



Proposed Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22 VAC 40-601
Regulation title	Supplemental Nutrition Assistance Program
Action title	Restructure and rename program to Supplemental Nutrition Assistance Program
Date this document prepared	August 19, 2009

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive provisions of new regulations or changes to existing regulations that are being proposed in this regulatory action.

This regulatory action changes the title name and all references in the regulation from the "Food Stamp Program" and "food stamps" to the "Supplemental Nutrition Assistance Program (SNAP)" and "SNAP benefits."

It creates a new section, 22 VAC 40-601-50, mandating that applications for SNAP benefits be disposed of within 30 days. If an application cannot be processed by the 30th day because information needed to determine eligibility is lacking due to the fault of the household, the application must be denied. The eligibility worker must reinstate the application and prorate benefits to the date the verification was provided if the applicant provides the information during the next 30 days.

It also creates a second new section, 22 VAC 40-601-60, which provides that transitional SNAP benefits to households with children whose state-funded MOE program benefits or benefits from a state funded program that does not count toward MOE end in the same manner as federally funded TANF benefits. The transitional benefits component allows eligibility for SNAP benefits to be determined without considering current circumstances to allow the recipient to adjust to the loss of the public assistance income source.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

CFR	Code of Federal Regulations
DSS	Department of Social Services
FCEA	Food, Conservation, and Energy Act of 2008
MOE	Maintenance-of-effort
SNAP	Supplemental Nutrition Assistance Program.
TANF	Temporary Assistance for Needy Families
VIEW	Virginia Initiative for Employment not Welfare
VTP	VIEW Transitional Payment

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Section 63.2-217 of the Code of Virginia (Code) requires the State Board of Social Services (Board) to adopt regulations necessary or desirable to operate assistance programs in Virginia.

The federal government delegates authority to state agencies in 7 CFR 271.4 to administer the program within the states.

The Food, Conservation, and Energy Act of 2008 (Pub. L. No. 110-246) (FCEA) contains a provision allowing states to expand transitional benefits to cases with children that receive state maintenance-of-effort (MOE) funds or state funds that do not count toward the state MOE requirements.

Federal regulation, 7 CFR 273.2(h), allows states an option to either deny food stamp applications after 30 days or to extend the pending status.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

This regulatory action will change how food stamp applications are handled when an application is not processed after 30 days because information is lacking due to the fault of the household. The purpose of the regulatory action is to reduce the number of administrative matters held open by local eligibility workers. The amount of benefits households receive, and the number of eligible households, will not be affected by the change in how applications are processed.

Citizens who seek food stamp benefits must apply for them in the city or county where they live. Local eligibility workers have 30 days to process an application for food stamp benefits. Benefits are calculated

from the application date, so eligible households will receive a higher benefit if the application is filed early in the month. Currently, if the eligibility worker is unable to process the application at the end of 30 days because of the applicant’s failure to provide information or to take other needed actions, the eligibility worker must extend the processing period by an additional 30 days. If the applicant supplies the information or takes the needed actions during the second 30 day period, benefits are prorated from the date the information is supplied. The application is denied if information is still needed at the end of the 60th day.

Approximately 30% of food stamp applications that are held for the extended period are processed, while the majority of the pending applications are ultimately denied because of the failure of the applicant household to provide needed information.

This regulatory action will create a new section, 22 VAC 40-60-50, which will require that applications for SNAP benefits must be disposed of within 30 days. Eligibility workers will be required to reopen the denied application if an applicant provides the information before the 60th day. If the household is eligible, benefits will be calculated from the date the last verification was provided.

This regulatory action will also create a second new section, 22 VAC 40-60-60, which provides that transitional SNAP benefits will apply to households with children whose state-funded MOE program benefits or benefits from a state funded program that does not count toward MOE end in the same manner as federally funded public assistance benefits. The transitional benefits component allows eligibility for SNAP benefits to be determined without considering current circumstances to allow the recipient to adjust to the loss of the public assistance income source. Transitional SNAP benefits are a means to provide up to five months of SNAP benefits to households leaving TANF cash assistance without requiring the household to submit additional paperwork or information. The FCEA contains a provision that allows states an option to expand transitional benefits to cases with children that receive state MOE funds or state funds that do not count toward the state MOE requirements. DSS would like to expand transitional benefits to include the closure of state-funded programs that count toward the TANF MOE requirement, such as the VIEW Transitional Payment (VTP) component, or state-funded programs that do not count toward the TANF MOE requirement, such as the General Relief Program.

