

Final Proposed Filing - Coversheet

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

PLEASE REMOVE ANY COVERSHEET OR FORM NOT REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

Crisis Fuel Assistance Rules

/s/ Todd W. Daloz

_____, on _____
(signature) (date)

Printed Name and Title:

Todd W. Daloz, Deputy Secretary
Agency of Human Services

RECEIVED BY: _____

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Minutes
- Copy of Comments
- Responsiveness Summary

1. TITLE OF RULE FILING:

Crisis Fuel Assistance Rules

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

23P 046

3. ADOPTING AGENCY:

Agency of Human Services, Department for Children and Families, Economic Services Division

4. PRIMARY CONTACT PERSON:

(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Richard Giddings

Agency: Agency of Human Services, Department for Children and Families, Economic Services Division

Mailing Address: 280 State Drive, HC 1 South
Waterbury, VT 05671-1020

Telephone: 802-786-5986 Fax:

E-Mail: Richard.Giddings@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://dcf.vermont.gov/esd/laws-rules/proposed>

5. SECONDARY CONTACT PERSON:

(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Philip Back

Agency: Agency of Human Services, Department for Children and Families

Mailing Address: 280 State Drive, HC 1 North
Waterbury, VT 05671-1080

Telephone: 802-798-9318 Fax:

E-Mail: Philip.Back@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:

(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?) No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

7. LEGAL AUTHORITY / ENABLING LEGISLATION:

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

33 V.S.A. § 2602(b); 33 V.S.A. § 2609(a)

8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

This rule is intended to implement the Home Heating Fuel Assistance Program, established by the Legislature in Chapter 26 of Title 33 of the Vermont Statutes. Under 33 V.S.A. § 2602(b), the Agency of Human Services must adopt rules to implement this Program. Additionally, the Agency must adopt rules defining crisis situations and establishing eligibility requirements for crisis home heating fuel assistance pursuant to 33 V.S.A. § 2609(a).

9. THE FILING HAS CHANGED SINCE THE FILING OF THE PROPOSED RULE.

10. THE AGENCY HAS INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.

11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.

12. THE AGENCY HAS INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.

13. THE AGENCY HAS INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.

14. CONCISE SUMMARY (150 WORDS OR LESS):

The amended rule reorganizes, renumbers, and replaces the existing rule. The amendment only addresses crisis fuel assistance and removes sections relating to seasonal fuel assistance, which will be addressed in a revised and separate rule. The amendment clarifies some existing practices and changes other practices to implement recent federal guidance and significant statutory changes that have occurred since the rule was last amended in 2009. Substantive changes include: new limits on the number of crisis benefits issued during a heating season, removing asset and resource

requirements, new procedures for income calculation such as removing income deductions, new verification and residency requirements, and revised income-eligibility requirements. The amendment further clarifies the types of living arrangements and residential structures eligible for assistance.

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

The Legislature created the Home Heating Fuel Assistance Program and required the Agency of Human Service to adopt a rule to implement the program. The Legislature specifically directed the Agency to adopt a rule for accepting applications, determining eligibility, calculating gross income, and issuing benefits based on heating costs and federal poverty guidelines. The Legislature further directed the Agency to adopt an additional rule for providing home heating fuel assistance in crisis situations. The rule is necessary to carry out these legislative directives and to conform to federal law. This amendment is necessary to update old provisions that have been superseded by statutory changes.

16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

The amendment is not arbitrary because it updates the existing rule to conform to statutory changes and federal guidance. Other changes were based on input from the public and program staff seeking to avoid recurring or potential problems caused by old procedures that do not account for modern practices and departmental changes.

17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

Low-income households applying for or receiving crisis Home Heating Fuel Assistance;

Suppliers of heating fuel, such as companies that sell natural gas, propane, oil, kerosene, or coal to residential households;

Electric utilities;

Community Action Agencies;

Department for Children and Families

18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

The Agency anticipates the rule will have little, if any, quantifiable economic impact because the amendment mainly codifies existing law. The rule is not expected to significantly affect the number of people receiving crisis fuel assistance or the overall amount of crisis fuel assistance provided by the program. Government funding of the program will not be affected by the rule changes. (In fact, federal funding to Vermont may be reduced if some of the new procedures in the amendment are not adopted.) The method of calculating benefits, which depends on funding and the total number of eligible households, is not changing under the new rule. Accordingly, the total amount of money spent on benefits remains the same, even if the amendment results in marginally more or fewer application approvals. Thus, the proposed rule changes are not expected to have a significant economic impact.

19. A HEARING WAS HELD.

20. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING, PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date: 12/19/2023

Time: 01:00 PM

Street Address: St. Leo's Hall 109 South Main St., Waterbury

Zip Code: 05676

URL for Virtual: <https://t.ly/NV7v4>

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

12/27/2023

KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

LIHEAP

Low Income Home Energy Assistance Program

Home Heating Fuel Assistance Program

Crisis Fuel Program

Fuel Supplier

Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. TITLE OF RULE FILING:

Crisis Fuel Assistance Rules

2. ADOPTING AGENCY:

Agency of Human Services, Department for Children and Families, Economic Services Division

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **AN AMENDMENT OF AN EXISTING RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

Log #09-030, Fuel, Eff. 11/01/2009

Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn’t appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

1. TITLE OF RULE FILING:

Crisis Fuel Assistance Rules

2. ADOPTING AGENCY:

Agency of Human Services, Department for Children and Families, Economic Services Division

3. CATEGORY OF AFFECTED PARTIES:

LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

Low-income households applying for crisis home heating fuel assistance are not expected to be significantly affected by the rule. The elimination of asset limits will make more households eligible under the rule. However, there may be a small increase in application denials because the rule imposes a new winter residency

requirement, stricter identification requirements, and an express prohibition on providing fuel assistance to residents of mobile homes and campers. Additionally, the amendment will reduce the number of benefits households may receive during the heating season. However, the rule is not expected to significantly affect the overall amount of crisis fuel assistance provided by the program. Government funding of the program will not be affected by the rule changes. Accordingly, the total amount of money spent on benefits remains the same, even if the amendment results in marginally more or fewer application approvals. Thus, the proposed rule changes are not expected to have a significant economic impact on low-income households as a whole.

Suppliers of heating fuel, such as companies that sell natural gas, propane, oil, kerosene, or coal to residential households, are not expected to be impacted by the rule. The provisions in the rule affecting fuel suppliers are not significantly changing. Furthermore, since the rule changes will not affect program funding, the total amount of fuel assistance money ultimately going to fuel suppliers will not change.

Electric utilities that provide power to low-income households will not be economically impacted by the rule for the same reason other fuel suppliers will not be affected.

The Agency has assigned the Department for Children and Families to administer the Home Heating Fuel Assistance Program. The Department, in turn, contracts with local Community Action Agencies to process applications and issue benefits to households eligible for crisis fuel assistance. The Department does not expect to be economically impacted by the rule. The procedures used by the Department to monitor community agencies and provide them with funding are not being changed by the amendment.

Community Action Agencies are contracted by the Department to administer the crisis home heating fuel assistance program. The amount of money provided to

these agencies to administer the program will not be affected by the rule change. Although the amendment may impact the number of eligible households or the number benefits issued, the agencies' costs to comply with the amendment and administer the program are not expected to significantly change.

4. IMPACT ON SCHOOLS:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

No anticipated economic impact.

5. ALTERNATIVES: CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.

No anticipated economic impact.

6. IMPACT ON SMALL BUSINESSES:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

Many suppliers of heating fuel are small businesses subject to this rule. However, they are not expected to be significantly impacted by the amendment, which does not make any substantive change to the provisions of the existing crisis fuel rule pertaining to fuel suppliers. Furthermore, since the rule changes will not affect program funding, the total amount of fuel assistance money ultimately going to fuel suppliers will not change.

7. SMALL BUSINESS COMPLIANCE: EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.

Small businesses are not expected to face any additional costs or burdens as a result of the rule change for the reasons given in sections 3 and 6 above. None of the provisions of the rule pertaining to fuel suppliers are substantively changing. Thus, the amendment does not change the cost or burden of complying with the existing rule.

8. COMPARISON:

COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:

As noted in sections 3, 6, and 7 above, this rule is not expected to economically impact small businesses because the provisions pertaining to small fuel suppliers are not changing. Additionally, the Agency has no choice other than to issue a rule, since it is required by statute.

Failing to amend the current rule has its own economic consequences. The Agency risks losing federal funding to the program if certain changes are not implemented, e.g., the identification and verification requirements. Furthermore, the public will continue to rely on the existing rule, which misstates some program requirements that have been superseded by statute. For example, some low-income households with significant savings may not receive benefits because the existing rule erroneously disqualifies households with certain resources.

9. SUFFICIENCY: *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

Because the amendment mostly brings the current rule into conformance with state statutes and federal guidance, the above economic analysis is sufficient.

Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

1. TITLE OF RULE FILING:

Crisis Fuel Assistance Rules

2. ADOPTING AGENCY:

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3. **GREENHOUSE GAS:** *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*
No impact.

4. **WATER:** *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*
No impact.

5. **LAND:** *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*
No impact.

6. **RECREATION:** *EXPLAIN HOW THE RULE IMPACTS RECREATION IN THE STATE:*

No impact.

7. **CLIMATE:** *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*

No impact.

8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*

No impact.

9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

Fuel consumption by low-income households obviously affects the environment. This consumption is contingent upon fuel prices and government funding, neither of which will be impacted by the amendment. The proposed changes are not expected to affect the overall amount of crisis assistance given or the total amount of fuel consumed. Government funding of the fuel program is not affected by the rule change. The total amount of money spent on fuel remains the same, even if the amendment results in more or fewer application approvals.

Regardless of the number of households that may be impacted by the amendment, the total amount of money spent on fuel, and thus the total consumption of the fuel purchased with this money, will not be affected by the proposed rule change. Accordingly, no significant environmental impact is anticipated from the proposed rule changes, which will not affect overall fuel consumption. This information comprises the environmental analysis informing this amendment, and because the amendment mostly brings the current rule into conformance with state statutes and federal guidance, this analysis is sufficient.

Public Input Maximization Plan

Instructions:

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

1. TITLE OF RULE FILING:

Crisis Fuel Assistance Rules

2. ADOPTING AGENCY:

Agency of Human Services, Department for Children and Families, Economic Services Division

3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

The Agency held an in-person and virtual public hearing; published the proposed rule on DCF's website; notified community partners, including Vermont Legal Aid, Community Action Agencies, and fuel suppliers; notified individuals and agencies on a state listserv, which notifies subscribers of rule changes; and e-mailed copies of the proposed rule to individuals and agencies upon request.

4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

Current and former Fuel Assistance Program staff, Community Action Agencies, including the Champlain Valley Office of Economic Opportunity and Capstone Community Action, and other community partners.

Incorporation by Reference

THIS FORM IS ONLY REQUIRED WHEN INCORPORATING MATERIALS BY REFERENCE. PLEASE REMOVE PRIOR TO DELIVERY IF IT DOES NOT APPLY TO THIS RULE FILING:

Instructions:

In completing the incorporation by reference statement, an agency describes any materials that are incorporated into the rule by reference and how to obtain copies.

This form is only required when a rule incorporates materials by referencing another source without reproducing the text within the rule itself (e.g., federal or national standards, or regulations).

Incorporated materials will be maintained and available for inspection by the Agency.

1. TITLE OF RULE FILING:

Crisis Fuel Assistance Rules

2. ADOPTING AGENCY:

Agency of Human Services, Department for Children and Families, Economic Services Division

3. DESCRIPTION (*DESCRIBE THE MATERIALS INCORPORATED BY REFERENCE*):

The rule incorporates the following laws by reference:

The Vermont Statutes governing the Home Heating Fuel Assistance Program in Title 33, Chapter 26;

The definitions section of the Secured Transactions Article of the Uniform Commercial Code;

The Vermont Administrative Code governing the (proposed) Seasonal Fuel Assistance Rules

4. FORMAL CITATION OF MATERIALS INCORPORATED BY REFERENCE:

Home Heating Fuel Assistance Program: 33 V.S.A.

§§ 2601-2609;

Uniform Commercial Code: 9A V.S.A. § 9-102(a)(53);

Seasonal Fuel Assistance Rules (2900-2927): No

citation. (These simultaneously proposed rules have not yet been adopted and codified.)

5. OBTAINING COPIES: *(EXPLAIN WHERE THE PUBLIC MAY OBTAIN THE MATERIAL(S) IN WRITTEN OR ELECTRONIC FORM, AND AT WHAT COST):*

Each of the legal authorities above can be viewed online at the following web addresses:

33 V.S.A. §§ 2601-2609:

<https://legislature.vermont.gov/statutes/fullchapter/33/026>

9A V.S.A. § 9-102(a) (53):

<https://legislature.vermont.gov/statutes/section/09A/009/00102>

Seasonal Fuel Assistance Rules (2900-2927):

<https://dcf.vermont.gov/esd/laws-rules/proposed>

The websites to the statutes are also hyperlinked to the respective statutory citations in the rule.

6. MODIFICATIONS *(PLEASE EXPLAIN ANY MODIFICATION TO THE INCORPORATED MATERIALS E.G., WHETHER ONLY PART OF THE MATERIAL IS ADOPTED AND IF SO, WHICH PART(S) ARE MODIFIED):*

The statutes referenced above are incorporated in their entirety, and no part of these statutes is substantively modified by the rule. References to specific Seasonal Fuel Assistance Rules are incorporated in their entirety, but other seasonal rules are incorporated only "to the extent they do not conflict with these Crisis Fuel Assistance Rules."

Run Spell Check

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Crisis Fuel Assistance

3100 **Crisis Fuel Assistance** (05/01/2024, 23-20)

- a. The Fuel Assistance Program is authorized and funded by the federal Low-Income Home Energy Assistance Program (LIHEAP) block grant (42 U.S.C. §§ 8621–8630), and through the State of Vermont Home Heating Fuel Assistance Program (33 V.S.A. §§ 2601–2609).
- b. It is the purpose of the Fuel Assistance Program to secure the safety and health of low-income Vermont households by providing essential home heating assistance.
- c. The Fuel Assistance Program offers both seasonal fuel assistance, rules 2900–2927, and crisis fuel assistance, rules 3100–3113.
 - 1. The Seasonal Fuel Assistance Rules are incorporated by reference herein to the extent they do not conflict with these Crisis Fuel Assistance Rules.
- d. Crisis fuel assistance may be granted to alleviate an emergency for households at risk of being without heat.
- e. The Department may contract with community or other organizations for crisis fuel eligibility determination and benefit issuance.
 - 1. If the Department contracts with another entity, these Crisis Fuel Assistance Rules apply.
- f. Each year the Department shall allocate an appropriate amount of funds to the crisis fuel assistance program.
- g. These rules are adopted pursuant to 33 V.S.A. § 2602(b) and § 2609(a).

Definitions

5. “Living Unit” means a structure that meets all the following criteria:
 - i. Is occupied by one or more members of the household;
 - ii. Is used as the household’s primary domicile;
 - iii. Is one or more of the following:
 - A. Affixed to the ground on a permanent foundation;
 - B. A manufactured home as defined by 9A V.S.A. § 9-102(a)(53); or
 - C. Permanently immobile and not accessing water or electricity from another living unit or building;
 - iv. Contains one or more rooms;
 - v. Contains bathroom facilities specific to that unit;
 - vi. Contains kitchen facilities specific to that unit; and
 - vii. Has either:
 - A. A private entrance from the outside; or
 - B. A private entrance from an enclosed hallway leading from the outside that does not pass through or offer open access to any other living unit within the structure.
6. “Primary Heating Fuel” means the energy type listed in the Standard Heating Cost Tables that provides the largest portion of heat in the living unit.
7. “Resident” means a person who has been physically present in the State of Vermont and intends to make Vermont one’s permanent home, regardless of how long the person has lived in the State.
 - i. A person in Vermont involuntarily, or for a temporary purpose, is not a resident.

Crisis Fuel Eligibility

3102 **Crisis Fuel Eligibility** (05/01/2024, 23-20)

- a. These rules are intended to provide a framework for staff to grant assistance to households that are facing a heating crisis.
- b. The crisis fuel assistance program is not an entitlement program, and the Department retains discretion over whether to issue benefits to a household and the amount of any such benefits.
- c. A household may be eligible for crisis fuel assistance if they meet all the following criteria:
 1. All the members of a household must be Vermont residents at the time of application for crisis fuel assistance;
 - i. A person remains a resident until the person moves outside the State of Vermont with the intent to permanently reside elsewhere;
 2. A household member must be a citizen or national of the United States or a qualified immigrant under Seasonal Fuel Assistance Rule 2907;
 3. The total gross income of all fuel household members must not exceed 200% of the federal poverty guidelines based on household size;
 - i. Fuel household membership shall be determined using Seasonal Fuel Assistance Rules 2903–2904;
 - ii. A household’s total gross income shall be calculated using Seasonal Fuel Assistance Rules 2910–2912, except:
 - A. Income must be calculated based only on income actually received by the household in the 30 days before the application is submitted, regardless of the source of income; and
 - B. Income tax forms shall not be used to calculate income; and
 - iii. The allowable income maximum for each household size shall be updated in the Fuel Procedures Manual in accordance with the federal poverty guidelines published by the U.S. Department for Health and Human Services.
 4. The household must:
 - i. Receive seasonal fuel assistance;

Crisis Fuel Eligibility

- ii. Apply for seasonal fuel assistance at the same time as the application for crisis fuel assistance;
 - iii. Submit a seasonal fuel assistance application as soon as possible if extenuating circumstances prevent the simultaneous submission of applications for seasonal fuel assistance and crisis fuel assistance; or
 - iv. Have a gross household income above 185% of the federal poverty guidelines based on household size;
5. The Department or a crisis fuel worker has determined that a household has a home heating emergency need, including:
- i. The household's primary heating fuel tank is at 25% or less of its full capacity;
 - ii. There is one week's supply or less of fuel for households whose primary heating sources include firewood, wood pellets, or coal; or
 - iii. The household has received a disconnect notice from a metered utility, and the utility is responsible for either:
 - A. Providing the household's primary fuel source; or
 - B. Operating a necessary component of the household's primary home heating equipment.
6. The household must demonstrate that unforeseen extenuating circumstances have prevented the household from heating the living unit; and
7. The head of household must spend at least 150 non-consecutive nights in their living unit between November 1 and April 30.
- d. A household that has its primary heating fuel cost included in its rent may be eligible for crisis fuel assistance if the household meets all the eligibility criteria in subsection (c) of this rule and either of the following conditions are met:
1. The landlord is not available to authorize continuation of the primary heating fuel; or
 2. The health or safety of a household member is threatened and no one in the household caused the home heating emergency need, as determined by the eligibility staff.

Life-Threatening Home Heating Crisis

3103 Life-Threatening Home Heating Crisis (05/01/2024, 23-20)

- a. A life-threatening home heating crisis occurs when:
 1. A household has an imminent risk of being without heat; and
 2. A member of that household is unable to temporarily relocate to a heated space because of a documented medical condition.
- b. If a household has a life-threatening home heating crisis and the household is eligible for crisis fuel assistance under these rules, then the Department or a crisis fuel worker must make reasonable efforts to resolve the home heating crisis within 18 hours after the Department or crisis fuel worker determines the household is eligible for assistance.
- c. A household with a life-threatening home heating crisis that receives crisis fuel assistance must submit documentation in accordance with rule 3107(h).

