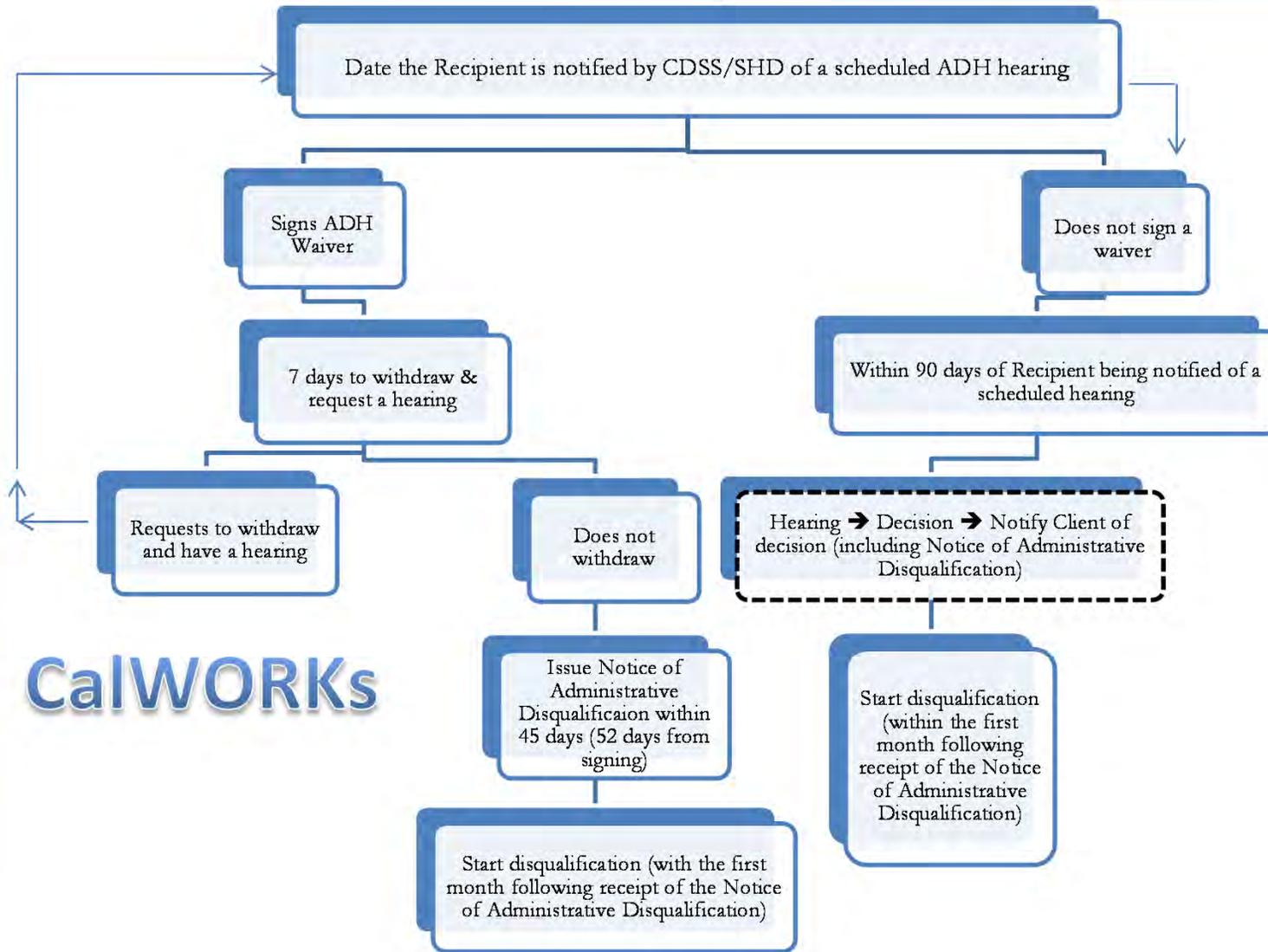
- *NOTE: The CDSS recommends that CWDs follow the time frame as described in MPP 20-300.41 and .411, as this will meet the federal requirement.*