FCEA renamed the Food Stamp Program the Supplemental Nutrition Assistance Program on a national basis. This change acknowledges the transformation that has occurred in the delivery of benefits. Benefits are no longer issued through paper coupons or stamps but are instead issued electronically. FCEA does not mandate adoption of the SNAP name by states; however, adoption of the name will lessen confusion as all references, guidance documents, and instructions provided by the U.S. Department of Agriculture will identify the program as SNAP. The name change is also important because it focuses on the importance of SNAP in meeting the nutritional needs of low-income Virginians. Further, it reduces the stigma associated with receiving food stamps. DSS will be phasing in the program name change gradually.

These amendments will not affect the health or safety of citizens.

Reprogramming the computer system will be needed to allow for the denial of applications on the 30th day and subsequent reopening of cases, if necessary. Guidance documents and notices will need to be revised to reflect the application processing requirements. Computer reprogramming and revisions for forms and manuals will be needed to rename the program.

Substance

Please briefly identify and explain new substantive provisions (for new regulations), substantive changes to existing sections or both where appropriate. (More detail about all provisions or changes is requested in the “Detail of changes” section.)

New section 22 VAC 40-601-50 will mandate that applications for SNAP benefits be disposed of within 30 days. If an application cannot be processed by the 30th day because information needed to determine eligibility is lacking due to the fault of the household, the application must be denied. The eligibility worker must reinstate the application and prorate benefits to the date the verification was provided if the applicant provides the information during the next 30 days. Applicants will not be required to submit a new application to have the local department of social services reopen the case and consider any newly submitted information. Federal regulation, 7 CFR 273.10 (g)(ii) requires that the eligibility worker send applicants a notice that details the actions or information needed and inform the applicant that the denial will be cancelled if the applicant provides the information within 30 days.

New section 22 VAC 40-601-60 provides that transitional SNAP benefits will apply to households with children, whose state-funded programs or benefits end, in the same manner as federally funded public assistance benefits. The transitional benefits component allows eligibility for SNAP benefits to be determined without considering current circumstances to allow the recipient to adjust to the loss of the public assistance income source. Transitional food stamp benefits allow eligible households to receive benefits for up to five months without a new application while the households adjust to the terminated TANF benefit.

This regulatory action also revises all references in the regulation to the "Food Stamp Program" and "food stamps" to the "Supplemental Nutrition Assistance Program (SNAP)" and "SNAP benefits."

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

This regulatory action will benefit workers of local departments of social services by allowing them to dispose of SNAP applications that will likely be abandoned by the applicant. Instead of holding an application in pending status for up to 60 days, the application would be denied after 30 days if the applicant has failed to provide requested verification or information to process the application. If the applicant subsequently provides the requested verification or information, the local department must reactivate the application and continue the processing, so it does not result in any lost benefits to the household. Eligible households will receive the same amount of benefits with implementation of new section 22 VAC 40-601-50 as they would under the current process.

New section 22 VAC 40-601-60 provides advantages to recipient SNAP households whose TANF or state-funded programs end when the SNAP benefit amount is held constant for up to five months, regardless of the current circumstances. Households may elect to withdraw from the transitional benefits component in order to have current circumstances evaluated if substantial changes exist in addition to the loss of the public assistance income. This provision does not offer any advantages or disadvantages to the local social services staff.

Low-income Virginia households that may not have applied for food stamp benefits because of the perceived stigma of receiving a "welfare" benefit are benefited by changing the program. The name change also benefits participant families by emphasizing the importance of the program in supplementing families' budgets to assist them in meeting their nutritional needs.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal, which are more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

Neither proposed amendment exceeds applicable federal requirements.