Crisis Fuel Application

3104 **Crisis Fuel Application** (05/01/2024, 23-20)

- a. A household must file a separate crisis fuel application each time the household requests crisis fuel assistance.
- b. An applicant must apply in person unless any of the following exceptions apply:
 - 1. The applicant's need is particularly urgent;
 - 2. Weather conditions prevent the applicant from applying in person;
 - 3. The applicant is unable meet in person due to illness;
 - 4. The applicant is elderly or disabled; or
 - 5. Other extenuating circumstances prevent an applicant from meeting in person.
- c. Certain designated employees of Area Agencies on Aging may act on behalf of an elderly or disabled applicant if the applicant is unable to apply in person or remotely.
- d. Total household income and household size must be recalculated each time an applicant applies for crisis fuel assistance.
- e. An applicant must provide the Social Security Numbers of all household members in accordance with Seasonal Fuel Assistance Rule 2909.
- f. Applications are not final unless they are completed, signed, and returned to a crisis fuel worker with required verifications.
- g. New applicants must provide documents to the crisis fuel worker to verify their identity and immigration status, pursuant to Seasonal Fuel Assistance Rules 2908.1 and 2908.2, at the time they submit their applications for fuel benefits.
- h. If an applicant does not provide all the necessary documents to process an application, the crisis fuel worker may contact the applicant to request such documents.
- i. Failure to comply with the application requirements under subsections (e) or (f) of this rule may result in:

Crisis Fuel Application

1. Forfeiture of all rights to receive fuel assistance in the future; or
 2. Recovery by the Department of assistance already granted, including recovery from seasonal fuel benefits; or
 3. Both (1) and (2) above.
- j. The crisis fuel worker may deny the application if the crisis fuel worker is unable to verify the identity or immigration status of any applicant.
- k. Crisis fuel workers must accept applications from the last Monday in November to the second Friday in April for all households whose primary heating fuel is oil, kerosene, bulk propane, coal, firewood, or wood pellets.
- l. Crisis fuel workers must accept applications from the last Monday in November to the last business day in April for all households whose primary heating fuel is electricity, natural gas, or metered propane.
- m. Applicants must provide all the following information at the time of application:
1. The name of the household's primary heating fuel supplier and the supplier's contact information;
 2. The account number provided by the primary heating fuel supplier associated with the household's primary residence;
 3. The name of the household's electricity provider and the account number provided by the household's electricity provider associated with the household's primary residence; and
 4. Any other information required by the Department or the crisis fuel worker to facilitate the issuance of benefits to the household.
- n. Notwithstanding subsections (k) and (l) of this rule, the Department may change the dates for accepting applications based on weather conditions or funding.

Crisis Fuel After-Hours Assistance

3105 **Crisis Fuel After-Hours Assistance** (05/01/2024, 23-20)

- a. During the crisis fuel heating season, the Department must provide heating assistance outside of regular business hours in accordance with this rule.
 - 1. The Department may contract with another person to provide assistance under this rule.
- b. The Department may limit after-hours assistance to certain days and times, and the Department may change the days and times it provides after-hours assistance.
- c. The Department may provide after-hours assistance only to households with no heat.
- d. The Department may provide any after-hours assistance necessary to heat the living unit of a qualifying household, including:
 - 1. Providing the household with fuel;
 - 2. Providing a household's fuel supplier with a voucher for the benefit of the household;
 - 3. Repairing or replacing equipment necessary to provide heat to the household;
 - 4. Providing electric heaters or alternative sources of heat; or
 - 5. Supplying any other goods or services necessary to heat the living unit in which the household resides.
- e. Qualifying households are not entitled to any particular form of assistance under this rule.
- f. The Department may impose additional qualifications on households to receive some or all forms of after-hours assistance provided by the Department.
 - 1. For example, the Department may limit the provision of fuel after hours only to households that have a member who is elderly, disabled, or under the age of six.
 - 2. The Department may also impose limits on the number of times a household receives after-hours assistance during the crisis fuel heating season.
- g. Households seeking after-hours heating assistance must be interviewed by a crisis fuel worker by telephone or by another method permitted by the Department.

Crisis Fuel After-Hours Assistance

- h. The crisis fuel worker may deny after-hours assistance if:
 - 1. The household could have reasonably avoided the emergency that resulted in the lack of heat;
 - 2. The household is ineligible for assistance under rule 3102;
 - 3. The household does not meet the qualifications established by the Department under this rule 3105 to receive after-hours assistance; or
 - 4. The household is reasonably able to wait until the following business day to apply for assistance.
- i. A household that receives after-hours assistance must submit a completed written crisis fuel application to a crisis fuel worker, in accordance with rule 3104, as soon as reasonably possible.

Crisis Fuel Heating Season

3106 **Crisis Fuel Heating Season** (05/01/2024, 23-20)

- a. The crisis fuel heating season begins on the last Monday of November each year and ends on April 30 of the following year.
- b. Notwithstanding subsection (a) of this rule, at the sole discretion of the Department's Commissioner, the Department may change the dates of the crisis fuel heating season.

Crisis Fuel Verification

3107 **Crisis Fuel Verification** (05/01/2024, 23-20)

- a. Income of all persons in the fuel household, regardless of the source of income, must be verified unless the Department or the crisis worker has verified the household's income in the past 30 calendar days and the household's eligibility circumstances have not changed.
- b. A person's self-declaration of income, by itself, shall not be an acceptable method of verification, and an applicant must provide any business-related or income-related document requested by the Department or the crisis worker to verify income.
- c. Verification from an eligible applicant's landlord is required when all the following conditions are present:
 1. The applicant is seeking crisis assistance to:
 - i. Avert an imminent disconnection of the applicant's electric service; or
 - ii. Reestablish the applicant's electric service;
 2. The applicant's electric service is required to operate the heating system in a multi-family building; and
 3. The heating system (e.g., furnace) is located outside the applicant's living unit.
- d. All verification must be provided at the time of application or within five calendar days of the application date.
 1. The Department may extend or waive the five-day deadline to provide verification if:
 - i. A natural disaster prevents the household from providing verification;
 - ii. A household member's serious illness prevents the household from providing verification;
 - iii. The employer of a household member has refused, or is unable, to provide income verification;
 - iv. The household's landlord is unavailable to provide the verification required by subsection (c) of this rule; or
 - v. Extenuating circumstances, beyond the household's control, prevent the household from providing timely verification.

Crisis Fuel Verification

- e. Except in the case of first-time applicants, the crisis worker may grant assistance prior to receipt of verification when the following conditions exist:
 - 1. The urgency of the situation requires immediate action, which the crisis worker has documented;
 - 2. The applicant agrees to produce verification within five calendar days; and
 - 3. The applicant's statement indicates that the household will be eligible when verification is produced.
- f. A crisis worker may not grant assistance prior to receipt of verification of identity and immigration status from a new applicant, but verification of other eligibility factors may be delayed for the reasons provided in subsection (e) of this rule.
- g. When any eligibility factor is questionable, the applicant may be required to provide additional evidence to verify one or more eligibility factors.
- h. In a life-threatening home heating crisis, the medical condition must be documented by a licensed medical professional within 30 calendar days of the application.

Crisis Fuel Benefits

3108 **Crisis Fuel Benefits** (05/01/2024, 23-20)

- a. Benefits are limited to payment for the following:
1. A minimum delivery of bulk fuels not to exceed:
 - i. 125 gallons for oil, propane, kerosene, and other liquid fuels, or less when the provider allows for a smaller minimum delivery;
 - ii. One ton of coal or pellets; or
 - iii. One cord of wood.
 2. When a disconnection notice has been issued for a metered service, such as natural gas, electricity or propane, the benefit payment will be no more than:
 - i. One half of the most recent metered service bill, when billing is for two months of service;
 - ii. The amount of the prior month's bill; or
 - iii. The minimum amount required by the utility to avert the discontinuation of service.
 - A. A service limiter may be considered equivalent to a shut-off notice.
 3. Heating unit start-up charges, including pressure tests;
 4. Utility service charges required for operation of the heating unit to avert shut off; or
 5. Bulk fuel in a can or cans to temporarily maintain heat.
- b. When an applicant's fuel tank is empty, the crisis fuel worker may authorize payment to a certified fuel supplier for a special trip to deliver fuel to the applicant's tank, if the supplier charges extra for such a delivery and no other options are available to temporarily heat the living unit.
1. If the Department pays special fuel charges or related charges on behalf of a household under this rule, the applicant must sign a notice acknowledging that the Department will not pay for such charges again.

Crisis Fuel Benefits

2. If special fuel charges and/or related charges are paid by the Department under this rule, the Department shall not pay such charges on the household's behalf again, regardless of whether the applicant receives or signs the notice required by this rule.
- c. Qualifying households are not entitled to any particular form of assistance under this rule.
- d. The Department or a crisis fuel worker must make reasonable efforts to resolve the home heating crisis within 48 hours after the Department or crisis fuel worker determines the household is eligible for crisis fuel assistance.
- e. No crisis fuel worker may authorize payment for, and the Department shall not pay, a deposit on a household's behalf.

Crisis Fuel Limits

3109 **Crisis Fuel Limits** (05/01/2024, 23-20)

- a. Regardless of a household’s eligibility, the Department and crisis fuel workers may issue crisis fuel benefits only if there are funds available that have been appropriated for such benefits.
 - 1. If funds become unavailable, the Department and crisis fuel workers must stop issuing crisis fuel benefits, regardless of a household’s eligibility.
 - 2. If funds remain available, the Department and crisis fuel workers must stop issuing crisis fuel benefits at the end of each crisis fuel heating season, regardless of a household’s eligibility.
- b. An eligible household under these rules that is receiving or is eligible for seasonal fuel benefits may receive no more than one crisis fuel benefit during the crisis fuel heating season.
- c. If a household is eligible for benefits under these rules because the household’s income exceeds 185% of the federal poverty guidelines, but does not exceed 200% of the federal poverty guidelines, then the household may receive no more than two crisis fuel benefits during the crisis fuel heating season.

Crisis Fuel Referrals

3110 **Crisis Fuel Referrals** (05/01/2024, 23-20)

- a. The crisis fuel worker must make appropriate referrals to assist applicants in the prevention of future fuel emergencies.
- b. Applicants must follow up on referrals to receive crisis fuel assistance in the future.
- c. Each household that receives crisis fuel assistance must accept services from the home weatherization assistance program.

Recoupment

3111 **Recoupment** (05/01/2024, 23-20)

- a. The Department may recoup any overpayment of benefits, regardless of the reason for the overpayment.
- b. In the case of fraud or an intentional program violation, the household shall be disqualified from receiving any further fuel assistance benefits until the first of the following occurs:
 - 1. The Department recoups the entire overpayment amount; or
 - 2. One heating season has passed during which the household received no fuel assistance benefits.
- c. The Department may use any lawful means to recoup an overpayment, including any of the following or any combination of the following:
 - 1. The Department may require a household to repay the amount of the overpayment;
 - 2. The Department may require a household's fuel supplier to repay the amount of the overpayment on behalf of the household from any balance remaining on the household's account;
 - 3. The Department may withhold an equivalent amount of future benefits until the full amount of the overpayment is repaid; or
 - 4. The Department may disqualify the household from receiving benefits for a specified time period.
- d. The Department must request recoupment of the overpayment within 180 days of the end of the crisis fuel heating season in which the overpayment occurred, except in the case of fraud.
 - 1. When an overpayment is the result of fraud, the Department must request recoupment within 180 days of the Department's discovery of the fraud.

Crisis Fuel Notice and Appeal Rights

3112 Crisis Fuel Notice and Appeal Rights (05/01/2024, 23-20)

- a. When issuing a decision or taking an action affecting an applicant or a household's benefits, the crisis fuel worker must provide written notice to the applicant or household of their right to appeal the decision or action.
 1. The notice shall inform applicants and households of how and when to appeal.
 2. An applicant or household, that is aggrieved by any action or inaction of a crisis fuel worker, is referred to in this rule 3112 as an "Appellant."
- b. An Appellant may request the Director of the Community Action Agency, where the crisis fuel application was submitted, to review the crisis fuel worker's action or inaction.
 1. An Appellant that wants a Director's review must notify the Community Action Agency within two business days of the crisis fuel worker's action or decision.
 2. If the Community Action Agency has not acted on a crisis fuel application within one business day after the application was submitted, the Appellant must request an immediate review within three business days after the application was submitted.
 3. A Director is not required to review a crisis fuel worker's action or inaction if the Appellant does not request a review within the times provided in this subsection (b).
- c. If an Appellant timely requests a Director's review, the review must proceed as follows:
 1. The Community Action Agency's Director may have a designee conduct the review, so long as the designee is not the crisis fuel worker who acted on or failed to act on the application.
 2. A Director's (or designee's) review is intended to be an informal process conducted by the Community Action Agency in any manner that is not inconsistent with the law or these Crisis Fuel Assistance Rules.
 3. An Appellant may have another person assist them during the review.
 4. The Director or designee must listen to the Appellant and examine the Appellant's application and case file.

Crisis Fuel Notice and Appeal Rights

5. In addition to the application and case file, the Director or designee must consider one or more of the following:
 - i. The Appellant's specific emergency;
 - ii. The predictability of the emergency;
 - iii. Appellant's extenuating circumstances;
 - iv. Actions taken by the Appellant to avoid or minimize the emergency;
 - v. Whether crisis fuel benefits will alleviate the Appellant's emergency; or
 - vi. Other solutions that would alleviate the Appellant's emergency.
6. The Director or designee may waive one or more of the Community Action Agency's policies or procedures in extraordinary circumstances in the interest of justice.
 - i. The Director or designee may not waive any Department rule, including these Crisis Fuel Assistance Rules, or any other legal requirement or regulation.
7. The Director or designee must consult with the Department about a review requested by an Appellant under the following circumstances:
 - i. The Director or designee may consult with the Department about any issue raised by an Appellant.
 - ii. If the Director or designee intends to uphold a denial of benefits, the Director or designee must consult with the Department.
 - A. The Director or designee may not deny benefits to an Appellant after a review unless the Department endorses the denial.
 - B. The Community Action Agency must issue crisis fuel benefits to an Appellant after a review if directed to do so by the Department.
8. The review must be completed, and the Director or designee must issue a written decision regarding the Appellant's grievance, within one business day of receiving the request from the Appellant.

Crisis Fuel Notice and Appeal Rights

9. The Director's or designee's written decision must inform the Appellant of:
 - i. The Department's endorsement if the Director or designee upholds the denial of crisis fuel benefits; and
 - ii. The right to appeal a decision to the Human Services Board, including how and when to request a fair hearing with the Board.
10. If the Director does not hold a review or issue a written decision within two business days of an Appellant's request for a Director's review, the Appellant must inform the Department within two business days of an Appellant's request for a Director's review.
- d. If the Appellant does not agree with the Director's or designee's decision, the Appellant must request a hearing with the Human Services Board within 90 calendar days of the Director's or designee's decision.
 1. The Appellant must follow all the requirements of this rule 3112, including all applicable deadlines, before submitting a request for a fair hearing to the Human Services Board.
 2. If an Appellant communicates to the Department or the Community Action Agency that the Appellant wishes to appeal a Director's or designee's decision, the Department or Agency must immediately notify the Human Services Board of the Appellant's request for a fair hearing, regardless of whether the Appellant has followed all requirements stated in these rules.
 - i. The Human Services Board must determine whether the Appellant exhausted administrative remedies before the Appellant requested a fair hearing.

Severability

3113 **Severability** (05/01/2024, 23-20)

- a. The provisions of these rules are severable.

- b. If any provision of these rules is invalid, or if any application thereof to any person or circumstance is invalid, the invalidity shall not affect other provisions or applications of these rules which can be given.

AGENCY 13.
AGENCY OF HUMAN SERVICES

SUB-AGENCY 170.
DEPARTMENT FOR CHILDREN AND
FAMILIES (DCF)

CHAPTER 290.
FUEL (2900)

Sections

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STATUTORY AUTHORITY: 33 V.S.A. §§ 105, 1901

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Section 2900 Fuel Program.

11/01/09

The Low Income Home Energy Assistance Act, Title XXVI of the Omnibus Budget Reconciliation Act of 1981, authorized grants to states to help eligible households with home heating expenses. This act was reauthorized, with amendment, by Title VI of the Human Services Reauthorization Act of 1984, by Title V of the Human Services Reauthorization Act of 1986, by Title VII of the Augustus F. Hawkins Human Services Act of 1990 and by Title III of the Human Services Amendments of 1994 (Public Law 103-252).

33 V.S.A. Chapter 26, "Home Heating Fuel Assistance," establishes a home heating fuel assistance program for low-income households that has both a seasonal component and a crisis component, to be administered by the Office of Home Heating Fuel Assistance.

33 V.S.A. Chapter 26, also creates a home heating fuel assistance fund to be composed of the receipts from any taxes dedicated to the fund and such other funds as may be appropriated to it by the General Assembly, including funds from the federal Low Income Home Energy Assistance Program (LIHEAP).

Annually in the LIHEAP block grant plan, an amount of funds will be identified as being set aside for the crisis component from the home heating fuel assistance fund.

Sections 2900—2913 of the department's Policy Manual provide rules for the seasonal component of the home heating fuel assistance program. Rules for the crisis component are found in sections 2950—2958.

The seasonal component of the Vermont home heating fuel assistance program, hereinafter referred to as the Fuel Program, provides home heating fuel assistance to households responsible for making payments for their heat directly to a fuel supplier certified by the Fuel Program. The Fuel Program also provides assistance to households whose living unit rent, fees, or charges include the cost of the living unit's primary heating source, and to households who rent one or more rooms as separate living quarters in someone else's living unit.

Section 2901 Additional Funds.

In the event that the department receives LIHEAP contingency funds or funds from another source between September 1 and March 31 of any state fiscal year, these funds will be allocated as follows:

- a. an amount not to exceed 10 percent necessary for program administration, including administration of crisis assistance;
- b. an amount not to exceed 12 percent for crisis assistance benefits; and
- c. the remainder for seasonal assistance benefits.

The additional funds allocated to seasonal assistance will be issued to households that make payments for their home heat directly to a fuel supplier (WAM 2906 a.) and to households that make undesignated payments for their home heat in the form of rent (WAM 2906 b.). Calculation of seasonal benefit amounts will be made according to the provisions of WAM 2906, Benefit Levels, and the benefits will be distributed to certified fuel suppliers or to eligible households according to the provisions of WAM 2907, Benefit Issuance.

Any allocation or distribution of additional funds that is not consistent with the provisions described herein shall be made in accordance with emergency rules adopted for this purpose. Before adopting any emergency rule relating to additional funds, the department will consult with the Home Energy Assistance Task Force and all community organizations under contract to the department to operate the crisis assistance component of the program.

Section 2902 Fuel Supplier Certification.

