

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 273

[FNS–2018–0037]

RIN 0584–AE62

Revision of Categorical Eligibility in the Supplemental Nutrition Assistance Program (SNAP); Withdrawal

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

ACTION: Withdrawal of proposed rule.

SUMMARY: This document informs the public that the Food and Nutrition Service (FNS) of the U.S. Department of Agriculture (USDA) is withdrawing the proposed rule titled *Revision of Categorical Eligibility in the Supplemental Nutrition Assistance Program (SNAP)* that published in the **Federal Register** on July 24, 2019. This rule would have refined how receipt of the Temporary Assistance for Needy Families (TANF) benefits may confer categorical eligibility for SNAP. The rule would have also required State agencies to include in their SNAP State Plan of Operations all non-cash TANF benefits and certain cash TANF benefits that confer categorical eligibility. After reviewing and considering the comments received, the proposed rule is being withdrawn.

DATES: As of June 10, 2021, the proposed rule published on July 24, 2019, at 84 FR 35570, is officially withdrawn.

ADDRESSES: SNAP Program Development Division, Food and Nutrition Service, USDA, 1320 Braddock Place, Alexandria, Virginia 22314.

FOR FURTHER INFORMATION CONTACT: Program Design Branch, Program Development Division, FNS, 1320 Braddock Place, Alexandria, Virginia 22314. SNAPPDBRules@usda.gov.

SUPPLEMENTARY INFORMATION: The decision to withdraw the proposed rule

and maintain the current categorical eligibility regulations is authorized by section 5(a) of the Food and Nutrition Act of 2008, as amended (the Act), which provides that households in which each member receives benefits under a State program funded under part A of Title IV of the Social Security Act (SSA) (also known as Temporary Assistance for Needy Families (TANF) block grants)¹ shall be categorically eligible for the Supplemental Nutrition Assistance Program (SNAP). This action withdraws a proposed rule published in the **Federal Register** on July 24, 2019, (84 FR 35570), which would have revised how receipt of TANF benefits may confer categorical eligibility for SNAP. Specifically, the proposed rule would have limited the TANF “benefits” that may confer categorical eligibility to “ongoing” and “substantial” benefits. The proposed rule defined “ongoing” benefits as those that a household receives or is authorized to receive for a period of at least six months and “substantial” benefits as those valued at a minimum of \$50 per month. The proposed rule also limited the types of non-cash TANF benefits conferring categorical eligibility to those that focus on subsidized employment, work supports, and childcare. Finally, the proposed rule would have required State agencies to inform FNS of all non-cash TANF benefits that confer categorical eligibility. The proposed rule would have cost \$2.314 billion in administrative expenses between 2019–2023 and resulted in 3.1 million individuals in 1.7 million households losing SNAP eligibility in Fiscal Year 2020.

During the proposed rule’s 60-day comment period, nearly 158,000 comments were received. All the comments may be viewed by going to <http://www.regulations.gov> and searching for public submissions under docket number FNS–2018–0037. The comments came from a broad range of stakeholders and generally opposed the

proposed rule. Commenters opposed the rule largely due to concerns about the potential impacts on food insecurity, particularly among children, veterans, individuals with disabilities, and the elderly. Others expressed concerns that the proposed rule would discourage savings and make it more difficult for households to become financially self-sufficient and have adverse economic impacts for communities. Commenters largely opposed the proposed ongoing and substantial criteria, arguing that the criteria would have undermined the Department’s stated goal of the supporting self-sufficiency, in addition to creating administrative burdens for State agencies and unnecessary barriers to program participation for applicants. Numerous commenters expressed concerns about the legality of the framework of the proposed rule.

Commenters claimed the Department did not provide valid justifications for the changes proposed, identify any evidence to support the need for a regulatory change, or adequately explain its decision-making. Many commenters argued that the proposed rule was arbitrary and capricious.

More specifically, many commenters responded to concerns raised in the proposed rule regarding the impact of expanded categorical eligibility on SNAP program integrity. These commenters disputed the proposed rule’s assertion that States have abused the flexibility offered by categorical eligibility, writing that States have been responsible and methodical stewards of SNAP. Commenters also wrote that the proposed changes went well beyond shoring up the integrity of the program and were intended to reduce SNAP benefits. Several commenters suggested that the program integrity concerns cited in the proposed rule were unwarranted since all households are required to submit and verify income and other eligibility information to determine the SNAP benefit allotment.