Federal law gives states an option to expand transitional assistance as well as to rename the Food Stamp Program. Federal regulations require that applications be denied on the 30th day; however, states have the option to extend the application processing time frame for an additional 30 days.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

The provisions of this regulatory action do not affect one Virginia locality more than another. All localities receive and process food stamp applications and applications for the TANF Program.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the Board is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. The Board is also seeking information on impacts to small businesses as defined in § 2.2-4007.1. Information may include: 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so via the Regulatory Townhall website, www.townhall.virginia.gov, or by mail, email or fax to Celestine Jackson, Division of Benefit Programs, Virginia Department of Social Services, 7 North Eighth Street, Richmond, Virginia 23219. The telephone number is (804) 726-7376 and the fax number is (804) 726-7356. The email address is celestine.jackson@dss.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last date of the public comment period.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source, and (b) a delineation of one-time versus on-going expenditures.</p>	<p>The DSS statewide computer system requires no changes associated with expanding transitional benefits. The computer system must be reprogrammed to allow for the automatic denial of applications on or after the 30th day instead of the 60th day and to allow for the reinstatement of the original application date if information is provided during the next 30 days. Training for local and state social services staff will be needed to incorporate the new procedures. Program name changes on websites, forms, and guidance documents will be needed. Paper copies of forms will be introduced once existing stock is depleted. These costs will be absorbed within existing applications.</p>
<p>Projected cost of the new regulations or changes to existing regulations on localities.</p>	<p>Training for local social services staff will be needed to incorporate the revised procedures. Local social services departments must invest the time and effort to attend training sessions or avail themselves of online training materials. The program manual is available online. Local social services agencies must print individual copies of the manual or manual sections if a paper copy is desired. The official copy of the manual is online at http://dssiad.dss.state.va.us/FoodStampManual/pageview.html.</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the new regulations or changes to existing regulations.</p>	<p>The amount of food stamp benefits eligible applicant households will receive before and after implementation of the new application processing amendment will be unchanged. Benefits will continue to be prorated from the last date applicants provide verification/information if verification/information is provided after the initial 30 days following the application filing date.</p> <p>By extending the transitional food stamp benefit component, the food stamp benefit amount for recipient households should increase once a state-funded public assistance benefit ends. In such an instance, the food stamp benefit amount would be based on income and deductions that exist when the public assistance ends, excluding the public assistance income, instead of the current income amounts or other changes for up to five months. The expansion of transitional assistance is a tremendous benefit to the households as it allows them five months of continued benefits at a higher rate to help them overcome the loss of their TANF income. Food stamp benefits are 100% federally funded.</p> <p>The regulation name change will have no impact on individuals, businesses, or other entities.</p>
<p>Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates,</p>	<p>No other entities should be affected by the implementation of the new regulations.</p>

<p>that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	
<p>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and do include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	<p>There are no projected costs of the new regulations on individuals, businesses, or other entities; all costs will be absorbed within existing applications.</p>
<p>Beneficial impact the regulation is designed to produce.</p>	<p>The allowance of an expanded transitional food stamp benefits component should increase the food stamp benefit amount for households when their state-funded benefits end. As indicated above, this is a significant benefit to help families transition from the loss of their TANF income.</p> <p>The beneficial impact of the application processing procedures will be felt by eligibility staff of local social services departments by streamlining the process and allowing the administrative disposal of an abandoned application after 30 days instead of 60 days if there is no further contact with the applicant. Reinstatement of the existing application is beneficial to households and eligibility staff and more efficient than requiring a new application to be submitted.</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

Federal regulations allow two methods for processing food stamp applications if there is a delay in processing the application 30 days after the filing date. Either the agency must deny the application on the 30th day but reopen the case without requiring another application if the applicant household provides required information within the next 30 days, or the state agency has the option to send a notice on the 30th day that informs the applicant that the application is pending and what actions are needed to complete processing.

Since 1979, applications in Virginia have been held pending for an extended 30-day period. Changing this process potentially reduces the work activities for local workers by denying the application on the 30th day if the applicant does not complete necessary follow-up. The extended pending method requires additional action by local workers by holding the application open until the 60th day.

Until the passage of FCEA in June of 2008, federal law allowed states to offer transitional food stamp benefits only to households when their TANF eligibility was terminated. Federal law now allows states to expand transitional food stamp benefits to cases that lose their eligibility for state-funded cash programs for households with children. In many instances, the state-funded programs in Virginia are designed to meet the state’s MOE obligations for receiving the TANF block grant. Expansion of the transitional benefits will not cause a significant shift of work activities for local workers. This expansion will essentially affect the same client population.