The Department of Social Welfare will establish a line of credit with a supplier of home heating fuel on behalf of an eligible Fuel Program household if the supplier enters into a certification agreement with the department and agrees to abide by all of the following terms and conditions:

a. The supplier agrees to make reasonable efforts to inform and assist Fuel Program recipients, or potential recipients, in their service area(s) of the supplier's role as a certified fuel supplier under the program.

b. The supplier agrees not to discriminate against Fuel Program recipients either in the cost of goods supplied, the services provided, or the delivery of goods and services. This would include, but not be limited to, automatic fuel deliveries and constant supply guarantees for Fuel Program recipients who are under the supplier's standard payment, delivery, service, or other similar plans.

c. The supplier agrees not to disclose the names, Fuel Program eligibility status, or other information pertaining to Fuel Program recipients, to anyone not employed by the fuel supplier, except for purposes directly connected with administration of the Fuel Program, when required by law, or when a Fuel Program recipient requests information pertaining to his/her own records.

d. The supplier agrees to maintain records of all fuel costs and quantities delivered to Fuel Program recipients from May 1 to April 30 and make that information available at no cost to the recipients and to the office when requested. This information shall list fuel cost and consumption separately from repairs, parts, service, or special trip charges.

e. The supplier agrees to report to the office as soon as reasonably possible the receipt of any multiple Fuel Program benefits received for a single fuel storage system, even if the benefits are issued on behalf of different recipients.

f. The supplier agrees to send periodic statements to Fuel Program recipients informing them of:

* their credit or debit balance as of the last statement,

* deliveries or usage since that statement,

* payments made or applied, indicating their sources, since that statement, and

* the ending credit or debit balance.

g. The supplier agrees to accept payment of benefits on behalf of Fuel Program recipients only through direct bank deposits made to the supplier's bank account designated in the certification agreement.

h. The supplier will receive from the office a list showing:

* the supplier's customers who are eligible Fuel Program recipients for the benefit period November 1 through March 31,

* the total amount of Fuel Program benefits authorized for each recipient,

* how the total amount has been allocated over the heating season (the allocation schedule), and

* the schedule of when benefits will be issued to the supplier via direct bank deposit.

i. The supplier agrees that each benefit payment shall function as a line of credit for home heating fuel for each eligible recipient.

j. The supplier agrees that the line of credit will be used only for the cost of home heating fuel, and not for repairs, parts or special trip charges, or any non-heat uses. The supplier may draw upon the full amount of the line of credit at any time to pay for fuel delivered from November 1 to March 31. Any credit balance remaining may be carried forward to pay for fuel deliveries made in the month of April.

A Fuel Program recipient that has an outstanding bill with its primary heating fuel supplier at the time the benefit is issued may use up to 17 percent of its Fuel Program benefit to pay a portion or all of the outstanding debit balance for home heating fuel delivered prior to November 1, provided the household and its fuel supplier enter into an agreement for a budget payment plan for fuel or a repayment plan for fuel arrears. Under no circumstance can benefits be used to pay for charges for re-connection of services.

Notwithstanding the requirements described above, eligible households whose primary heating fuel is wood may use up to 100 percent of the benefit to pay for wood deliveries received prior to November 1.

k. For fuel suppliers that enter into budget agreements with their customers, the supplier agrees to offer to all Fuel Program recipients budget agreements for annualized monthly payments for fuel, and to enter into such agreements with interested Fuel Program recipients, provided the recipient meets accepted industry credit standards.

l. For fuel suppliers that provide discounts to their customers, the supplier agrees to grant Fuel Program recipients the same discounts for cash payment, prompt payment, pre-season contract price, or any other discounts granted to any other heating fuel customer, on the line of credit benefits provided by the program. If requested, the supplier will inform the office of cash discount amount(s) and special trip charges provided to the supplier's customers who are not participants in the program. Fuel suppliers that provide

a discount agree to specify the discount amount and unit measurement on the certification agreement.

m. The supplier agrees to charge eligible Fuel Program recipients using the supplier's normal billing process. The supplier agrees that the fuel charge payable by the recipient shall be no more than the total charges for the cost of the fuel, less the line of credit amount established in the allocation schedule, and less applicable cash discounts based on the line of credit amount. The supplier will carry forward any credit balances for fuel up to April 30.

n. If a Fuel Program recipient is no longer a heating fuel customer of the supplier, and there is a credit balance being held in the former customer's account, the supplier agrees to transfer the balance to the recipient's new fuel supplier, provided the recipient requests the transfer, and the supplier has confirmed the proposed transfer with the office. Under no circumstances may a supplier issue a credit balance directly to a Fuel Program recipient.

o. The supplier agrees that if on April 30 of any year a credit balance exists in an account for a person who has received Fuel Program benefits during the previous 12 months, and the total cost of fuel delivered to the household during the previous 12 months did not exceed the total Fuel Program benefits received by the household during that same period of time, the supplier will pay the full amount of this credit balance to the office no later than May 31 of the same year.

p. The supplier agrees to maintain the quality and quantity of its products and service in full compliance with all applicable laws and regulations, including measurement for cords of wood fuel.

q. The supplier agrees that only fuel suppliers certified by the Commissioner of the Department for Children and Families or her or his designee, will be eligible to participate in the program. Persons found eligible for the Fuel Program may only receive Fuel Program benefits through lines of credit issued to fuel suppliers certified by the commissioner. In addition to any rules that the Agency of Human Services may adopt regarding certification, an accurately completed and signed certification agreement must be in effect and on file with the commissioner for the supplier to be certified. The supplier will be notified of certification at the time benefit data for eligible Fuel Program recipients is provided to the supplier.

r. The supplier agrees that the certification agreement will remain in effect for up to one year ending on June 30, and may be automatically renewed at the sole discretion of the commissioner or her or his designee, in one year terms ending on June 30, for a total of three years. The certification agreement may be canceled by either the supplier or the commissioner designee, with 30 days' written notice. The commissioner or her or his designee may decide not to renew, or may decide to cancel the certification agreement if a supplier violates one or more terms of the certification agreement.

s. The supplier agrees to make crisis fuel deliveries authorized by the office or the community action agencies as part of the program's crisis component that do not exceed 125 gallons for oil, propane, kerosene and other liquid fuels.

t. The supplier agrees to bill for crisis fuel deliveries authorized by the office or the community action agencies within 30 days of the delivery.

Section 2903 Advantageous Pricing.

The director of the Office of Home Heating Fuel Assistance or her or his designee shall negotiate with one or more certified fuel suppliers to obtain advantageous pricing and payment terms for eligible households.

The Commissioner of the Department of Prevention, Assistance, Transition, and Health Access or her or his designee will enter into agreements with fuel suppliers certified by the Fuel Program to engage in cost-effective purchasing practices that increase the purchasing power of Fuel Program benefits.

Summer fuel purchase agreements may be made for any home heating fuel purchased by program recipients. All summer fuel purchase agreements are subject to the terms and conditions of Fuel Supplier Certification (WAM 2912).

The Fuel Program benefit dollar amount specified in any summer fuel purchase agreement will be based on the past number of fuel assistance recipients served by the certified fuel supplier and a projected average annual Fuel Program benefit for the upcoming fuel season.

The Office of Home Heating Fuel Assistance will inform program recipients and suppliers which seasonal fuel benefits will be subject to the terms of a summer fuel purchase agreement. Home heating fuel obtained subject to the terms of a summer fuel purchase agreement will be available to fuel assistance recipients on a first-come-first-served basis. Program recipients are responsible for paying for home heating fuel not covered by seasonal fuel benefits.

Fuel suppliers who choose not to enter into a summer fuel purchase agreement are eligible to participate in the Fuel Program subject to the terms and conditions of Fuel Supplier Certification (WAM 2912).

The Office of Home Heating Fuel Assistance will make available a list of certified fuel suppliers who have entered into summer fuel purchase agreements. Fuel Program recipients will be advised in their benefit grant notice of the key terms of any summer fuel purchase agreement entered into by their certified fuel supplier.

Section 2904 Recoupment.

The department may seek recoupment of benefits representing an overpayment resulting from intentional program violation, fraud or a benefit issuance that occurs by department or client error.

a. Recoupment may be accomplished by a cash repayment to the department by the recipient or fuel supplier, or by the department's withholding of an equivalent amount of benefits to which the recipient would otherwise be entitled in the future under the seasonal component or the crisis component of this program. The department reserves the right to withhold any further benefit issuances until the full amount of the overpayment is recouped under this program.

b. If the overpayment is the result of intentional program violation or fraud, the household will be disqualified from participating in the program until the

overpayment has been repaid, or for one fuel season, whichever is less.

c. The department will accept any payment made as recoupment of overpayments under terms and conditions set by the court when recipients are found guilty of fraud and are ordered by a court to reimburse the department.

d. Department requests for recoupment of benefits representing an overpayment must be made within 180 days of the close of the fuel season in which the overpayment occurred, except in the case of an overpayment resulting from fraud.

Section 2910 Household Composition.

The following subsections specify the criteria that are considered in determining the composition of a specific applicant's fuel household and other factors used in determining the applicant's eligibility for fuel assistance benefits.

Section 2911 Definitions.

1. Living Unit

A living unit is one or more rooms within a permanent structure that is used customarily as a domicile for one or more persons, contains bathroom and kitchen facilities specific to that living unit, and has its own private entrance from the outside or off an enclosed hallway leading from the outside that does not pass through or offer open access to any other living unit within the structure.

2. Separate Living Quarters

Separate living quarters are one or more rooms within a living unit for which a roomer (or roomer/boarder) fuel household (as defined below) provides reasonable room rent (compensation) (as defined below) to the head of household of the living unit (as defined below) in return for exclusive occupation of a designated room or rooms within the living unit. To qualify as separate living quarters the roomer fuel household must have exclusive occupation of the room or rooms the roomer fuel household uses for sleeping.

3. Head of Household

The head of household is the person, his or her spouse, or his or her civil union partner who is financially responsible for the cost of occupying the living unit or separate living quarters. In the case of home ownership, the head of household is the person whose name appears on the real estate deed for the living unit or that person's spouse or civil union partner. In the case of a tenancy based on a lease or an oral contract for payment of rent or reasonable room rent, the head of household is the person whose name appears on the lease or the person who has entered into an oral contract with the property owner (or his or her agent) to pay rent for the living unit or, in the case of separate living quarters, to pay room rent to the living unit's head of household or that person's spouse or civil union partner. In situations in which more than one person qualifies as the head of household, the head of household may be any one of the persons who qualify or the spouse or civil union partner of a person who qualifies as a head of household.

4. Fuel Household

The fuel household is one or more persons who reside in the same living unit as a single economic unit who, in common, customarily purchase energy for home heating fuel or who, in common, make undesignated payments for energy for home heating fuel in the form of rent. The rules used to establish the composition of a specific applicant's fuel household are found in 2901.2 below.

5. Roomer (or Roomer/Boarder) Fuel Household

A roomer (or roomer/boarder) fuel household is one or more persons that pay reasonable room rent (compensation) to the living unit's head of household, his or her spouse, or his or her civil union partner for exclusive occupation of one or more rooms as separate living quarters within the head of household's living unit. The mandatory members of the roomer fuel household are:

a. the head of household of the separate living quarters, and (if any)

b. the spouse or civil union partner and any minor daughter or son of the head of household of the separate living quarters, and (if any)

c. the parent of any minor daughter or son included in the roomer fuel household under b. above, and (if any)

d. any minor daughter or son of a parent(s) included in the roomer fuel household under b or c. above, and (if any)

e. the spouse or civil union partner of any minor included in the roomer fuel household, and (if any)

f. any minor daughter or son of any minor included in the roomer fuel household.

Inclusion of any other person in the roomer (or roomer/boarder) fuel household shall be at the discretion of the head of household of the separate living quarters with the following exception: the roomer fuel household may not include any person who, in accordance with these regulations, is required to be included in the fuel household of the head of household of the living unit, when that person applies for fuel assistance for the same heating season.

6. Reasonable Room Rent (Compensation) for Separate Living Quarters

Reasonable room rent (compensation) for exclusive occupation of one or more rooms as separate living quarters within a living unit is any amount paid that equals or exceeds:

a. For a household whose room rent within thirty days of receipt of their application for fuel assistance was paid by a general assistance (GA) grant from the department, the maximum amounts designated in WAM 2613.1 for weekly room rent payments, or

b. For all other households, the amount designated in WAM 2613.1 for weekly room rent payments to a non-relative.

7. Primary Heating Source

The primary heating source is the fuel from which a household derives the largest portion of its heat. The primary heating source is considered to be shared unless the supplier of the primary fuel can, for billing purposes, identify discrete user groups within the living unit (e.g. separate meters or storage tanks).

8. Elderly

Elderly is defined as age 60 or older.

9. Disabled

Disabled is defined as being eligible for and in actual receipt of social security, SSI/AABD, railroad retirement, or federal employee or other pension plan benefits, based on a determination that the recipient was and remains totally and permanently or 100 percent disabled; or being a beneficiary of Vermont Medicaid coverage due to categorical eligibility based on a determination that the beneficiary was and remains totally and permanently disabled.

10. Civil Union Partner and Civil Union

Civil union partner means one member of a same-sex couple who have entered into a civil union in accordance with 15 V.S.A. chapter 23 and whose civil union has not been legally dissolved. Civil union is the legal relationship established between two same-sex individuals pursuant to 15 V.S.A. chapter 23 and 18 V.S.A. chapter 106.

Section 2912 Eligible Households.

11/01/09

Households are potentially eligible for Fuel Program benefits provided they meet the criteria defined below.

1. Residency

Applicants must occupy a living unit or separate living quarters in Vermont, as their primary residence, and intend to occupy that living unit or separate living quarters or another living unit or separate living quarters in Vermont indefinitely in order to be eligible for fuel assistance, with the following exception: migrant workers will be determined eligible for fuel assistance if they meet all other applicable eligibility requirements. The standard for primary residence is the fuel household's or roomer fuel household's occupation (or, for new Vermont residents, the household's intent to occupy) of a living unit or separate living quarters, located in Vermont, as their primary residence during any month(s) during the benefit period of November 1 through March 31.

2. Income and Resources

Applicants must have total fuel household income and total fuel household resources that do not exceed the allowable maximums (Fuel Procedures Manual P-2905-A and Fuel Rules 2903.1). Total fuel household income and total fuel household resources are based on the combined countable income and combined countable resources, respectively, of the persons residing in the living unit or separate living quarters who are included in the fuel household or roomer fuel household.

3. Fuel Household

Whether or not a person residing in the living unit is required to be included in the fuel household is determined in accordance with the provisions specified below.

a. Mandatory Members of the Fuel Household

The following persons are included in a fuel household based on their legal responsibility for the financial support of the head of household of the living unit or another member of the household:

(1) the head of household of the living unit, and (if any)

(2) the spouse or civil union partner and any minor daughter or son of the head of household; and (if any)

(3) the parent(s) of any minor daughter or son included in the fuel household under (2) above, and (if any)

(4) any minor daughter or son of a parent(s) included in the fuel household under (2) or (3) above, and (if any)

(5) the spouse or civil union partner of any minor included in the fuel household, and (if any)

(6) any minor daughter or son of any minor included in the fuel household.

b. Specified Relatives of the Head of Household (Other Than Mandatory Members of the Fuel Household)

These relatives of the head of household are included in the fuel household based on the presumption that they are members of the same economic unit: mother, father, adult daughter, adult son, sister, brother, grandmother, grandfather, granddaughter, and grandson. The relatives specified herein include blood-based relationships and relationships created by adoption or marriage (for example, a father-in-law or an adult stepdaughter) or civil union.

To rebut the presumption that a specified relative is a member of the same economic unit as the head of household, the head of household must provide reasonable evidence (see Section 2905) that:

(1) the relative is a roomer (or roomer/boarder) who rents separate living quarters in the living unit and pays reasonable room rent (compensation) to the head of household or his or her spouse or civil union partner for the separate living quarters; or

(2) the relative provides reasonable compensation for his or her separate living quarters in the form of caretaker or companionship services, which shall not be measured by a monetary standard, that the relative provides to the elderly or disabled head of household, his or her elderly or disabled spouse, or his or her elderly or disabled civil union partner; or

(2) the relative provides reasonable compensation for his or her separate living quarters in the form of caretaker or companionship services, which shall not be measured by a monetary standard, that the relative provides to the elderly or disabled head of household, his or her elderly or disabled spouse, or his or her elderly or disabled civil union partner; or

(3) the relative provides medically necessary personal care or homemaker services to an elderly or disabled person who resides in the living unit, provided that the recipient of these services is not the relative's spouse or civil union partner, minor daughter or son, the other parent of the relative's minor daughter or son, or the minor daughter or son of the other parent or the relative's spouse or civil union partner; or

(4) the relative is in the custody of and placed in foster care in the living unit by the Family Services Division of the Department for Children and Families; or

(5) the relative has been placed in the living unit by or through a program administered by the Department of Health, Division of Mental Health Services.

c. Other Persons Residing in the Living Unit (Including Relatives Not Addressed in a. or b. above)

All other persons residing in the living unit are included in the applicant's fuel household unless the head of household provides reasonable evidence (see section 2905) that the person qualifies for exclusion from the fuel household based on one or more of the following four criteria:

(1) the person is a roomer (or roomer/boarder) who rents separate living quarters in the living unit and pays reasonable room rent (compensation) to the head of household or his or her spouse or civil union partner, for the separate living quarters; or

(2) the person provides reasonable compensation for his or her separate living quarters in the form of caretaker or companionship services, which shall not be measured by a monetary standard, that the person provides to the elderly or disabled head of household, his or her elderly or disabled spouse, or his or her elderly or disabled civil union partner; or

(3) the person provides medically necessary personal care or homemaker services to an elderly or disabled person residing in the living unit, provided that the recipient of these services is not the person's spouse or civil union partner, minor daughter or son, the other parent of the person's minor daughter or son, or the minor daughter or son of the other parent or the person's spouse or civil union partner; or

(4) the person is in the custody of and placed in foster care in the living unit by the Family Services Division of the Department for Children and Families or

(5) the person has been placed in the living unit by or through a program administered by the Department of Health, Division of Mental Health Services.

d. Roomer (or Roomer/Boarder) Fuel Household (for purposes of qualifying for receipt of fuel assistance benefits)

A roomer (or roomer/boarder) fuel household (as defined in 2901.1, #6) that occupies exclusively one or more rooms within a living unit as separate living quarters must pay reasonable room rent (compensation), weekly or monthly, for its separate living quarters in order to be potentially eligible for fuel assistance. In-kind payment for the separate living quarters, regardless of its equivalent value, does not constitute reasonable room rent. In addition, the roomer (or roomer/boarder) fuel household's total countable income and total countable resources shall not exceed the allowable maximums (Fuel Procedures Manual P-2905-A and Fuel Rules 2903.1).

e. Public or Section 8 Housing Program

Households that participate in a public or Section 8 housing program, where their rent is based on their income or where their Section 8 pays for their mortgage, are potentially eligible for fuel assistance provided they meet all applicable eligibility criteria. However, public or Section 8 households will remain potentially eligible only as long as a requirement to provide LIHEAP benefits to those housing program residents exists under federal law.

Reach Up and SSI/AABD recipients are not automatically deemed to be participating in a public or Section 8 housing program solely as a consequence of receiving Reach Up or SSI/AABD benefits.