Withdrawal

After reviewing and considering the comments received, the Department has determined that the proposed rule to revise categorical eligibility should not be finalized. In withdrawing this proposed rule, the Department reaffirms its longstanding categorical eligibility policy, codified in regulations at 7 CFR 273.2(j). The Department has

¹ State programs funded under part A of Title IV of the SSA include programs funded by Federal TANF block grant funds, as well as programs funded by State maintenance-of-effort (MOE) dollars that allow a State to receive Federal TANF block grant funds. For simplicity, this notice of withdrawal will refer to all State programs funded under part A of Title IV of the SSA as “TANF-funded programs,” and to benefits from such programs as “TANF benefits.”

determined that the proposed revisions did not sufficiently justify the impact on the estimated 1.7 million SNAP households that would have lost eligibility under the rule and did not adequately mitigate the disproportionate impact the rule would have had on households with an elderly member. Additionally, the Department has determined that the proposed changes and concerns raised regarding program integrity were not adequately supported by data and do not justify the costs to State agencies of implementing the change.

In withdrawing this proposed rule, the Department reaffirms the purpose of categorical eligibility to simplify the SNAP application process for both SNAP State agencies and households by reducing the amount of information that must be verified if a household has already been determined eligible to receive benefits from another assistance program specified in Sec. 5(a) of the Act. Beginning in 2009, the Department proactively encouraged States to implement expanded categorical eligibility policies in order to increase SNAP participation and reduce State administrative burdens. The Department acknowledges that the flexibility afforded by expanded categorical eligibility policies are critical to reducing the burden on needy households and State agencies administering benefit programs.

The Department agrees with the issues raised by many commenters and no longer believes that the limitations the proposed rule would have put on categorical eligibility are appropriate. Accordingly, the proposed rule to revise categorical eligibility for SNAP published in the **Federal Register** on July 24, 2019, (84 FR 35570) is hereby withdrawn.

Cynthia Long,

Acting Administrator, Food and Nutrition Service.

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DEPARTMENT OF ENERGY

10 CFR Part 431

[EERE-2017-BT-STD-0021]

RIN 1904-AD90

Energy Conservation Program: Energy Conservation Standards for Unfired Hot Water Storage Tanks

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notification of proposed determination and request for comment.

SUMMARY: The Energy Policy and Conservation Act, as amended (EPCA), prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including unfired hot water storage tanks (UFWSTs). EPCA also requires the U.S. Department of Energy (DOE or the Department) to periodically determine whether more-stringent, amended standards would result in significant additional conservation of energy, be technologically feasible, and be economically justified. After carefully considering the available market and technical information for this equipment, DOE has tentatively concluded in this document that it lacks clear and convincing evidence that more-stringent standards for UFWSTs would save a significant additional amount of energy and would be economically justified. As such, DOE has initially determined that energy conservation standards for UFWSTs do not need to be amended. DOE requests comment on this notification of proposed determination (NOPD), as well as the associated analyses and results.

DATES: *Meeting:* DOE will hold a webinar on Tuesday, July 13, 2021, from 12:00 p.m. to 4:00 p.m. See section VII, “Public Participation,” for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

Comments: Written comments and information are requested and will be accepted on or before August 9, 2021.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at <https://www.regulations.gov>. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments by email to the following address:

UnfiredCommercialWH2017STD0021@ee.doe.gov. Include docket number EERE-2017-BT-STD-0021 and/or RIN number 1904-AD90 in the subject line of the message. Submit electric comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption. No telefacsimiles (faxes) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section VII (Public Participation) of this document.

Although DOE has routinely accepted public comment submissions through a variety of mechanisms, including postal

mail and hand delivery/courier, the Department has found it necessary to make temporary modifications to the comment submission process in light of the ongoing Covid-19 pandemic. DOE is currently accepting only electronic submissions at this time. If a commenter finds this change poses an undue hardship, please contact Appliance Standards Program staff at (202) 586-1445 to discuss the need for alternative arrangements. Once the Covid-19 pandemic health emergency is resolved, DOE anticipates resuming all of its regular options for public comment submissions, including postal mail and hand delivery/courier.

Docket: The docket for this activity, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at <https://www.regulations.gov>. All documents in the docket are listed in the <https://www.regulations.gov> index. However, some documents listed in the index, such as information that is exempt from public disclosure, may not be publicly available.

The docket web page can be found at: <https://www.regulations.gov/docket?D=EERE-2017-BT-STD-0021>. The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section VII, “Public Participation,” for further information on how to submit comments through <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Ms. Catherine Rivest, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE-5B, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-7335. Email: ApplianceStandardsQuestions@ee.doe.gov.

Mr. Eric Stas, U.S. Department of Energy, Office of the General Counsel, GC-33, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-5827. Email: Eric.Stas@hq.doe.gov.

For further information on how to submit a comment or review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287-1445 or by email: ApplianceStandardsQuestions@ee.doe.gov.

SUPPLEMENTARY INFORMATION:

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