States are not required to change the name of the Food Stamp Program nor are they required to adopt any specific name for the program if they choose to rename the program.

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

Only one alternative exists for each proposed amendment. DSS is currently operating with those alternatives.

DSS considered keeping the program name as has existed since the program’s inception. Other program names were also considered before settling on adopting the name used for federal purposes.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response
Ty Jones Virginia Poverty Law Center	The commenter opposes implementation of the application processing amendment for fear that applicant households will be adversely affected and less likely to reapply for benefits once they secure needed information. He also notes that local staff must assist households in obtaining verification.	DSS believes there are adequate protections for applicant households by requiring reinstatement of the denied application if the household provides requested information before the 60th day. Households will not have to reapply and as such, the impact will be transparent to applicant households. The reinstatement and continued assessment of the application would have the same impact as that which currently exists with the allowance of an extended pending period for a second 30-day period. Local department staff is responsible for assisting households in securing information if the household alerts the staff that such assistance is needed.

The Department of Social Services previously received comments on Amendment 22 VAC 40-601-50. Comments from local eligibility workers and supervisors were posted in support of the application processing change.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

This regulatory action does not strengthen or erode the nurturing relationship between parents and their children, nor does it alter the rights of parents to direct the education or supervision of children. This regulatory encourages economic self-sufficiency and self-pride by providing incentives to families that end their dependence on state funded public assistance programs. By ending dependence on state-funded cash assistance programs, individuals demonstrate that they are taking responsibility for themselves and their families. The regulation does not affect marital commitment.

This regulatory action does not change the standards for determining which households are eligible for food stamp benefits and, therefore, should not alter disposable family income. However, expanding transitional food stamp benefits to additional households will affect households’ disposable income by allowing households to continue to receive food stamp benefits at a higher level for five months to offset the loss of cash programs. The amount of benefits a household receives helps to supplement the amount of money available for food purchases.

This regulatory action also encourages personal responsibility. Applicant households receive prorated benefits based on the date the application is filed. Households will also receive benefits for the month of application if the client provides information within 30 days of the filing date. If the household delays submitting information or taking required actions until after the 30th day, the household loses entitlement to benefits for the application month. The impact of the regulation is minimized by allowing the household an opportunity to submit information after the application has been denied as long as it is within 60 days of the original application date. Benefits will be calculated based on the date the information is submitted. There is no requirement to file another application unless the information is provided after the 60th day.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact if implemented in each section. Please detail the difference between the requirements of the new provisions and the current practice or if applicable, the requirements of other existing regulations in place.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all provisions of the new regulation or changes to existing regulations between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, rationale, and consequences
10, 40		Definitions used in the regulation are defined and procedures for administrative hearings are outlined. There are references to the Food Stamp Program and food stamp benefits.	Acronyms and Definitions used in the regulation are defined and procedures for administrative hearings are outlined. References to the Food Stamp Program and food stamp benefits were changed to the Supplemental Nutrition Assistance Program and SNAP benefits.

For new chapters, use this chart:

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
50	Applications for food stamp benefits must be disposed of within 30 days. Applicants have 30 days to provide verification or information needed to determine eligibility of the household. If an application cannot be processed by the 30th day because such information is lacking due to the fault of the household, the application must be denied. If the applicant provides the information during the next 30 days, the local agency must reinstate the application and prorate benefits to the date the last verification was provided.	None	The proposed amendment is intended to dispose of applications as soon as administratively possible if applicants abandon the application.
60	Transitional food stamp benefits will apply to households whose state-funded programs or benefits end in the same manner as federally funded public assistance programs. Transitional food stamp benefits will apply only to households with children. The state-funded programs may or may not be counted toward the maintenance-of-effort requirements needed for TANF block grant.	None	Transitional food stamp benefits may be provided to household for up to five months to allow the household an opportunity to adjust to the financial loss of public assistance income. Transitional benefits are intended to encourage households to provide financial support for themselves and their children with a gradual move to independence.