Section 2913 Excluded Households:

1. Residents and operators of institutional homes and centers, including but not restricted to:

Therapeutic Treatment Centers	Nursing Homes
Religious and Fraternal Homes	Maternity Homes
Community Care Homes (also known as Residential Care Facilities)	Halfway Homes
Drug, Alcohol and Rehabilitation Centers	

2. Operators of commercial rooming houses with four or more unrelated roomers.

3. Residents of college dormitories or other housing units provided by the college.

Section 2914 Application.

Eligibility for Fuel Program assistance will be determined annually for the ensuing heating season after receipt of a completed and signed application submitted to the Office of Home Heating Fuel Assistance within the Economic Services Division (ESD) of the Department for Children and Families (DCF).

The application must indicate all persons residing in the living unit, and the income and resources of all household members must be reported. For households that make payments for their heat directly to a fuel supplier, the application must include the identification of the supplier of the household's primary heating fuel. In addition, as required by 33 V.S.A. Chapter 26, applicants must consent to receive services from the home weatherization assistance program as a condition of receipt of benefits. The head of household must sign the application to certify that information on all household members is correct.

Section 2915 Application Period.

Households may apply for Fuel Program benefits during the application period. Applicants will be encouraged to apply during the primary application period to ensure that they receive the full season's benefit in as timely a manner as possible. Applicants must submit applications during the specified application period to have their eligibility determined for the Fuel Program for all or a portion of the ensuing heating season of November 1 through March 31 (see section 2906).

1. The primary application period begins on July 15 and ends on August 31. Applications must be received by the last day of the primary application period by the Office of Home Heating Fuel Assistance or by any of the twelve DCF, ESD district offices. If mailed, receipt of the application will be the date of the postmark. If August 31 falls on a Saturday or a Sunday, the primary application period will end on the first business day in September.

2. The secondary application period begins on September 1 and ends on the last day of February. Applications must be received by the last day of the secondary application period by the Office of Home Heating Fuel Assistance or by any of the twelve DCF, ESD district offices. If mailed, receipt of the application will be the date of the postmark. If the last day of February falls on a Saturday or a Sunday, the secondary application period will end on the first business day in March.

By agreement between the Economic Services Division of the Department for Children and Families and the Department of Disabilities, Aging and Independent Living, certain designated Area Agencies on Aging will distribute applications and information to individuals who are age 60 or older or disabled and will assist in the completion of applications for individuals needing such assistance.

By agreement between the Economic Services Division and the Office of Economic Opportunity, both within the Department for Children and Families, designated Community Action Agencies may perform outreach, distribute applications, and assist in the completion of applications.

Only the Director of the Office of Home Heating Fuel Assistance or his or her designee(s) may determine eligibility and authorize payments.

Section 2916 Verification.

a. When a head of household seeks to have a relative or other person excluded from the fuel household, the head of household is responsible for providing to the Office of Home Heating Fuel Assistance reasonable evidence, as defined below, that substantiates the head of household's assertion that the relative or other person qualifies for exclusion from the fuel household.

(1) For a roomer (or roomer/boarder) — the head of household's rental income information collected, verified, and maintained in the department database; the head of household's most recent year's tax return showing rental income received by the head of household; a copy of the roomer's (or roomer/boarder's) lease or similar written agreement indicating the rental amount and proof of receipt of these rental payments; or a completed ESD 202H "Shelter Expense Statement" and cancelled checks, money order receipts, or comparable documentation substantiating that reasonable room rent (compensation) has been paid. Reasonable room rent (compensation) must equal or exceed the amounts in section 2901.1-6.

(2) For a person providing caretaker or companionship services to an elderly or disabled head of household or the head of household's elderly or disabled spouse or elderly or disabled civil union partner — a completed form provided by the Office of Home Heating Fuel Assistance, which has been signed by the household head or his or her spouse or civil union partner who is elderly or disabled and the person providing caretaker or companionship services. The form must specify the services provided, the time devoted to and the frequency of their provision, the length of time the services have been provided, and other relevant terms and conditions of the living arrangement.

(3) For a person providing medically necessary personal care or homemaker services to an elderly or disabled resident of the living unit (within the limits specified in 2901.2-3.(b)(3) or 3.(c)(3)) — a form provided by the Office of Home Heating Fuel Assistance, which has been completed and signed by the elderly or disabled person's physician or other licensed health care provider. The form must specify the homemaker or personal care services being provided and documents their medical necessity.

(4) For persons in the custody of and placed in foster care in the living unit by the Family Services Division of the Department for Children and Families or persons placed in the living unit by or through a program administered by the Department of Developmental and Mental Health Services — a statement signed by an appropriate employee of the Family Services Division of the Department for Children and Families or the Department of Developmental and Mental Health Services or a copy of a notice of payment or benefit

change from the applicable department that documents the foster care status.

b. When, in the judgment of the Office of Home Heating Fuel Assistance, any factor of eligibility is questionable, the office may require further substantiation or verification applicable to that factor.

c. The applicant must provide sufficient substantiation or verification in a timely manner, or demonstrate good cause for failing to timely provide the requested substantiation or verification. This rule extends to considerations such as the identity of residents of the living unit, location of the living unit or separate living quarters, household composition, income, resources, or any other eligibility factor. The Office of Home Heating Fuel Assistance may defer the verification requirement for good cause demonstrated by the applicant.

d. Although the applicant bears primary responsibility for providing verification, upon request, the Office of Home Heating Fuel Assistance will assist in this process, if, in the judgment of the director of the office or his or her designee, such assistance is necessary and the applicant consents.

e. The Office of Home Heating Fuel Assistance will not make third-party contacts during the application process that would identify the applicant without prior knowledge and consent of the applicant. However, the office will verify information on household income and resources through electronic matches with other state and federal government departments and organizations. Subsequent to authorization and issuance of benefits, the office reserves the right to make any contacts necessary to substantiate facts in response to complaints or other information received that constitutes a reasonable basis for suspecting fraud or abuse.

f. Failure on the part of the head of household to submit required information, to provide documentation necessary for required verification, to consent to third-party verification of any eligibility factor, or to cooperate in obtaining required verification; or failure on the part of any other person residing in the living unit to submit required information, to provide documentation necessary for required verification, to consent to third-party verification of any eligibility factor, or to cooperate in obtaining required verification; or failure on the part of the head of household or any other person residing in the living unit to demonstrate good cause for failing to timely provide the requested substantiation or verification shall result in a denial of benefits to the entire fuel household or, where applicable, the entire roomer (or roomer/boarder) fuel household.

Section 2920 Resources.

Resources include all liquid assets such as, but not limited to, cash, checking and savings account balances, stocks and bonds, certificates of deposit, lump sum payments, and equity in all real property not used as a home.

The following shall be excluded from consideration as a resource:

1. Household goods, personal effects, cars, trucks, vehicles, cash value of life insurance, and retirement pension funds that are inaccessible to the applicant except as payment of periodic retirement income.

2. Property that annually produces income consistent with its fair market value.

3. Resources that are not accessible to the household due to trust, estate or other title restrictions.

4. Property that the applicant is making an active effort to sell at an asking price that is realistic in relation to similar property in the area.

5. Property normally used as a home but vacated temporarily due to health problems, structural repairs or renovation in progress that make the home uninhabitable, or during repair of heating, water, sewer, or other system failures that would pose a danger to health if habitation continued prior to completion of such repair. Planned absences of up to two months for such cause may be considered temporary; longer periods will require approval of the Director of the Office of Home Heating Fuel Assistance or his or her designee based upon individual circumstances such as nature of illness, reason for delay of repairs, etc.

Section 2921 Resources Maximum.

11/01/09

Resources belonging to all household members shall be considered together in determining eligibility for all Fuel Program benefits.

Resource maximums for Fuel Program benefits shall be:

\$10,000 for households with one or more members who are elderly, or

\$5,000 for all other households.

The household's resources shall be considered at the time of application. Households in which all members receive Reach Up, or SSI/AABD automatically meet the resource test for eligibility for Fuel Program benefits.

Section 2922 Jointly Held Resources.

Resources owned jointly shall be considered available in their entirety, unless it can be demonstrated by the applicant household that such resources are inaccessible to that household. If the household can demonstrate that it has access to only a portion of the resource, the value of that portion of the resource shall be counted toward the household's resource level. The resource shall be considered totally inaccessible to the household if the resource cannot practically be subdivided and the household's access to the value of the resource is dependent upon the agreement of the joint owner who refuses to comply.

Section 2930 Income.

Income for the Fuel Program shall be the combined gross income of all members of the household computed with regard to definitions, disregards, deductions, exclusions and adjustments in sections 2904.2 - 2904.3. Cents are carried throughout the computation to arrive at the final net income, and then are dropped. Negative income (a loss) shall be considered as zero income.

To the extent that the department collects and maintains income information within its automated data system on recipients of ongoing program benefits administered by the department, such income information will be used for the determination of eligibility and benefits for the Fuel Program, if such income information is more current than that provided

on the fuel application. For all other households, the gross income of the household for the 30 days prior to the date of the application, as reported on the application form, will be used in determining eligibility, unless income is from self-employment. (See section 2904.2 for calculating self-employment income)

If a type of income has begun or ended within thirty days prior to the application date or is expected to begin or end in the thirty days following the date of application, income for the Fuel Program shall be based on a reasonable projection of the amount of income expected to be received in the months following the month of change.

Section 2931 Allowable Maximums.

Eligibility for the Fuel Program shall be limited to a household with income computed per sections 2904 through 2904.3, which is at or below the allowable maximums amount for household size shown in the Fuel Income Maximum Table which is found in Fuel Procedures at P-2905-A). Due to restrictions specified by 33 V.S.A. Chapter 26, under which this program is established, these amounts cannot exceed 125 percent of the federal poverty guideline for a family of the same size as the Fuel Program household. Income tables will be updated annually according to federal poverty guidelines.

Section 2932 Definition of Income.

Household income is the total income of all Fuel Program household members sharing a primary heating source (as defined in section 2901.1), excluding only income specified in section 2904.3.

Earned income includes, but is not limited to:

1. Gross wages and salaries.
2. Training allowances from vocational and rehabilitative programs, to the extent they are not reimbursement or excluded under section 2904.3.
3. Self-employment income, defined as the total of net income (including net rental income) plus the total net gain from sales of capital goods or equipment plus depreciation.

Calculating Self-Employment Income

For applicants receiving ongoing benefits from programs administered by ESD, the most recently reported net income from self-employment that has been used to determine eligibility for any of these programs will be used for determination of eligibility for the Fuel Program.

For applicants not currently receiving any other benefits, net income, net gains from sales of capital goods or equipment, and depreciation amounts reported on the most recently filed federal income tax forms will be used.

Applicants who are not receiving any other ongoing benefits from ESD and who have not filed an income tax report within the previous twelve months will have their self-employment income determined according to food stamp rules at 273.11a.

Unearned income is the gross amount available from sources which include, but are not limited to:

1. Assistance payments such as SSI/AABD, Reach Up, Essential Person, or any other assistance program based on need, including General

Assistance/Emergency Assistance payments made directly to the household. The portion of assistance payments being recouped will not be counted unless the recoupment is the result of a fraud conviction, or intentional program violation, in which case the full entitlement prior to recoupment will be counted as income.

2. Annuities, pensions, retirement, veterans or disability benefits; unemployment or worker's compensation; old-age, survivors, or disability social security benefits including the part B Medicare premium; strike benefits; foster care payments for children or adults who are considered members of the household. The portion of assistance payments being recouped will not be counted unless the recoupment is the result of a fraud conviction or intentional program violation, in which case the full entitlement prior to recoupment will be counted as income.

3. All support or alimony payments made directly to the household from non-household members or from the Office of Child Support.

4. Student financial assistance, including scholarships, deferred payment educational loans, grants or fellowships, that is not authorized under Title IV of the Higher Education Act or under the Bureau of Indian Affairs student assistance programs and that is in excess of amounts actually used for tuition, mandatory fees and other qualifying expenses (where applicable) at an institution of higher education in which a household member is enrolled. (For households in receipt of Reach Up, this income will be considered the same as in the Reach Up computation. For all others it will be considered the same as in the Food Stamp Program.)

5. Payments from dividends, royalties, and all other direct money payments.

Section 2933 Income Deductions.

11/01/09

Income shall not include the following:

1. Twenty percent of gross earned income from wages and of net earned income from self-employment and 100 percent of state and federal earned income tax credits (EITC).
2. Cost of dependent care as allowed in food stamp rules section 273.9d-4 and food stamp procedure section P-2590-A.
3. \$250 from the household income for each individual member who is elderly or disabled.
4. Reimbursement for employment expenses.
5. Reimbursement for other expenses incurred, such as insurance coverage of medical expenses or personal service allowances to pay for care in the home.
6. Income derived from payments received from the Family Services Division of the Department for Children and Families for providing room, board, and care to children in foster care who are excluded members of the fuel household.

The room and board portion of income received by developmental home providers furnishing qualified foster care to individuals placed by the Vermont Department of Health (VDH), or by a developmental or mental health services agency under contract with VDH. Compensation received in addition to that intended to

cover room and board, considered difficulty-of-care payments, is earned self-employment income and is not excluded.

7. Charitable payments made on behalf of an applicant household by a private non-profit organization or public agency, such as third-party General Assistance payments.

8. Student financial assistance authorized under Title IV of the Higher Education Act or under Bureau of Indian Affairs student assistance programs.

9. Loans, except that portion of deferred payment educational loans not authorized under Title IV of the Higher Education Act or under Bureau of Indian Affairs student assistance programs and not used for tuition, mandatory fees, or other qualifying expenses (where applicable). (See also student financial assistance above and on page 2904.2 P. 2).

10. Food Stamp Cash-Out payments, or the value of food stamps.

11. Income actually paid in making court-ordered support or alimony payments to a non-household member.

12. Small and irregular income less than \$ 25 a month.

13. Earned income of a child under age 18 who is attending elementary or secondary school at least half time and living under the parental control of another household member.

14. Interest on allowable resources.

15. Money received in the form of a non-recurring lump sum payment, such as Reach Up, income tax refunds, rebates, or credits; state and federal EITC; retroactive lump sum social security, SSI, public assistance, or railroad retirement benefits; lump sum insurance settlements; or refunds of security deposits on rental property or utilities, but not lump sum payments which represent self-employment income. Exclusion of this income does not exclude it from consideration as a resource.

16. Income specifically excluded from consideration for the purpose of determining food stamp eligibility. Section 273.9(e) of the food stamp rules manual provides a complete listing of these exclusions.

17. In-kind income (earned or unearned).

Section 2940 Benefit Levels.

11/01/09

Benefit levels to households are determined as follows:

a. For eligible households that make payments for their home heat directly to a fuel supplier certified by the Fuel Program, benefits are determined under sections 2906.1 to and including 2906.4.

b. For eligible households that make undesignated payments for their home heat in the form of rent, and that do not participate in a public or Section 8 housing program, where their rent is based on their income or where their Section 8 pays for their mortgage, an annual benefit in an amount equal to 30 percent of the annual benefit the household would have received if the household were purchasing energy for home heating fuel directly, or \$50.00, whichever amount is greater.

c. For eligible households that make undesignated payments for their home heat in the form of rent and that participate in a public or Section 8 housing program, where their rent is based on their income or where their Section 8 pays for their mortgage, an annual benefit in the amount of \$5.00.

d. For eligible roomer (or roomer/boarder) households that are residents of a living unit and that pay reasonable compensation in the form of room rent and who are not members of another fuel household, an annual benefit in the amount of \$50.00.

The benefit level for which a Fuel Program household is eligible is dependent on the size of the household, its income, the annual primary heating fuel cost, the level of program funds available, and the number of households eligible for a benefit.

All net benefit computations shall have cents dropped down to the next whole dollar.

Section 2941 Subsidized Housing.

11/01/09

Each household that participates in a public or Section 8 housing program, where their rent is based on their income or where their Section 8 pays for their mortgage, and that makes payments for their home heat directly to a fuel supplier, will have its annual primary heating fuel costs reduced by an annualized standard heating subsidy deduction prior to determining the percentage of heating costs to be met by the Fuel Program. This standard is derived from Housing and Urban Development (HUD) heating subsidy amounts, called allowances by HUD, which are developed by the Vermont State Housing Authority and are specified by housing type, fuel type, and number of bedrooms. These subsidy amounts are located in the Standard Heating Subsidy Tables in the Fuel Program section of the welfare procedures manual.

Section 2942 Calculation of Benefits.

11/01/09

Benefit amounts for eligible households are established by applying a heating cost percentage table, based on household size and income, to the household's annual primary heating fuel cost, and limiting payments to a maximum benefit amount. In no instance shall the percentage of a household's benefit exceed 90 percent of that household's fuel cost.

Benefit amounts are determined according to the following steps:

a. Income eligibility of the applicant household is determined according to rules in 2904. If the income of the household exceeds the maximum allowable income for its size, the household is ineligible.

b. An annual primary heating fuel cost is determined for eligible households based on standard heating cost tables (referred to as "proxy tables") identified in sub-section 2906.4 below.

For households that participate in a public or Section 8 housing program, where their rent is based on their income or where their Section 8 pays for their mortgage, and make payments for their home heat directly to a fuel supplier, this annual heating cost amount is reduced by the standard heating subsidy deduction, yielding a net annual heating fuel cost.

e. The net annual heating fuel cost is compared to a table of minimum heating fuel costs. If the household's fuel costs for its primary heating source are equal to or less than the minimum fuel cost set forth in this table, the household will be ineligible for Fuel Program benefits.

d. Based on the household's size and income, a heating cost percentage is applied to its net annual primary heating fuel cost to determine what portion of that household's fuel costs can be authorized for payment as Fuel Program benefits.

e. The amount resulting from (d.) above is compared to a table of maximum benefit amounts. If the amount from (d.) is greater than the allowable amount specified in the table, then the household's benefit is reduced to the maximum allowable amount.

f. The benefit amount from (e.) above is reduced by a periodically adjusted payment rate, found in the Fuel Program section of the welfare procedures manual. This payment rate is based on the number of eligible households, their household incomes and annual primary heating fuel costs, and the amount of funds available for the Fuel Program.

If total program funds are not known at the time that the first line of credit for the heating season is issued, adjustments to payment rates for subsequent issuances may be necessary. If adjustments are necessary, payment rates will be set separately by procedure for each line of credit issuance.

g. In addition to the above, the following policy applies to applications based on the date of receipt.

i. Households whose applications were received from July 15 through November 30, and who are found eligible, will receive one hundred percent of a season's benefit.

ii. Households whose applications were received from December 1 through 31, and who are found eligible, will receive eighty percent of a season's benefit.

iii. Households whose applications were received from January 1 through 31, and who are found eligible, will receive sixty percent of a season's benefit.

iv. Households whose applications were received from February 1 through the last day of February, and who are found eligible, will receive forty percent of a season's benefit.

v. Households whose applications were received from March 1 through July 14 will not receive assistance.

h. If a household makes undesignated payments for their home heat in the form of rent and does not participate in a public or Section 8 housing program, where their rent is based on their income or where their Section 8 pays for their mortgage, the benefit amount is equal to 30 percent of the amount calculated by the payment rate in (f.) and the percentage rates in (g.), or \$60.00, whichever amount is greater.

Section 2943 Fuel Program Tables.