Accurate Determination of Disqualification Penalties - CalWORKs

- Disqualification penalties vary from 6 months to permanent depending on the type of violation.
- Not all disqualification penalties may be issued through the ADH process.
- References:
 - WIC 11486
 - MPP 20-353

Accurate Determination of Disqualification Penalties - CalWORKs

- **Disqualification takes place only during periods of eligibility:**
 - The CWD shall only disqualify the individual(s) found to have committed the IPV.
 - If the individual is not eligible for CalWORKs at the time the disqualification is to begin, the period of disqualification shall be postponed until the person applies for and is determined to be eligible for benefits.
 - References:
 - MPP 20-353.4, and .5
 - 45 CFR 235.113(b)(11) and (c)(D)(3)



CalWORKs

Timely Initiation - CalWORKs

Signed ADH Waiver (DPA 479)

- Notice of Administrative Disqualification (ABCD 239.7A)
 - The respondent has 7 days to withdraw the Waiver and request a Hearing.
 - The Notice of Administrative Disqualification should be issued within 45 days of the 7th day following the date the Waiver was signed. (*based on DCA per MPP 20-354.3*)
 - References:
 - MPP 22-320.321

Timely Initiation - CalWORKs

Signed ADH Waiver (DPA 479)

- **Initiate the disqualification penalty**

If the hearing authority rules that the accused individual has committed an IPV, the CWD shall disqualify the individual beginning with the first month following the date the individual receives the Notice of Administrative Disqualification. Five days from the date the notice is mailed shall be considered sufficient time provided it has not been returned as undeliverable by the post office.

- References
 - MPP 20-354.1, and .11

Timely Initiation - CalWORKs

Signed ADH Waiver (DPA 479)

- **Initiate the disqualification penalty**

When the individual waives his or her right to appear at a disqualification hearing, the period of disqualification shall begin no later than the first day of the second month which follows the date of notice.

- References:

- 45 CFR 235.113(c)(3)
- MPP 22-320.41

- *NOTE: The CDSS recommends that CWDs follow the time frame as described in MPP 20-354.1 and .11, as this will meet the federal requirement.*

Timely Initiation - CalWORKs

Upheld ADH decision:

- **Notice of Administrative Disqualification (ABCD 239.7A)**

Within 90 days from the date of the notice scheduling the hearing, a copy of the hearing decision shall be mailed to the respondent and to the CWD. This includes issuing a Notice of Administrative Disqualification.

- References
 - 45 CFR 235.113
 - MPP 22-340

Timely Initiation - CalWORKs

Upheld ADH decision

- **Initiate the disqualification penalty**

If the hearing authority rules that the accused individual has committed an IPV, the CWD shall disqualify the individual beginning with the first month following the date the individual receives the Notice of Administrative Disqualification. Five days from the date the notice is mailed shall be considered sufficient time provided it has not been returned as undeliverable by the post office.

- References
 - MPP 20-354.1, and .11

Timely Initiation - CalWORKs

Upheld ADH decision

- **Initiate the disqualification penalty**

If the hearing officer finds that the individual committed an IPV, the period of disqualification shall begin no later than the first day of the second month which follows the date of notice.

- **References:**

- 45 CFR 235.13(b)(11)
- MPP 22-340.712

- *NOTE: The CDSS recommends that CWDs follow the time frame as described in MPP 20-354.1 and .11, as this will meet the federal requirement.*

Timely reporting of IPVs to the State IPV Online System

- Within 30 days of the date the disqualification takes effect, the information must be entered into the State IPV Online Database System.
- References:
 - MPP 20-300.51
 - MPP 20-355.1
 - ACL NO. 09-06

IPV Records Retention

- Records necessary to sustain an IPV disqualification should be retained through the life of the individuals.
- Records related to the IPV including notices to the household shall be retained indefinitely until the agency obtains reliable information that the subject has died.

IPV Records Retention

- Disqualification records submitted to the IPV Online Database must be purged by the agency that submitted them when the supporting documents are no longer accurate, relevant, or complete.
- References:
 - 7 CFR 272.1(f)(2) and (3)
 - All County Letter NO.11-08