The following tables are adopted for the purposes of determining benefit amounts for eligible Fuel Program applicants:

Table I Household Income Minimum as a Percentage of Poverty Guideline	Table II Minimum Heating Fuel Costs	Table III Heating Cost Percentage	Table IV Maximum Benefit Amount
115%—125%	\$ 266	66%	\$ 1165
105%—114%	243	69%	1215
95%—104%	219	72%	1265
85%—94%	196	75%	1315
75%—84%	172	78%	1365
65%—74%	149	81%	1415
55%—64%	125	84%	1465
45%—54%	125	87%	1515
Under 45%	125	90%	1565

Section 2944 Primary Heating Fuel Costs.

11/01/09

The annual primary heating fuel cost is based on the following standard heating cost tables (referred to as "proxy tables"). The tables were derived from the actual home heating consumption of fuel assistance recipients and developed in consultation with experts in the home energy field. The tables provide only the cost of fuel or energy for home heat. The tables are revised no less frequently than every three years based on data supplied by certified fuel suppliers to the Office of Home Heating Fuel Assistance.

**Standard Heating Cost Tables
Multi-Family Homes**

Fuel Type	1 Bedroom	2 Bedrooms	3 Bedrooms	4+ Bedrooms
Natural Gas	\$ 769	\$ 957	\$1,145	\$1,332
Propane	\$ 891	\$1,388	\$1,885	\$2,383
Oil	\$1,642	\$2,195	\$2,747	\$3,300
Kerosene	\$1,283	\$1,771	\$2,255	\$2,737
Electricity	\$ 878	\$ 962	\$1,046	\$1,130
Firewood, Wood Pellets and Coal	\$ 894	\$1,014	\$1,106	\$1,183

Single-Family and Mobile Homes

Fuel Type	1 Bedroom	2 Bedrooms	3 Bedrooms	4+ Bedrooms
Natural Gas	\$1,024	\$1,211	\$1,399	\$1,587
Propane	\$1,720	\$2,217	\$2,714	\$3,212
Oil	\$1,862	\$2,414	\$2,967	\$3,519
Kerosene	\$1,832	\$2,308	\$2,784	\$3,259
Electricity	\$1,537	\$1,621	\$1,705	\$1,789
Firewood, Wood Pellets and Coal	\$1,277	\$1,321	\$1,365	\$1,409

Rooms may be counted as bedrooms, even though they are not presently being used for such purposes, provided that they would likely be counted as bedrooms in any advertisement for the sale or rental of the home or unit.

Section 2950 Benefit Issuance.

11/01/09

The benefit period shall be from November 1 through March 31 or until Fuel Program funds are exhausted or redesignated to the crisis component.

Notwithstanding any other provision of rules governing the administration of the Fuel Program, payment of benefits shall be made only to the extent that funds are actually available.

In accordance with the requirements of 33 V.S.A. Chapter 26, all federal funds granted to the state for home heating fuel assistance under the Low Income Home Energy Assistance Program (LIHEAP) or other similar federal program in any current fiscal year, and all unexpended LIHEAP funds granted to the state in any prior fiscal year, shall be appropriated to the Home Heating Fuel Assistance Fund for the provision of home heating fuel assistance, including program administration, under Chapter 26 of Title 33.

Any issuance of benefits after December 31 is contingent upon the availability of federal LIHEAP funds or, in their absence, the appropriation of state funds. In addition, if the total program funds are not known at the time of the issuance of the first benefit payments, adjustments to subsequent payment rates may be necessary. If adjustments to payment rates are necessary, subsequent rates will be set separately by procedures for each line-of-credit issuance.

Section 2951 Benefit Payment Method.

11/01/09

Benefit payments to households are made as follows:

a. For eligible households responsible for making payments for their heat directly to a fuel supplier certified by the Fuel Program the annual benefit will be issued as a line of credit directly to the household's certified fuel supplier as follows:

1. Households that applied from July 15 through August 31 will receive a single benefit no later than November 30. Households whose primary heating fuel is firewood or wood pellets will receive a single benefit no later than September 30.

2. Households that applied from September 1 through November 30, will receive a single benefit no later than January 15. The Department will issue this benefit within 30 days of November 30 if administratively possible.

3. Households that applied from December 1 through 31, will receive a single benefit no later than February 14. The Department will issue this benefit within 30 days of December 31 if administratively possible.

4. Households that applied from January 1 through 31, will receive a single benefit no later than March 7. The Department will issue this benefit within 30 days of January 31 if administratively possible.

5. Households that applied from February 1 through the last day of February, will receive a single benefit by March 31.

b. For eligible households that make undesignated payments for energy for home heat in the form of rent the annual benefit will be issued either by a check, electronic benefit transfer (EBT), or direct deposit payable to the head of household as follows:

1. Households that applied from July 15 through August 31 will receive a single benefit by December 15.

2. Households that applied from September 1 through November 30 will receive a single benefit no later than January 15. The Department will issue this benefit within 30 days of November 30 if administratively possible.

3. Households that applied from December 1 through 31 will receive a single benefit no later than February 14. The Department will issue this benefit within 30 days of December 31 if administratively possible.

4. Households that applied from January 1 through 31 will receive a single benefit no later than March 7. The Department will issue this benefit within 30 days of January 31 if administratively possible.

5. Households that applied from February 1 through the last day of February will receive a single benefit by March 31.

c. For eligible households that make undesignated payments for energy for home heat in the form of rent, and that participate in a public or Section 8 housing program, where their rent is based on their income or where their Section 8 pays for their mortgage, the annual benefit will be issued either by check, electronic benefit transfer (EBT), or direct deposit payable to the head of household by March 31.

d. For eligible households that are residents of a dwelling unit and that pay reasonable compensation in the form of room rent and that are not members of another household, the annual home heating fuel assistance benefit will be issued either by a check, electronic benefit transfer (EBT), or direct deposit payable to the head of household by March 31.

Section 2952 Payments to Certified Fuel Suppliers.

11/01/09

Benefits shall be used for primary home heating fuel or energy purchased during the heating season from November 1 to March 31, or as otherwise permitted in this section. Under no circumstances will fuel suppliers be allowed to pay a benefit or a credit balance to a fuel household.

An eligible household that has an outstanding bill with its primary heating fuel supplier may, at its discretion, and provided that the household and its fuel supplier enter into an agreement for a budget payment plan for fuel or a repayment plan for fuel arrears, use up to 17 percent of the benefit amount for fuel delivered prior to November 1.

Under no circumstance may benefits be used to pay for repairs to a household's heating system, parts, special trip charges, or any non-heat uses.

Any credit balance outstanding on March 31 may be applied to home heating fuel or energy delivered in the month of April.

Notwithstanding the requirements described above, eligible households whose primary heating fuel is firewood or wood pellets may use up to 100 percent of the benefit to pay for firewood or wood pellet deliveries received prior to November 1.

Section 2953 Credit Balances.

All benefit payments remain the property of the state of Vermont until actually used by the fuel supplier for the provision of home heating fuel to eligible households.

In the event that on April 30 of any year a credit balance exists in a certified fuel supplier's account for a household that has received annual home heating fuel assistance during the previous 12 months, and the total cost of fuel delivered to the household during the previous 12 months did not exceed the total Fuel Program benefits received by the household during that same period of time, that certified fuel supplier is required to pay the amount of this credit balance to the Office of Home Heating Fuel Assistance no later than May 31 of the same year.

Section 2954 Expedited Benefits, Crisis Households.

In a primary heat crisis situation a household may have their seasonal fuel application expedited by the Fuel Assistance Office and, if eligible, have their seasonal fuel benefit paid to a certified fuel supplier within 10 business days when all of the following conditions are met:

- a. A crisis fuel worker has determined the household eligible for crisis fuel assistance.
- b. The crisis situation is for primary home heating fuel or energy.
- c. The household has not received any seasonal fuel benefit for the season.
- d. The household has submitted a seasonal fuel assistance application.
- e. The crisis fuel worker has requested an expedited seasonal fuel benefit.
- f. The Fuel Assistance Office has determined the household eligible for seasonal fuel assistance.

Section 2960 Changes in Circumstances.

Once a household has been determined eligible and a benefit has been issued for the ensuing heating season, changes of household income, size, or any other household circumstance do not need to be reported and will not affect eligibility or benefit levels for that household.

The following circumstances, however, will result in withholding any future lines of credit or will require a refund to the department of any unused benefits issued on behalf of that household with its primary heating fuel supplier:

- a. All members of the household die; or
- b. All household members move out of Vermont.

Section 2961 Change of Fuel Supplier.

If a household changes its primary supplier of heating fuel and notifies the Office of Home Heating Fuel Assistance in writing at least ten days before a line of credit is issued to its original supplier, the line of

credit and any subsequent lines of credit will be issued to its new fuel supplier provided the new fuel supplier has been certified as described in section 2912.

The department will not transfer any balances from a previously issued line of credit to a new fuel supplier. A household, however, may request its fuel supplier to transfer its credit balance to another primary heating fuel supplier. Before granting such a request to transfer a line of credit, the fuel supplier holding that credit must notify the Office of Home Heating Fuel Assistance of the intent to transfer the credit balance to any other certified fuel supplier.

Under no circumstance will fuel suppliers be allowed to pay credit balances to households.

Section 2970 Notices and Appeal Rights.

Applicants for benefits under the Fuel Program will be provided with notice of grants and adverse decisions that state the action taken, the reasons for such action, and the right of the applicant to a hearing if he or she is aggrieved by the action.

Section 2971 Fair Hearing.

Any individual who requests or receives assistance or benefits from the department has a right to just and equitable treatment. 3 VSA 3091 safeguards this right through provisions for review and appeal when the individual is aggrieved by a department decision or by unreasonable delay in rendering a decision.

An applicant for or recipient of aid or benefits may request review and fair hearing when aggrieved by a decision or delay in rendering a decision, including, but not limited to, the following situations:

1. Denial of or failure to act with reasonable promptness upon a claim for aid or benefits;
2. Termination of aid or benefits, any department action affecting the amount of aid or benefits, or any agency policy as it affects the recipients situation

Individuals are advised by various methods of their right to make complaints and to appeal a decision when aggrieved. Written materials include:

1. Application forms;
2. Notification of case decisions;
3. Informational pamphlets describing departmental programs.

This right is also explained at the time an applicant or recipient expresses disagreement or dissatisfaction with any relevant department decision or procedure.

2971.1 Fair Hearing Definitions

1. Complaint

A complaint is any informal or formal expression of dissatisfaction or confusion, oral or written, made by any person described in the preceding section or an authorized agent of such person, pertaining to acts, omissions, or decisions of the Department of Social Welfare or the Office of Home Heating Fuel Assistance.

Complaints shall be handled by a representative of the Office of Home Heating Fuel Assistance who shall explain the reason for the acts, decisions, omissions, or delay. When necessary, he or she shall conduct further investigation or refer the problem to a person who will cause such further investigation. If the complainant is dissatisfied by the decision of the representative, the complainant shall be advised of his or her right to

request a hearing and to seek legal representation either through a private attorney of his or her own choice and at his or her own expense or through referral to Legal Aid.

2. Request for a Hearing

A request for a hearing is any clear expression, oral or written, made by a complainant or his authorized agent and directed to any representative of the Office of Home Heating Fuel Assistance or the office of the commissioner within 90 days of the contested act, decision, omission or unreasonable delay in reaching a decision, that the complainant wants an opportunity to present his or her case to higher authority.

3. Fair Hearing

Fair Hearing refers to the procedure hereinafter enacted for the purpose of permitting the complainant to present his or her case, first to the commissioner of the department and thereafter to the Human Services Board in accord with rules governing appeals under 3 V.S.A. 3091, as adopted by the Human Services Board

2971.2 Fair Hearing Rules

The Human Services Board rules are found in the All Programs section of the welfare procedures manual (see P-2127-F).

Section 2980 Crisis Fuel Assistance.

Crisis assistance in accordance with the following regulations may be extended to alleviate an emergency due to lack of heating capacity for individual households. The criteria applied in determining fuel household membership and Vermont residency are the same as for the seasonal fuel assistance component (see WAM Section 2901, excluding 2901.2 2. "Income and Resources").

The period during which applications will be accepted and benefits granted under regulations pertaining to this component of the program will be from the last Monday in November to the second Friday in April for all households whose primary heating fuel is delivered in bulk and to the last regular working day in April for households whose primary heating fuel is by metered service, subject to change by the Commissioner of Social Welfare on the basis of weather conditions and funds available.

The department may contract with community organizations for eligibility determination and benefit issuance under the crisis component of the Fuel Program. All references in the crisis component section of fuel program policy to the "department" will encompass any organization with which the Department of Social Welfare has a formal agreement to determine eligibility and issue benefits under this crisis component.

Hereinafter the term "director" will refer to the DSW district director or to the director of any organization with which the department has a formal agreement to provide crisis assistance, depending upon which, the department or the organization, is actually determining eligibility and issuing benefits for the crisis component during the current heating season.

Section 2981 Eligibility, Crisis Fuel.

It is not the intent of these regulations to define a program of entitlement; i.e., a household whose income and resources are within the specified limits and who

has a fuel need does not become entitled to a grant, and indeed may be denied. It is the intent of this regulation to provide a framework within which staff, based on their judgement, may grant assistance to households who face a heating crisis.

In making this judgment staff will consider the individual situation; income, resources, prior applications, and what led to the crisis. Staff shall determine eligibility for crisis assistance based on whether there is an extenuating or unpredictable circumstances. An extenuating or unpredictable circumstance is defined as: death in the family which results in additional expenses to the applicant household; illness of a family member which results in the household incurring additional expenses; an unanticipated work-related expense necessary to preserve employment; extraordinary housing expenses which are required to remove life-threatening hazards or to keep the home habitable; or other unanticipated circumstances or occurrences which could not have been foreseen or prevented by the applicant household.

To make such a determination the department will complete a careful assessment of past income; uses made of income and resources; relative necessity of such uses including consideration of age, health, and other factors having impact on necessity; and adequacy of planning (past and future) to avoid such emergency.

Among the purposes for which the department examines the circumstances that precipitated the fuel emergency and assesses how past income was used are to determine the likelihood that a similar fuel emergency will recur in the future and the degree to which the fuel emergency was preventable. It is to the benefit of both the applicant and the department to attempt to prevent the recurrence of fuel emergencies.

Staff will also consider what potential income and resources are available and the extent to which the household can commit all or a portion of such potential toward meeting or partially meeting their current heating crisis. This potential shall include all members of the household and not simply those bearing direct responsibility for the purchase of fuel.

Households will be expected to decline or delay payment for non-essentials in favor of assuring themselves an adequate fuel supply and to make reasonable efforts to conserve fuel to avoid an emergency. This includes exploring options for heating system replacements, including home equity loans or other forms of assistance. The decision to recommend a heating system replacement through referral to a local Weatherization operator shall be based on assessment of malfunctions in the heating system that represent a danger to the health and safety of the household. Such decisions shall be made by the director or his/her designee.

Within this framework, staff will determine eligibility on the basis of conserving program funds and utilizing client resources to the maximum extent reasonably possible. Staff will make every effort to assist those who are denied eligibility to find alternative solutions to their problem.

Section 2982 Expedited Fuel Benefits, Crisis Households.

In a primary heat crisis situation a household may have their seasonal fuel application expedited by the Fuel Assistance Office and, if eligible, have their seasonal fuel benefit paid to a certified fuel supplier within 10 business days when all of the following conditions are met:

- a. A crisis fuel worker has determined the household eligible for crisis fuel assistance.
- b. The crisis situation is for primary home heating fuel or energy.
- c. The household has not received any seasonal fuel benefit for the season.
- d. The household has submitted a seasonal fuel assistance application.
- e. The crisis fuel worker has requested an expedited seasonal fuel benefit.
- f. The Fuel Assistance Office has determined the household eligible for seasonal fuel assistance.

Section 2983 Crisis Fuel Application.

A separate application must be filed for each crisis assistance grant. Applicants must be domiciled in Vermont, submit verification of income and resources of all household members, and appear for a personal interview except as specifically exempted below.

Households renting heated living quarters are eligible for benefits only to the extent necessary to alleviate a heating crisis during the period necessary to re-establish provision of fuel by the landlord, or in other emergency situations in which the health and/or safety of inhabitants is threatened through no fault of their own, as determined by the director or his/her designee.

Applications taken during office hours will be made in person at the district or local office and will not be processed without a face-to-face interview, except that elderly or disabled persons may have certain designated employees of Area Agencies on Aging act on their behalf as authorized representatives. The department will enter into agreements with such agencies where a mutually acceptable agreement can be reached specifying terms and conditions under which such representatives will function.

The worker may make exception to the in-office application or face-to-face interview on an individual basis where urgency of need, weather conditions illness, or other equally compelling considerations, in the judgment of the worker, require an exception. An application form will be completed by the worker and mailed to the applicant for signature and submission of required verifications following authorization of assistance. No subsequent assistance will be granted until this application has been signed and returned to the office with required verification. A second phone application may be processed only with the written approval of the supervisor.

Applications outside the normal office hours will be granted by telephone only if there is an emergency which could not have been processed during normal office hours and which cannot possibly be put off until the next normal office day. Potentially eligible applicants will be expected to have acted responsibly in their own behalf by carefully monitoring their fuel supply and credit

standing with their dealer and taking every precaution possible to avoid night time and weekend emergencies. Such applicants will be carefully interviewed by phone and denied assistance when it appears that the off-hours application could and should have been avoided.

Applicants, except elderly and disabled, who are granted off-hour assistance must agree to appear at the district or local office before assistance can be subsequently granted. All applicants must complete an application retroactively, and provide verification as required. Failure to do so may result in forfeiture of all rights to receive fuel assistance in the future as well as efforts on behalf of the department to recover assistance already granted, including recovery from any seasonal component benefits for which the household may be eligible.

Section 2984 Income, Crisis Fuel.

The income computation for the crisis component shall include the same sources of income and computation as for the seasonal component (See Section 2904), except that actual income in the previous 30 days is computed.

The income eligibility for the crisis component of the fuel program shall be limited to households with income that does not exceed the amount for the household size shown in the Crisis Assistance Income Maximum Table which is found in the Fuel program section of the Welfare Procedures Manual. Due to restrictions specified in the federal and state law under which this program is funded, these amounts cannot exceed 150 percent of the federal poverty guidelines for a family of the same size as the fuel program household.

Any change in the amounts in the Emergency Fuel Income maximum Table which has a positive impact on applicants for or recipients of supplemental fuel benefits shall be carried out via a procedures change. Any change in the amounts in this Table which has an adverse impact on any applicant for or recipient of supplemental fuel benefits will be accomplished only by following the Administrative Procedures Act process for regulatory changes in addition, any future policy change which results in an increase in benefits which is not an across-the-board increase (i.e. an increase which affects all fuel assistance recipients proportionately) will be accomplished only by following the Administrative Procedures Act process for the regulatory changes.

Section 2985 Resources, Crisis Fuel.

Resource limits for aged or disabled are set at \$ 1500 for a household of one and \$ 2250 for a household of two or more. For all others it is expected that every available resource will be utilized in meeting the crisis, although the worker will use judgment in protecting money set aside in a special account to pay property taxes, or money necessary to meet immediate basic needs such as food, rent, utilities, etc., when such payments are required before the household would have additional income with which such expenses could be met. For purposes of this section, an available resource is that which may be used to resolve the emergency heating need in a timely manner.

Section 2986 Verification, Crisis Fuel.

11/20/99

Income of all persons living in the household must be verified, except when the stated income exceeds the maximum or the application is denied for other reasons. Verification of resources is required in all cases except when, in the judgment of the worker, the stated total resources are sufficiently below the maximum that eligibility under this factor is not questionable, or the stated resources clearly exceed the maximum. Self-declaration of income or resources by the applicant is not an acceptable method of verification.

For applicants residing in multi-living unit buildings and requesting assistance to avert a shut off of electric service for the operation of a heating unit that is not located within the living unit, written verification provided by the applicant or verbal verification obtained by the worker (with the applicant's permission) from the landlord or the electric company confirming that a shut off would make the heating unit inoperable is required in all cases within five business days of assistance being granted.

When the urgency of the situation calls for immediate action and the applicant agrees to produce verification within five business days, the worker may, after documenting the necessity for immediate action, grant assistance prior to receipt of verification provided the applicant's statements indicate that the household will be eligible when verification is produced. Failure to produce the required verification may make the household ineligible for additional crisis assistance during that season and may result in efforts on behalf of the department to recover assistance already granted unless this requirement is deferred or waived based on one of the conditions described herein. The five-day deadline may be deferred or waived under the following conditions:

- (a) a natural disaster, such as fire or flood, has occurred that prevented the applicant from complying with this requirement;
- (b) the applicant became so severely ill that s/he was unable to direct his or her personal affairs and, as a result, was prevented from complying with this requirement;
- (c) the employer of a household member has refused to provide income verification, or the employer has been unavailable and, as a result, verification was not accessible by the deadline; or
- (d) the applicant's landlord and electric company are unavailable or unwilling or unable to provide verification that a shut off of electric service would make the heating unit inoperable; or
- (e) in the worker's judgment, some other equally compelling circumstance(s), beyond the applicant's control, warrants deferral or a waiver.

Verification of any factor of eligibility or payment may be required when in the judgment of the worker the information provided appears to be questionable.

Section 2987 Crisis Fuel Benefits.

Benefits are limited to payment for a minimum delivery of fuel; reasonable delivery and heating unit start-up charges for off-route deliveries during regular working hours or for deliveries after hours; utility service required for operation of the heating unit to avert shut off. Under no circumstances will a deposit be included under start-up, delivery, or services charges.

Households are limited to three assists during the crisis fuel season. An "assist" is defined as all benefits provided under a single crisis fuel intake. Benefits provided in response to an after-hours crisis fuel intake count as a single assist. Additional benefits cannot be added to the after-hours intake when the client completes the paperwork in the office.

Payment for a minimum delivery of fuel shall not exceed 125 gallons for oil, propane, kerosene and other liquid fuels; one ton of coal; one cord of wood; and shall be less when the provider normally delivers less for other customers in similar situations. Maximum payment for metered service shall be for service used during the most recent monthly billing period or one half of the most recent billing period in areas where billing is for two months' service.

It will be the responsibility of the worker to make appropriate referrals which, in the department's assessment, can be reasonably expected to result in the client's being better able to prevent a future fuel emergency. Examples include:

(1) for households not participating in the seasonal component of the fuel program, the worker shall provide an explanation of that component and an application with which to apply. Prior to March 1, as a condition of receiving assistance, applicants will be required to apply for seasonal fuel assistance within five business days of receipt of a crisis grant. Failure to apply for seasonal fuel assistance, within the specified five-business-day period, will make the applicant ineligible for additional crisis assistance during that season unless this requirement is deferred or waived based on one of the conditions described herein. The five-day deadline may be deferred or waived under the following conditions:

- (a) applicant is currently in receipt of seasonal assistance;
- (b) an application for seasonal assistance is pending;
- (c) household income is in excess of 125 percent of poverty;
- (d) a death of an immediate family member or a natural disaster, such as fire or flood, has occurred that prevented the applicant from complying with this requirement;
- (e) the applicant became and remained so severely ill that s/he was unable to direct his or her personal affairs and, as a result, was prevented from complying with this requirement;
- (f) the worker failed to provide a seasonal application; or
- (g) in the worker's judgment, some other equally compelling circumstance(s), beyond the applicant's control, warrants deferral or a waiver.

(2) in cases in which the fuel emergency was precipitated by payment of a child's medical bill, the worker shall provide an explanation of Medicaid and applications with which to apply.

(3) in cases in which an elderly or disabled person's income appears to be being misused by a person on whom the elderly or disabled person depends for financial management, the worker shall make a referral to the Department of Aging and Disabilities adult protective services program. The client will be advised that a direct referral is being made in these cases.

(4) in cases in which the household does not already participate in a fuel or metered utility budget plan, the worker shall refer the applicant to the fuel or utility supplier. As a condition of being granted crisis assistance for any metered utility service, applicants will be required to request, within five business days of receipt of the crisis grant, that their utility company place them on a budget payment plan. Failure to make this request will make the applicant ineligible for additional crisis assistance during that season unless this requirement is deferred or waived based on one of the conditions described herein. The five-day deadline may be deferred or waived under the following conditions:

(a) a death of an immediate family member or a natural disaster, such as fire or flood, has occurred that prevented the applicant from complying with this requirement;

(b) the applicant became and remained so severely ill that s/he was unable to direct his or her personal affairs and, as a result, was prevented from complying with this requirement;

(c) in the worker's judgment, some other equally compelling circumstance(s), beyond the applicant's control, warrants deferral or a waiver.

(5) in cases in which the applicant appears to have serious problems in managing his or her income and resources prudently, the worker shall refer the client to a source of free (or fee based on ability to pay) money management counseling.

(6) in all cases referrals shall be made to the Warmth and Shareheat programs, as appropriate.

Where such referrals are considered appropriate by the worker, they should be made irrespective of whether the household's application for crisis assistance is granted or denied.

Exceptions in severe situations may be made by the director as provided under appeal rights (2957).

Each recipient of crisis assistance must accept direct referral for Weatherization services through programs administered through the State Office of Economic Opportunity and five regional Weatherization Program Offices.

Section 2988 Appeal Rights, Crisis Fuel.

When an applicant is found ineligible under this component of the program he or she is entitled to an appeal process designed to address the potential urgency of the unmet need. The worker, upon determination that an applicant is not eligible shall advise the applicant of the reason for denial and explain his or her rights to appeal the decision to the supervisor and the director or

a designee. The applicant may appeal simply by stating that he or she wishes to do so.

The director will provide for hearing the applicant's appeal at the earliest possible opportunity and in no event later than the next normal working day. The applicant may bring representation of his or her choice to assist in presenting the case. The director will review the circumstances of the case to consider the nature of the emergency, unpredictable or extenuating circumstances, prior effort on the part of the applicant to avoid the crisis, potential for meeting the need or finding alternative solutions, as well as proper application of policy. The director may waive policy or procedure in order that unique situations may be addressed on an individual basis. However, the department shall incur no obligation to grant any waivers by virtue of this authority. Waivers, if authorized, may be under condition of special agreements negotiated with the individual applicant regarding weatherization, conservation, financial management, counseling, payment, recoupment, etc. The director, following completion of the review, will confirm, modify, or revise the decision, and provide written notice of the action taken. The basis for the decision must be documented in the case record.

Further appeal must be processed through normal channels in the form of a request for fair hearing before the Human Services Board. Fuel program policies relating to fair hearings are contained in section 2910.

Section 2989 Recoupment, Crisis Fuel.

The department may seek recoupment of benefits representing an overpayment resulting from fraud or a benefit issuance that occurs by department or client error.

a. Recoupment may be accomplished by a cash repayment to the department by the recipient or fuel supplier, or by the department's withholding of an equivalent amount of benefits to which the recipient would otherwise be entitled in the future under the seasonal component or the crisis component of this program. The department reserves the right to withhold any further benefit issuances until the full amount of the overpayment is recouped under this program.

b. The department will accept any payment made as recoupment of overpayments under terms and conditions set by the court when recipients are found guilty of fraud and are ordered by a court to reimburse the department.

c. Department requests for recoupment of benefits representing an overpayment must be made within 180 days of the close of the fuel season in which the overpayment occurred, except in the case of an overpayment resulting from fraud.



INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

Meeting Date/Location: October 9, 2023, virtually via Microsoft Teams
Members Present: Chair Sean Brown, Jared Adler, Jennifer Mojo, Diane Sherman, Michael Obuchowski, and Nicole Dubuque
Members Absent: John Kessler and Brendan Atwood
Minutes By: Melissa Mazza-Paquette

- 2:01 p.m. meeting called to order.
- Review and approval of [minutes](#) from the September 11, 2023 meeting.
- No additions/deletions to agenda. Agenda approved as drafted.
- Note: The following emergency rules were supported by ICAR Chair Brown:
 - 'Emergency Administrative Rules for Notaries Public and Remote Notarization' by the Office of Professional Regulation, on 09/19/23
 - OPR seeks to renew the emergency rules to ensure notaries can provide remote notary public services while the permanent rules go through the APA rulemaking process. More permanent rules to implement Act 171 are drafted.
 - These Emergency Rules allow an individual to satisfy the "personal appearance" requirement for the performance of notarial acts by appearing before a notary public through a secure communication link using specific protocols and standards.
 - 'PUC Emergency Rule 2.500 COVID-19 Emergency Procedures' by the VT Public Utility Commission, on 09/25/23
 - Risk of exposure for members of the public and state agency staff to the COVID-19 virus established as a global pandemic by the World Health Organization as of March 11, 2020.
 - This emergency rule amends various filing and procedural requirements and provides alternative procedures to reduce or eliminate in-person contact between members of the public and Commission staff or other members of the public to reduce the risk of exposure to the COVID-19 virus. This is the seventh extension of the emergency rule filed in April 2020. A number of measures included in this revised emergency rule have proven beneficial to those who appear before and interact with the Commission. The Commission is undertaking a process of adopting policies and promulgating permanent rules, where appropriate, so that the remaining measures in this revised emergency rule could either be phased out or incorporated into permanent rules. The revisions in this version reflect adoption of permanent Commission Rule 2. Two other Commission rules modified by this rule have entered formal rulemaking. The provisions in this revised emergency rule will be superseded when the permanent rules take effect.
- No public comments.
- Presentation of Proposed Rules on pages 3-12 to follow:

1. Residential Care Home and Assisted Living Residence Licensing Regulations, Agency of Human Services, Department of Disabilities, Aging, and Independent Living, page 3
 2. Independent School Program Approval Rules, State Board of Education, page 4
 3. Vermont Low Emission Vehicle and Zero Emission Vehicle Rules, Agency of Natural Resources, page 5
 4. Investigation and Remediation of Contaminated Properties Rule (IRule), Agency of Natural Resources, page 6
 5. Children's Personal Care Services, Agency of Human Services, Department of Health, page 7
 6. Rules of the Board of Medical Practice, Agency of Human Services, Department of Health, page 8
 7. Crisis Fuel Assistance Rules, Agency of Human Services, Department for Children and Families, Economic Services Division, page 9
 8. Seasonal Fuel Assistance Rules, Agency of Human Services, Department for Children and Families, Economic Services Division, age 10
 9. Rule Governing the Prescribing of Opioids for Pain, Agency of Human Services, Department of Health, page 11
 10. Council Rules, Vermont Criminal Justice Council, page 12
- No other business
 - Next scheduled meeting is November 13, 2023 at 2:00 p.m.
 - 3:54 p.m. meeting adjourned.

Proposed Rule: Residential Care Home and Assisted Living Residence Licensing Regulations, Agency of Human Services, Department of Disabilities, Aging, and Independent Living
Presented By: Stuart Schurr, Pam Cota, Carolyn Scott, and Suzanne Leavitt

Motion made to accept the rule by Sean Brown, seconded by Mike Obuchowski, and passed unanimously with the following recommendations:

1. Proposed Filing – Coversheet, #8 and #9: Include what changed in the rule.
2. Economic Impact Analysis: Include those listed in #3 as individuals or categories of those affected and describe the impact to each.
3. Public Input Maximization Plan, #3: Summarize the plan to engage the public, and process to advise involved stakeholders that were involved of proposed rules availability.

Proposed Rule: Independent School Program Approval Rules, State Board of Education
Presented By: Jennifer Samuelson and Sarah Buxton

Motion made to accept the rule by Jen Mojo, seconded by Jared Adler, and passed unanimously with the following recommendations:

1. Proposed Filing – Coversheet:
 - a. #9: Replace ‘Rule Series 2200’ with the title of the rule. Discuss the specific changes.
 - b. #13: Align with the Economic Impact Analysis.
2. Missing Adopting Page.

Proposed Rule: Vermont Low Emission Vehicle and Zero Emission Vehicle Rules, Agency of Natural Resources

Presented By: Deirdra Ritzer and Rachel Stevens

Motion made to accept the rule by Mike Obuchowski, seconded by Nicole Dubuque, and passed unanimously except for Jen Mojo who abstained, with the following recommendations:

1. Proposed Filing – Coversheet, #9: Clarify terms per California’s language.
2. Public Input Maximization Plan, #4: Include interested stakeholders that previously commented on the rule.

**Proposed Rule: Investigation and Remediation of Contaminated Properties Rule (IRule), Agency of
Natural Resources**

Presented By: Lynda Provencher and Shawn Donovan

Motion made to accept the rule by Diane Sherman, seconded by Jared Adler, and passed unanimously except for Jen Mojo and Mike Obuchowski who abstained, with the following recommendations:

1. Proposed Filing – Coversheet, #8: Detail what is, and is not, changing, including the standards.
2. Adopting Page, #4: Include all requested information.
3. Economic Impact Analysis: Describe if any of the changes are going to incur costs.
4. Environmental Impact Analysis: Define if the amendments change the impact on each.

**Proposed Rule: Children's Personal Care Services, Agency of Human Services, Department of Health
Presented By: Natalie Weill**

Motion made to accept the rule as presented with no recommend changes by Nicole Dubuque, seconded by Jen Mojo, and passed unanimously.

Proposed Rule: Rules of the Board of Medical Practice, Agency of Human Services, Department of Health

Presented By: Natalie Weill

Motion made to accept the rule by Sean Brown, seconded by Mike Obuchowski, and passed unanimously except for Jared Adler who abstained, with the following recommendations:

1. Proposed Filing – Coversheet:
 - a. #8: Clarify what the rule is in terms of what it regulates, as well as the 3rd and 4th bullet. Explain the 5th bullet. Clarify what the board practices are.
 - b. #10: Expand upon how the rule is not arbitrary as defined in statute.
 - c. #12: Align with #3 in the Economic Impact Analysis for consistency.
2. Economic Impact Analysis, #6: Include how the economic impact described in #3 is similar, if not the same for small businesses.
3. Public Input Maximization Plan, #4: Include how the department will reach out to the entities listed to advise of the public comment period.

Proposed Rule: Crisis Fuel Assistance Rules, Agency of Human Services, Department for Children and Families, Economic Services Division

Presented By: Philip Back and Richard Giddings

Motion made to accept the rule by Diane Sherman, seconded by Nicole Dubuque, and passed unanimously, with the following recommendations:

1. Proposed Filing – Coversheet, #12: Change ‘practice’ to ‘law’ or provide explanation. Align with the ‘Seasonal Fuel Assistance Rules’. Align with the Seasonal Fuel Assistance Rules.

Proposed Rule: Seasonal Fuel Assistance Rules, Agency of Human Services, Department for Children and Families, Economic Services Division

Presented By: Philip Back and Richard Giddings

Motion made to accept the rule by Diane Sherman, seconded by Nicole Dubuque, and passed unanimously, with the following recommendations:

1. Proposed Filing – Coversheet, #12: Change ‘practice’ to ‘law’. Align with the ‘Crisis Fuel Assistance Rules’.

**Proposed Rule: Rule Governing the Prescribing of Opioids for Pain, Agency of Human Services,
Department of Health**

Presented By: Natalie Weill

Motion made to accept the rule as presented without any recommended changes by Jen Mojo, seconded by Nicole Dubuque, and passed unanimously except for Jared Adler who abstained.

Proposed Rule: Council Rules, Vermont Criminal Justice Council
Presented By: Kim McManus

Motion made to accept the rule by Sean Brown, seconded by Diane Sherman, and passed unanimously, with the following recommendations:

1. Proposed Filing – Coversheet:
 - a. #8: Include what's being changed including specific examples as to what it's aligning with.
 - b. #12: Include reasoning.
2. Economic Impact Analysis, #9: Include justification.

Transcript of 12-19-2023 Public Hearing on Proposed Fuel Rules

0:0:0.0 --> 0:0:0.810

Richard Giddings:

Thanks, Whitney.

0:0:0.820 --> 0:0:2.520

Richard Giddings:

Travis, do you want to introduce yourself?

0:0:4.0 --> 0:0:14.140

Travis Poulin:

Hello, sorry that I don't have a camera up and running. This is Travis Poulin on the Community Action Network director for the Champlain Valley Office of Economic Opportunity, CVOEO.

0:0:16.370 --> 0:0:20.80

Richard Giddings:

Thanks, Travis. Linda, would you like to introduce yourself?

0:0:21.290 --> 0:0:37.150

Linda Amante:

Certainly. Here you can see my face now. I'm Linda Amante. I'm the associate director here at Chittenden Community Action, working with Whitney and Kathy and the Fuel and utilities teams, as well as the housing section.

0:0:39.280 --> 0:0:39.580

Richard Giddings:

Thanks.

0:0:40.180 --> 0:0:40.520

Linda Amante:

Thank you.

0:0:42.780 --> 0:0:45.90

Richard Giddings:

Barrie Brigham, could you introduce yourself?

0:0:46.180 --> 0:1:7.900

Barrie Brigham:

Sure. I'm Barrie Brigham. I am . . . I don't know how to define my role really easily. I was formerly a state employee with the fuel and utility program and am retired and am back as a temp, just helping out around the edges.

0:1:10.150 --> 0:1:10.830

Richard Giddings:

Thank you, Barrie.

0:1:11.570 --> 0:1:11.950

Barrie Brigham:

Thanks.

0:1:12.0 --> 0:1:13.450

Richard Giddings:

Ivy, could you introduce yourself?

0:1:14.900 --> 0:1:19.450

Ivy Harris:

Sure. Hi, I'm Ivy Harris. I'm an assistant program administrator with the fuel new utility team.

0:1:21.300 --> 0:1:29.320

Richard Giddings:

Thanks, Ivy. We're going to come back to Linda to go ahead and introduce yourself and then we'll get Philip and I again since I hadn't started the recording.

0:1:30.940 --> 0:1:34.700

Linda Anderson:

Linda Anderson. I'm the director of family community support services with Capstone Community Action.

0:1:36.100 --> 0:1:39.990

Richard Giddings:

Thanks, Linda. Denise, I'm sorry I missed you. Could you introduce yourself?

0:1:41.230 --> 0:1:45.600

Denise Bailey:

Sure. Denise Bailey, director of equity, engagement, and advocacy at Capstone.

0:1:46.910 --> 0:1:49.790

Richard Giddings:

Thank you. Now I'll go to you Philip.

0:2:0.570 --> 0:3:11.800

Philip Back:

Umm, my name is Philip Back. I'm an attorney with the Department for Children and Family. I hope everyone can see and hear me okay. We, I had some technological problems, but if you can't let me, let me know. I'm hosting this meeting in person with Richard Giddings, who's the program director for the fuel program, and we're receiving public comments on proposed fuel rules specifically for seasonal fuel and for crisis fuel rules, but the two rules are interrelated. As everyone should probably know, or hopefully can see, the meeting is being recorded, and I'm going to be quiet and turn it over to Richard.

0:3:16.40 --> 0:3:59.50

Richard Giddings:

Let you mute that. Perfect. So again, I'm Richard Giddings on the fuel and utility program director. And we are here taking public comment today on both our seasonal fuel rules and our crisis fuel proposed rules. So we're, we're wide open at this stage. Again, remember, just introduce yourself just so that we know whose comment it gets associated with it.

You raise your hand I'll call on you, and that might just make it easy.

Travis, you're up first, buddy. Go ahead.

0:3:58.260 --> 0:5:28.180

Travis Poulin:

I imagine that a lot of people will have the same things to say. Overall, Linda Amante, Whitney Cassell, and I met earlier this week to review these. One thing that I noted is that under crisis fuel proposed Rule 3102.6, the household must demonstrate that unforeseen extenuating circumstances have presented the household from heating the living unit. The old rules said unforeseen or extenuating circumstances, and the only reason I point out the "or" is that there are some households who are very low income, and for them the simple reality of their economic status, every winter they need help getting through the winter because of the higher cost of home heating fuel, and we've long considered poverty to be an extenuating circumstance. It's not unforeseen, but it is extenuating. I might be just being way too picky about the words, but I noticed that the word "or" had been deleted, and I wanted to make sure that

simple poverty is still an extenuating circumstance for the need for crisis fuel, even if it's not unforeseen.

0:5:33.470 --> 0:5:44.800

Richard Giddings:

Thank you, Travis. I made a note next to it, and umm—I don't have—I have one set of rules in front of me. I don't have the other one because I'm only on one screen, but . . .

0:5:44.800 --> 0:5:44.850

Philip Back:

These are the old ones. If he could tell us exactly . . .

0:5:44.850 --> 0:5:51.760

Richard Giddings:

3-3102.6. And Travis, did you reference the old rules? What was the number from the old rules?

0:5:52.400 --> 0:5:53.810

Travis Poulin:

Hold on one moment. Did I write that down?

0:5:55.670 --> 0:5:57.790

Richard Giddings:

If you didn't, I could find it. Yep.

0:5:53.920 --> 0:5:59.140

Travis Poulin:

The old rule section 9281 [sic].

0:6:0.50 --> 0:6:3.210

Richard Giddings:

9281.

0:6:3.390 --> 0:8:0.780

Travis Poulin:

And the language in the old rule was, I mean effectively the same, except it said unforeseen "or" extenuating circumstances.

I mean there are a couple of other issues that we had. One of them is that it, as you and I—I mean we've all talked about it Richard—the requirement for households to complete applications in person unless they meet one of the exemptions. We've

adapted very well during COVID to providing services over the phone. Crisis fuel was always designed to be able to be provided over the phone in the case of extreme weather. Umm, it's, it'll be unfortunate—I'll use that word—if we really do have to pull all staff back into the office. There are so many detrimental sides to that. Yes, we enjoy being able to work with people face to face. Of course, in some ways that's the best possible service, but the volume of calls, to be able to be handled, by multiple staff working off a shared call log, being able to reach out to people quickly, efficiently; error rates are down. We don't have to deal with parking and the environmental impact of everyone driving into the office or crowding in small spaces. We may be over COVID, so to speak, but we all know that RSV, COVID is still around. We still have to take precautions. It's, uh, we just were very happy that we had developed such an efficient system to work, have some staff working from home. And, uh, it'll be challenging to continue with that if we really do have to make certain that everyone is seen in person, unless they meet one of the exemptions. I don't have a quick solution for that.

The first point I made was wordsmithing. The second one is, is an ongoing conversation I suppose. And I understand that these are coming, I'm sure, from LIHEAP, from the federal level of some of these. So, I empathize that this isn't all just the state making choices.

0:8:2.800 --> 0:9:8.710

Richard Giddings:

We've made a, we've made a note, Travis, in what you referenced, and we've highlighted also in the old rules, and we will do some follow up to that. One of the things, you're absolutely right, is out of COVID we moved to a process of working remotely 100%, and now we've moved kind of back to more of a hybrid system where folks can come into the office but can also be served over the phone. And as long as, you know, we have signed applications, right? We're meeting the criteria that has been set forth, but it is an ongoing conversation, so I appreciate you pointing out those two items within this, and I've made notes of both of them.

Travis, do you have some other comments you'd like to offer or was that it for that?

Can you guys still hear me? Can someone just nod or . . . ? Okay, I just want to make sure I wasn't . . .

0:9:7.780 --> 0:9:36.330

Travis Poulin:

I'm sorry I had muted myself and I was talking. Sorry, the only other thing I was gonna say was I think it's brilliant and smart to hook up seasonal fuel, if you will, to make it coincide with Three Squares in terms of not needing to do a renewal for 12 or 24 or 36

months depending on the person's status, to sort of coincide with that Three Squares. I just, what a simple, practical, efficient way of doing it. So, kudos to that.

0:9:38.820 --> 0:9:40.860

Philip Back:

It's for seasonal.

0:9:40.870 --> 0:10:18.700

Richard Giddings:

It is, it is. It's just it wasn't in our old rules. And you know the old rules. So our old rules, as most folks know, are 10- 12- 15-years old in some situations, and you're right, it wasn't noted in there, and we moved in this direction when we moved to the extended certified period of eligibility. So it doesn't align as Travis pointed out with the review dates that are put forth by Three Squares to ensure people don't have to do a lot of extra paperwork, and we can keep those dates aligned as long as we continue to review the cases we're okay.

Is there anyone else that would like to also comment?

0:10:20.30 --> 0:11:5.80

Denise Bailey:

Yes Richard. Denise Bailey from Capstone. So I sorted out that the identification and verification changes are based on federal rules. I'm trying to sort out whether the temporary living quarters, or movable structures, piece is federal or state. Umm, and that's in both of the proposals and then, umm, the necessity that an applicant have account numbers with both energy and fuel at the time of application. I'm wondering if (A) that is true, even if they're just applying for one thing, and (B) whether that is a state or federal mandate.

0:11:8.200 --> 0:12:20.220

Richard Giddings:

Sure. So some of this I can respond to. So the identification of a person applying came from federal and it was part of our audit finding that had to do with when people were applying. If I was to apply and say my name is John Doe, but we didn't obtain any verification that I was John Doe, then how would we, how would we really know that? So the compromise that we were able to strike with HHS was, if they're known to our system, then we have verified their identification. And if they're not known to our system when they apply, we need to obtain their some form of ID. We follow the Three Squares rules around that, and there are about 30 different forms of ID that are acceptable within that. So it's not like it has to be a picture ID of a valid driver's license. It's very broad because we do really want to make it so that folks can apply for

assistance. So that's the identification piece. The verification, I wanna make sure I captured it correctly. You're talking about the verification of income or verification of what, Denise?

0:12:19.10 --> 0:12:21.240

Denise Bailey:

Citizenship, citizenship.

0:12:20.570 --> 0:12:38.150

Richard Giddings:

Citizenship. Sure. So when, so that's a federal, and under our federal rules, you have to be a legal immigrant or a citizen in order to access federal LIHEAP dollars. And that wasn't clear in our previous rules.

0:12:42.600 --> 0:12:50.160

Denise Bailey:

And, umm, the next piece was the exclusion of temporary living quarters or mobile, movable structures.

0:12:51.70 --> 0:15:35.650

Richard Giddings:

Sure. In our old rules it talks about a living unit, and it talks about a permanent living unit, and so the definition of a permanent living unit would be one that is not movable. Umm. And there was a lot of discussion around that. And so we came up with some questions related to how do we help determine if somebody has a livable, permanent living unit. Some of that came forth as we were seeing a significant number of folks applying that had, you know, a camper that they were staying in and they were applying for a heating benefit. And you know what we were trying to determine was if it was a permanent structure. So for instance, we know we have some campers that are set up in, in parks that are on, you know, either foundation or slab. They're, they have skirting, they have water, they have sewer, they have all those things that would make you believe that this is a permanent living unit. And then we have some others that have applied that, you know, have it. We haven't gotten any with pictures, but you know ones that hook to your bumper and that you move from place to place, that doesn't meet the definition of permanent. So that's one of the things as we're trying to clarify this, you know how we felt we needed to just add more verbiage to what means permanent.

And then the last one you had was tied to a account numbers. So in the past, really all that we needed was, tell us who your fuel dealer is. But as more and more of the, umm, corporations have bought up some of the small fuel dealers, we often find

where the, um, they can't find the household in the records because we're not providing them with an account number. We can provide them with a street address, we can provide them with a building number, but they still have a hard time finding the person. So one of the ways that we found a solution to that was to be able to work around and require that folks now provide us with their account number. It comes on their fuel tank stub when they get filled up. It comes on their statement when they get one or an invoice because of course our fuel benefits are really only meant to be supplemental. So we were just looking to verify the number. We're not asking them to send us in the stub or the bill. We're asking just to give us the number off that, so we can enter it in the system, so that we can ensure the benefits that are issued are issued directly to their account.

0:15:36.970 --> 0:15:46.310

Denise Bailey:

And in the, so according to the language, it looks like they have to have account numbers with both fuel and electricity. Is that the case if they're just applying for fuel?

0:15:47.220 --> 0:16:5.580

Richard Giddings:

If they're applying for fuel, and they also pay for electricity, then yes. If they're applying for fuel, and there other utilities are included in their rent, then the answer would be no. So it's only for households that are basically, basically applying for and paying for both.

0:16:6.910 --> 0:16:7.550

Denise Bailey:

Thank you, Richard.

0:16:8.310 --> 0:16:12.260

Richard Giddings:

You're welcome.

Whitney.

0:16:17.130 --> 0:17:52.350

Whitney Cassell:

Yes. Hi, I'm Whitney Cassell. I'm the fuel and utility coordinator at CVOEO, and my comment pertains to verification of income. Um, the reference is 2908, Part 2, specifically to income that is a self employment, or unearned and maybe sporadic income, such as help from a family member or someone who does a jobs. The documentation requirements for self employment appears to be that that seasonal

fuel assistance would require income taxes for the previous year. And my concern with using that for crisis fuel is that it doesn't capture the last 30 days of income, which is the requirement for crisis fuel. Umm. And the secondary to that is, our clients would have a very difficult time with maybe some of the proposed documentation of a note from that family member, deposits of money into their accounts, if they are getting money from maybe an odd job or collecting bottles. There's not the paper trail for that. So we're, you know, the comment is in regards to what could be used as sufficient and accurate income documentation for those sporadic income sources.

0:17:57.830 --> 0:18:54.740

Richard Giddings:

Just need unmute myself. So it was one of the findings we had in our audit that required us to no longer accept self-declared income. And as part of that, we tried to think of folks that are self employed, right. And typically if you're self employed, you might have a tax return if you've, if it's a year-round business, or if you file it that way. But for other folks, we also allow for them to provide us with a self-declared statement and then some proof that backs up that support, whether it's Quick Books or an Excel spreadsheet, or one person I know has provided us with bank statements that shows us the deposits that were made going in. You make a good point Whitney, and I wrote it down here for the 30 days that you need for crisis. And I'll have to look at that a little closer cause I don't have an answer to that one right now, but I will. I will look at that.

Linda?

0:18:57.230 --> 0:19:27.80

Linda Anderson:

Umm, so I'd like to piggyback on what Travis said. Linda Anderson with Capstone Community Action. Umm, I want to emphasize that what Travis raised were certainly issues that we have discussed. Uh. A couple of clarifying questions regarding points that Denise made, one around identification, you noted that umm they need to be known to the system. When you say system, is that the CAP system that's serving them or the state Access system? So that's the first question that we have.

0:19:26.370 --> 0:19:40.140

Richard Giddings:

The state Access system. I can, I can answer that one. It's the state Access system because that keeps a history of all folks that have applied. And we did provide a list, and if you don't have that I can, of all the different forms of identification that would be acceptable.

0:19:41.70 --> 0:20:24.730

Linda Anderson:

Perfect. Thank you. I believe we do have it. I just wanted to clarify if it was our system or state system. And then back to Denise's second point around the account numbers. I recognize, I certainly understand why you're asking for that. My question again, I would ask that some consideration and thought, maybe additional thought, be brought around if somebody's applying for fuel only, even if they're paying for their own electric, if we are not paying for it, or if they're applying for electric only, and we're not helping them with their fuel, why both numbers are necessary?

0:20:24.390 --> 0:20:44.490

Richard Giddings:

Fair enough. Fair enough comment. One of the things I'll say is, one of the reporting requirements that we have to report on is the total household energy burden to the feds, which takes a look at what a person consumes as far as heating product but also their electric; how much electricity the household is using.

0:20:44.990 --> 0:20:45.270

Linda Anderson:

Okay.

0:20:47.740 --> 0:20:51.790

Richard Giddings:

So the actual name is, total energy burden. I think it's how the feds word it.

0:20:54.580 --> 0:20:54.960

Linda Anderson:

Thank you.

0:20:56.380 --> 0:21:0.360

Richard Giddings:

You're welcome. I didn't mean to cut you off Linda. So if you had one more, I didn't mean to stop you.

0:21:0.910 --> 0:21:2.150

Linda Anderson:

No, that was it. Thank you.

0:21:2.830 --> 0:21:5.50

Richard Giddings:

Okay. Barrie?

0:21:8.390 --> 0:21:44.560

Barrie Brigham:

Hi, Richard. This is Barrie Brigham, and I wanted to dovetail onto Denise's question about the definitions of a living unit. When you were talking about the permanent structures, and one of the items in the definitions is containing a bathroom or kitchen specific to that living unit. There is no mention, and I don't know if this is deliberate or not, as to whether they are operational.

0:21:49.830 --> 0:21:50.760

Richard Giddings:

Thank you, Barrie.

0:21:49.490 --> 0:21:51.460

Barrie Brigham:

Thanks.

0:21:51.170 --> 0:21:53.310

Richard Giddings:

I'm gonna make a note of that. Yeah, I will . . . note of that.

0:21:55.230 --> 0:22:4.740

Philip Back:

Can you ask her, what her, like, what are her opinions, or why she thinks that's important?

0:22:4.750 --> 0:22:11.380

Richard Giddings:

Barrie, I don't know if you heard Philip. He was wondering, could you share with you why, either way, why you think that's important or not important?

0:22:12.160 --> 0:23:16.900

Barrie Brigham:

Well, I think it's important to clarify from a worker point of view. Is I feel that lots of questions, umm, dealing with the past rules, and one of the things saying that that living unit had to have a kitchen, had to have a bathroom, and people would say, well, what if it doesn't work. And what constitutes, umm, a bathroom? What constitutes a

kitchen? And because those weren't clearly defined as operative or not, they created confusion with the workers. But it also, on the client side, created more leeway. So if they had a bathroom and it wasn't working at this point in time, are you going to count that as a permanent living unit? Does, does that make sense for . . . ?

0:23:16.530 --> 0:23:17.250

Richard Giddings:

It does, Barrie.

0:23:16.910 --> 0:23:36.260

Barrie Brigham:

Cause I'm looking at it from both points of view, and on one hand I'm like, well, you know, yeah, maybe you should be detailing whether it's operational or not. But then from the other point of view, on the client side, it is potentially problematic.

0:23:39.490 --> 0:23:40.130

Richard Giddings:

Thank you, Barrie.

0:23:39.900 --> 0:23:41.160

Barrie Brigham:

Thank you.

0:23:50.780 --> 0:24:13.780

Richard Giddings:

Are there any other additional comments that folks would like to make? Barrie?

0:24:15.30 --> 0:25:1.750

Barrie Brigham:

Yeah, sorry about that. I'm, I'm looking through, I've got notes all over the place. And I wanted to ask, and this is more a curiosity kind of thing than a comment on the rules. Umm, well actually, one thing on the rules themselves, excluded living arrangements under 2904. I don't see, and maybe I'm missing it, any mention of Airbnb's or B&B's. Are those going to be excluded or, umm, considered to be not excluded living units?

0:25:4.440 --> 0:25:18.810

Richard Giddings:

Umm. Barrie, I'm gonna, I'm gonna write that down. I need to get back my, my gut reaction say that they're excluded, but I need to look at it since I don't have it open in front of me. So I'll make a note of it and we will comment back on that.

0:25:19.660 --> 0:25:23.70

Barrie Brigham:

Okay. And I just and this was the one I have.

0:25:22.70 --> 0:25:22.990

Richard Giddings:

2904.

0:25:24.520 --> 0:25:25.40

Barrie Brigham:

Oh, I'm sorry.

0:25:25.720 --> 0:25:29.30

Richard Giddings:

No. I'm sorry, Barrie. I, I was just repeating the number 2904.

0:25:31.40 --> 0:26:10.290

Barrie Brigham:

And then the, the last thing I wanted to ask about, and it's just more curiosity than anything. The, under the 2914, the calculation of benefits, and you're making references to tables that sound like they're going to be moved into procedures. You know the percentage of poverty, the heat cost tables, etc. And what I'm wondering is, whether you're going to be allowing room within the proposed rules for any potential benefit restructuring?

0:26:13.650 --> 0:26:43.710

Richard Giddings:

As of right now, we're just looking to move the tables into the procedures, which will give us the flexibility as we update them, to leave the rule the same in reference back over to it. But you make a valid point that should we, then decide to make changes to our benefit structure, umm within that, you know we would only need to do it within a table and reference back. Umm, the rule would stay the same.

0:26:46.420 --> 0:26:46.880

Barrie Brigham:

Thank you.

0:26:47.690 --> 0:26:48.330

Richard Giddings:

You're welcome.

0:26:55.930 --> 0:27:0.650

Philip Back:

But we have, like, hotels and motels, but we weren't thinking

0:27:0.840 --> 0:27:15.650

Richard Giddings:

Yeah, she did a good job of, I mean, that's just one we kind of missed. So, okay. Other questions? I don't wanna, don't want anyone to feel like they can't ask questions.

0:27:14.960 --> 0:27:35.130

Denise Bailey:

Richard. Denise Bailey from Capstone. Just to follow up on where I started with on federal versus state. So we did discuss a little bit section 3104B under crisis fuel, umm, that the application must be in person. Is that federal or state, that requirement?

0:27:34.790 --> 0:28:47.390

Richard Giddings:

Our, our rule has been that it was required to be a face-to-face interview previously, even if looking at the old rules. And then there was an exception allowed for folks that met a certain criteria. Umm, since the pandemic though, we have allowed our Community Action Programs the flexibility to manage it to the best of their needs. One of the challenges that has come up, but folks have, have addressed it, is that we need to make sure that our Community Action Programs are open so people can come in and apply. And sometimes that may mean, like a satellite office might only have one person there. The person can still apply, and that person will get it to an eligibility crisis, eligibility worker to then process. So we have been able to address that through that. We liked having the ability to allow the executive directors some flexibility around that, but it is one of the things that we just need to look at carefully. Umm, because I believe our federal partners think that folks should be coming into the office to apply for the, not this just this assistance, but this and other assistance.

0:28:49.400 --> 0:28:50.0

Denise Bailey:

Thank you, Richard.

0:28:50.890 --> 0:30:39.440

Richard Giddings:

You're welcome. Are there other questions?

Okay, we want to be perfectly clear that we are still open for more questions if folks have them. We also, I just wanna echo because I just looked it up quickly as I was umm looking, we are also still taking public comment that can be filed before December 27th, and those can be sent to me if you have additional public comment that you would like us to consider. We would definitely like to still get that from folks related to these two proposed rules: our seasonal, seasonal fuel rules as well as our crisis program rules.

I think the, I've been to a couple public meetings, and I think what we're supposed to do is to leave this microphone open, for at least another 11 minutes would bring us to an hour. So that if folks did have additional comment, they could offer it. If folks are done, and they're good with the comment, they can also go. Someone else might dial in and have something to add, so we don't want to cut anyone short. Umm. But I wanna make sure everybody who's on the phone has had a chance to at least offer some, some comments and thoughts to us, to be able to look at. And if anyone else calls in or sends in written comment, we will certainly consider that. Travis?

0:30:41.200 --> 0:30:51.940

Travis Poulin:

Since I don't have my camera up, I just wanted to thank you for this opportunity, and then I'm going to exit the meeting. And I will think of you for the next 11 minutes sitting there staring at your camera.

0:30:53.620 --> 0:31:57.610

Richard Giddings:

Thank you, Travis.

Hi Barrie. Go ahead.

0:31:59.190 --> 0:32:34.140

Barrie Brigham:

Hi. I just want to say thank you for giving me the link to take part in this. And it was something I anticipated sometime back that I was going to have an opportunity to do. And then I thought I wouldn't and I did. And I do. And I appreciate you. Yeah, I know, I see Philip going, "What is she saying?" Umm. Anyways, I appreciate you taking the time to listen to my questions, and I'm going to sign off and have a good rest of your day.

0:32:35.230 --> 0:32:36.140

Richard Giddings:

Thank you, Barrie.

0:32:36.950 --> 0:32:37.990

Barrie Brigham:

Thanks. Bye.

0:37:41.90 --> 0:37:42.820

Richard Giddings:

Hey folks. I just want to let you know. So I thought we only had 11 minutes left when I said that, but I think that's just when I started the Teams meeting.

You're, you're welcome, Linda. Thank you again.

So I'm gonna actually leave the recording going up until 2:00 p.m., which could be another 13 minutes. I'm probably just gonna mute my camera just so I don't have to keep looking at myself because it shows how little hair I have. And, umm but we'll still be here, okay?

0:50:36.690 --> 0:50:37.500

Richard Giddings:

Hi folks. Uh, Richard Giddings and Philip Back here. And we are now at 2:00 o'clock. And we are going to wrap up the public input for the seasonal fuel and crisis fuel proposed rules. We still are accepting comment, written comment until December 27th, which can be sent to me at richardgiddings—richard.giddings@vermont.gov. Thank you. Bye.



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Agency of Human Services

To: Legislative Committee on Administrative Rulemaking (LCAR); and Secretary of State
From: Department for Children and Families
Re: Proposed Crisis Fuel Assistance Rules – 23P046
Date: January 24, 2024

The Department for Children and Families filed proposed Crisis Fuel Assistance Rules and Seasonal Fuel Assistance Rules (23P045) with the Secretary of State on November 2, 2023. A public hearing was held for both proposed rules on December 19, 2023. No written public comments were received within the seven days following the hearing. This memo only addresses comments made about the proposed Crisis Fuel Assistance Rules at the public hearing.

In response to those comments, the Department made the following changes to the proposed rule:

- Proposed rule 3102(c)(3)(ii) – added two exceptions to this statement: “A household’s total gross income shall be calculated using Seasonal Fuel Assistance Rules 2910–2912.” New proposed rule 3102(c)(3)(ii)(A) states: “Income must be calculated based only on income actually received by the household in the 30 days before the application is submitted, regardless of the source of income.” And new proposed rule 3102(c)(3)(ii)(B) states: “Income tax forms shall not be used to calculate income.”
- Proposed rule 3107(b) – replaced “Subject to Seasonal Fuel Assistance Rule 2908(c)(1), self-declaration of income by the applicant is not an acceptable method of verification,” with “A person’s self-declaration of income, by itself, shall not be an acceptable method of verification, and an applicant must provide any business-related or income-related document requested by the Department or the crisis worker to verify income.”

Summary of Comments and the Department’s Response

At the public hearing, comments were made by the Champlain Valley Office of Economic Opportunity, Capstone Community Action, and a retired Department employee. A transcript of the hearing is attached. A summary of the comments and the Department’s responses are below.

Comment: A commenter expressed concern about an apparent change to the eligibility provision of the rule. Current rule 2981 allows crisis fuel assistance if “there is an extenuating *or* unpredictable circumstance.” Proposed rule 3102(c)(6) allows for such assistance if there are “unforeseen extenuating circumstances.” The commenter stated that he has “long considered poverty to be an extenuating circumstance” under the current eligibility rule. The commenter is concerned that proposed rule 3102(c)(6) will

eliminate crisis fuel benefits for low-income applicants whose poverty is not “unforeseen.” The commenter recommended adding the word “or” to this proposed rule, between “unforeseen” and “extenuating.”

Response: The Department believes that the commenter’s interpretation of current rule 2981 is incorrect, and no change is needed to proposed rule 3102(c)(6). The proposed rule is not intended to and would not change the meaning of the current rule. Poverty, by itself, is already a separate eligibility requirement under proposed rule 3102(c)(3) and 33 V.S.A. § 2609(a), which require gross household income to be no greater than 200 percent of the federal poverty level. If the commenter’s interpretation were accepted, there would be no need to separately require extenuating or unpredictable circumstances because all applicants who meet the criteria under 3102(c)(3) would automatically meet the criteria under proposed rule 3102(c)(6).

The term “extenuating or unpredictable circumstance” is defined under current rule 2981 as: “death in the family which results in additional expenses to the applicant household; illness of a family member which results in the household incurring additional expenses; an unanticipated work-related expense necessary to preserve employment; extraordinary housing expenses which are required to remove life-threatening hazards or to keep the home habitable; or other unanticipated circumstances or occurrences which could not have been foreseen or prevented by the applicant household.” Poverty appears nowhere in this definition.

Instead, unanticipated adverse occurrences are at the heart of the definition of “extenuating or unpredictable circumstance.” For many low-income households, poverty is not an unanticipated occurrence. This is not to say that poverty cannot make circumstances “extenuating” when other unforeseen occurrences occur. An unexpected death of, or injury to, a wage earner in a low-income household may qualify the household for crisis fuel assistance, whereas the same occurrence in another household may not have the same impact on the household’s ability to heat its living unit. Thus, the unforeseen or unpredictable nature of the occurrence or circumstance is an essential eligibility requirement, separate from the poverty requirement.

Proposed rule 3102(c)(6) uses a more succinct term, “unforeseen extenuating circumstances,” to mean “extenuating or unpredictable circumstance,” as that term is currently defined. If the Department changed the proposed rule to meet the commenter’s interpretation, then virtually every household currently receiving seasonal fuel assistance would automatically be eligible for crisis fuel assistance regardless of its circumstances. This would dramatically increase eligibility, thereby reducing the amount of assistance to low-income households when faced with unexpected financial hardship or a heating emergency. Because seasonal fuel assistance already exists to assist households based solely on their poverty, “unforeseen extenuating circumstances” are a necessary component of the crisis fuel assistance program. Accordingly, the Department does not plan on changing the eligibility requirements in proposed rule 3102(c).

Comment: Commenters expressed concern about proposed rule 3104(g), which is a new provision requiring new applicants to provide proof of identity and lawful immigration status in

order to receive fuel assistance. This proposed rule could prevent otherwise eligible applicants from receiving assistance due to lack of proof.

Response: The Department appreciates that this new provision may unintentionally disqualify some otherwise eligible applicants. However, the Department is already required by federal law to verify an applicant's immigration status before issuing any benefits. The addition of this new provision merely incorporates current practice and federal law into the fuel assistance rules.

Similarly, the addition of the new identity-verification requirement is the result of a federal recommendation made in an audit conducted by the U.S. Department of Health and Human Services, which funds Vermont's fuel assistance program. To ease the burden of this requirement, proposed rule 3104(g) incorporates proposed seasonal fuel assistance rule 2908.1(c), which permits applicants to submit one of two dozen common documents to verify their identities. Furthermore, once an applicant provides proof of identity and immigration status, a notation is made in the Department's database so returning applicants will not be required to provide proof in the future.

Comment: Commenters expressed concern about the revised definition of eligible "living unit" in proposed rule 3101(a)(5). Additionally, proposed rule 3102(c)(3)(i), which incorporates proposed seasonal fuel assistance rule 2904, excludes transient living units, temporary living quarters, and movable structures from the definition of "living unit." These provisions explicitly make applicants ineligible for fuel assistance if they live in trailers, campers, and motor homes. Commenters were concerned that these revisions would lead to more application denials.

Response: Current rule 2911(A) defines "living unit" as a "permanent structure that is used customarily as a domicile," with a kitchen and bathroom. The rule was originally intended to apply only to traditional buildings and was never intended to cover temporary dwellings and structures capable of movement. As more Vermonters have moved into shelters that are not typical buildings, the Department finds it necessary to clarify the definition of "living unit" to avoid confusion and provide clarity to Department staff and the public about the meaning of "permanent structure" in the current rule. The Department consulted fuel assistance rules from other states to ensure its definition of "living unit" was consistent with definitions used across the country.

The Department expressly made applicants ineligible for fuel assistance if they live in structures capable of movement because a movable unit is not a "permanent structure" under the current rule. The requirement for a permanent, unmovable structure ensures that Vermont heating benefits are not used by people whose homes can be moved out of state. Moreover, state and federal law requires the fuel assistance program to refer beneficiaries to the Department's weatherization program, which helps low-income Vermonters make their homes more energy efficient, thereby reducing their need for fuel assistance in the future. The weatherization program assists building owners to make their living units more energy efficient. Expanding the definition of "living unit" to encompass campers, trailers, and other movable structures would require the Department to refer a class of beneficiaries for weatherization benefits they are categorically ineligible for.

Furthermore, unless a beneficiary uses firewood or wood pellets, fuel benefits are distributed to certified fuel dealers who credit the accounts of beneficiaries. These dealers do not deliver fuel to structures with small fuel tanks, such as campers and trailers. Expanding the definition of “living unit” to include movable structures would create a class of beneficiaries who have no certified fuel dealer to deliver fuel. However, the proposed rules permit the Department to provide fuel assistance to people living in a non-traditional building if they convert their movable structure into a permanent structure that meets the definition of living unit.

Comment: A commenter expressed concern that the definition of “living unit,” which requires bathroom and kitchen facilities specific to the unit, does not indicate whether these facilities must be operational or functional. This lack of clarity may lead to inconsistent results where some applicants with non-operational facilities are granted assistance while others are denied. However, the commenter declined to recommend a specific change.

Response: After carefully considering the commenter’s concern about “operational” or “functional” bathroom and kitchen facilities, the Department declines to change the definition of “living unit.” As indicated before, the need for clarification of this definition arises from a shortage of permanent housing in the state and the rise of nontraditional housing, such as people living in campers and trailers. This has led to more applicants seeking fuel assistance for nontraditional structures to which certified fuel dealers will not deliver fuel. The housing shortage has also led increased discussions about whether certain structures meet the definition of “living unit.”

The Department believes that adding a qualifier, such as “operational” or “functional,” will only shift the focus of inquiry without providing the clarity necessary to lower the number of disputes. Instead of questioning whether a space is a bathroom facility, the focus will become whether a space—that could theoretically be used as a bathroom—is operational.

The Department believes that amending the language requiring bathroom and kitchen facilities will have unintended consequences. By requiring an “operational” kitchen, for example, an otherwise eligible applicant for fuel assistance could be disqualified if her water or electricity was shut off due to nonpayment. Requiring functional facilities in this situation could exacerbate the hardship of someone who is already struggling to pay utility bills. Accordingly, the Department declines to add a functionality requirement which could result in the disqualification of otherwise qualified and needy applicants.

Likewise, the Department considered and rejected the idea of expressly specifying that bathroom and kitchen facilities do not need to be operational. Such an amendment would likely result in the approval of benefits to applicants living in structures that do not meet the historical definition of living unit. Any amendment would be intended to add clarity, not increase eligibility. If the rule specifically allowed for nonfunctional facilities, then a room could become an eligible living unit simply because it has a broken stove or a sink unconnected to running water.

If there is already confusion about what constitutes a bathroom or kitchen, expressly disclaiming any functionality requirement will only lead to further disputes over

whether a unit has any bathroom and kitchen facilities. Instead, the Department believes that questionable facilities should continue to be assessed on a case-by-case basis. Otherwise, nonfunctional facilities will become de facto nonexistent facilities, thereby dramatically increasing eligibility.

The Department looked to fuel rules in other states to see how this issue is addressed elsewhere. Some states do not mention kitchens or bathrooms in their definitions of living units. Fuel programs in states that require living units to have bathrooms and kitchen do not specify whether those facilities must be operational. Instead, those rules clearly indicate what kinds of units do not qualify as living units. The Department followed this example when it drafted proposed seasonal fuel rule 2904, expanding the number of nontraditional living situations that do not qualify for fuel assistance. As a result of this expanded legal research, the Department believes it is appropriate to add “sheds” to the list of ineligible living units under proposed seasonal fuel rule 2904(a)(5), which is incorporated into the proposed crisis fuel rules under rule 3102(c)(3)(i).

Comment: Commenters expressed concern about a new provision in proposed rule 3104(m) requiring applicants to provide the names and account numbers for both their fuel supplier and electricity provider. The commenters questioned the need to add this new requirement, particularly if an applicant is only seeking one form of energy assistance.

Response: This new provision was added to increase administrative efficiency. The Department generally pays fuel suppliers directly on behalf of beneficiaries, but this payment is delayed when the Department does not know who provides fuel to a beneficiary or if the beneficiary has multiple accounts with a fuel supplier. Requiring applicants to provide this information speeds up the distribution of benefits and reduces the administrative costs of fuel suppliers and the Department. Furthermore, the federal government requires the Department to report beneficiaries’ total energy consumption, from fuel suppliers and electricity providers. Requiring account numbers permits the Department to quickly acquire the necessary information from utility providers so the Department can comply with its reporting requirements.

Comment: A commenter expressed concern about a new provision in proposed rule 3107(b) that proscribes applicant declarations as a permitted method of income verification. The commenter was concerned that another common method of verifying income, using yearly income-tax forms, would disqualify otherwise eligible applicants for crisis fuel assistance. Because income eligibility is based only on income actually received in the 30 days before application, the commenter was particularly concerned that self-employed applicants would be unable to prove their income diminished in the past 30 days based on tax returns from the prior year.

Response: Current rule 2984 makes clear that only income actually received in the past 30 days is counted when determining eligibility for crisis fuel assistance. Accordingly, the Department has historically instructed staff not to use tax forms when calculating income for self-employed applicants. The Department agrees with the commenter that the proposed rule does not adequately address the situation described, and a lack of clarity in the proposed rule could disqualify otherwise eligible self-employed applicants.

As a result, the Department has added two exceptions to proposed rule 3102(c)(3)(ii), which states: “A household’s total gross income shall be calculated using Seasonal Fuel Assistance Rules 2910–2912.” New proposed rule 3102(c)(3)(ii)(A) states: “Income must be calculated based only on income actually received by the household in the 30 days before the application is submitted, regardless of the source of income.” And new proposed rule 3102(c)(3)(ii)(B) states: “Income tax forms shall not be used to calculate income.”

Proposed rule 3107(b), which prohibits applicants from self declaring their income, is a new provision prompted by a federal audit of the Department’s fuel assistance program. The proposed rule is intended to ensure that household income is accurately reported. Failure to implement this requirement could jeopardize federal funding of the program in the future. However, the proposed rule references proposed seasonal fuel assistance rule 2908(c)(1), which addresses income verification when income tax forms unavailable. In response to the commenter’s concern about using tax returns to verify income, the Department is replacing the language in proposed rule 3107(b) with: “A person’s self-declaration of income, by itself, shall not be an acceptable method of verification, and an applicant must provide any business-related or income-related document requested by the Department or the crisis worker to verify income.” This new language, which omits any reference to tax forms, allows for verification of income using any type of receipt or business record used by self-employed applicants to document income. This amendment gives applicants the ability to submit different types of records to prove income depending on an applicant’s individual circumstances.

Comment: Commenters expressed concern about the continued requirement for in-person applications for crisis fuel assistance, except in extenuating circumstances such as illness or disability. Proposed rule 3104(b) is virtually the same as current rule 2983, which was temporarily relaxed during the pandemic to allow everyone to apply by telephone. Community Action Agencies recommend that the rule be changed to allow for telephonic and virtual applications even in the absence of extenuating circumstances. Commenters expressed that Community Action Agencies worked more efficiently with telephonic applications during the pandemic. Commenters assert that allowing for more telephonic applications will result in fewer parking problems and reduce the spread of winter respiratory diseases, even if there is no longer a pandemic.

Response: After carefully considering the commenters’ request, the Department declines to change the current practice requiring in-person applications as stated in proposed rule 3104(b). Permitting more telephonic applications has resulted in staff at some Community Action Agencies working remotely on a full-time basis. This has caused hardship for applicants who have gone to their local agency office to find it closed during regular business hours. Requiring in-person applications, except in limited circumstances, also ensures that signed papers and documentary evidence are promptly given to the agencies and the Department. When applications are made on the phone, there is a significant delay in receiving signed applications, which are returned through the mail. Further delays occur when the returned applications are missing information, or the agencies require applicants to supply additional information. In-person applications also allow local agencies to respond more quickly to applicants’ individual circumstances and emergencies.

Finally, in-person applications have been required for crisis fuel assistance since the program began in 1996. The U.S. Department of Health and Human Services (HHS), which administers the federal funding for this program, is aware of and approves of this historical practice. The in-person application requirement is reflected in Vermont's state plan, which is submitted annually to HHS. The Department is concerned that making changes to the state plan, that are not prompted by HHS, may result in funding delays or administrative complications. Accordingly, despite some administrative conveniences experienced during the pandemic, the Department believes the historic pre-pandemic practice should continue so that applicants can continue receiving prompt in-person services in times of heating crisis. Given the need to exchange papers during a crisis to ensure prompt assistance, and a preference for in-person assistance generally, the Department declines to make any changes to proposed rule 3104(b).

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JENNEY SAMUELSON
SECRETARY

TODD W. DALOZ
DEPUTY SECRETARY

STATE OF VERMONT
AGENCY OF HUMAN SERVICES

MEMORANDUM

TO: Sarah Copeland Hanzas, Secretary of State

FROM: Jenney Samuelson, Secretary, Agency of Human Services

A handwritten signature in black ink, appearing to be 'Jenney Samuelson', written over the 'FROM:' line.

DATE: January 31, 2023

SUBJECT: Signatory Authority for Purposes of Authorizing Administrative Rules

I hereby designate Deputy Secretary of Human Services Todd W. Daloz as signatory to fulfill the duties of the Secretary of the Agency of Human Services as the adopting authority for administrative rules as required by Vermont's Administrative Procedure Act, 3. V.S.A § 801 et seq.

Cc: Todd W. Daloz