This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF AGRICULTURE
Food and Nutrition Service
7 CFR Part 246
RIN 0584–AE04

Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Exclusion of Combat Pay From WIC Income Eligibility Determinations

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

ACTION: Final rule.

SUMMARY: This final rule incorporates into the regulations governing the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) a statutory provision set forth in Section 734(b) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2010 (Pub. L. 111–80). The provision excludes combat pay from inclusion in the WIC income eligibility determination for deployed service members. It also makes conforming nomenclature changes throughout part 246 of WIC regulations to include the name change for what was formerly known as the Food Stamp Program to its new name—the Supplemental Nutrition Assistance Program (SNAP), as set forth in the Food, Conservation and Energy Act of 2008 (Pub. L. 111–246).

DATES: Effective Date: This rule is effective July 18, 2011.

FOR FURTHER INFORMATION CONTACT: Debra R. Whitford, Director, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 520, Alexandria, Virginia 22302; (703) 305–2746; e-mail: Debbie.Whitford@fns.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

Combat Pay Exclusion

Section 734(b) of Public Law 111–80, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2010 (the Act), enacted on October 21, 2009, amended Section 17(d)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1766(d)(2)) to exclude from the WIC income eligibility determination, combat pay that is received by or from a member of the United States (U.S.) Armed Services that is received in addition to basic pay as a result of the service member’s deployment or service in a designated combat zone. In addition, the pay must not have been received prior to serving in a combat zone. Combat pay includes any additional pay received pursuant to Chapter 5 of Title 37 of the United States Code, or otherwise designated by the Secretary to be appropriate for exclusion as combat pay.

This provision was effective on October 21, 2009. On November 5, 2009, the Food and Nutrition Service directed WIC State and local agencies to implement this income exclusion immediately. This final rule amends 7 CFR 246.7, Certification of Participants, to reflect that combat pay is excluded from the WIC income eligibility determination process.

Food Stamp Program Name Change

Section 4001 of Public Law 110–246, the Food, Conservation, and Energy Act of 2008 (FCEA), which was enacted on June 18, 2008, amended and renamed the Food Stamp Act of 1977, 7 U.S.C. 2001, et seq., as the Food and Nutrition Act of 2008. FCEA changed the name of the program from the “Food Stamp Program” to the “Supplemental Nutrition Assistance Program” or “SNAP”. This change in name reflects the fact that participants no longer receive stamps or coupons to make food purchases.

Additionally, the new name reflects a focus on the nutritional aspect of the program. SNAP not only provides food assistance to low-income people, but also promotes nutrition to improve their health and well-being.

Accordingly, this rule makes the following name changes in 7 CFR part 246 to make the Federal WIC regulations consistent with the name changes set forth in the FCEA:

<table>
<thead>
<tr>
<th>Previous name</th>
<th>New name</th>
</tr>
</thead>
<tbody>
<tr>
<td>“Food Stamp Program”</td>
<td>“Supplemental Nutrition Assistance Program (SNAP)”</td>
</tr>
<tr>
<td>“Food Stamp Act of 1977”</td>
<td>“SNAP”</td>
</tr>
<tr>
<td>“food stamp”</td>
<td>“SNAP benefits or benefits.”</td>
</tr>
<tr>
<td>“food coupons”</td>
<td>“SNAP benefits or benefits.”</td>
</tr>
<tr>
<td>“Food stamps”</td>
<td>“SNAP benefits or benefits.”</td>
</tr>
</tbody>
</table>

Notice and Comment

In accordance with the Secretary’s Statement of Policy (36 FR 13804), it is found and determined with good cause that it is unnecessary to engage in the Notice and Comment provisions of 5 U.S.C. 553 normally required before the adoption of final regulations in an FNS-sponsored program. The exclusion of combat pay from consideration as income under the WIC Program is implemented in this final rule in accordance with Section 734(b) of the Act. The nondiscretionary nature of Section 734(b) means that notice and comment would serve no useful purpose in the promulgation of these regulations. The name changes related to SNAP are technical amendments designed to make the WIC portion of 7 CFR consistent with its SNAP counterparts.

Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This final rule has been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget.

Regulatory Impact Analysis

This rule has been designated as significant by the Office of Management and Budget; therefore, a Regulatory
Impact Analysis (RIA) is required, as summarized below. The complete RIA is available upon request from the Food and Nutrition Service by contacting Debra R. Whitford, Director, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 520, Alexandria, Virginia 22302; (703) 305–2746; e-mail Debbie.Whitford@fns.usda.gov.

Need for Action

The final rule amends the WIC regulations to implement the exclusion of combat pay from income eligibility determination as mandated in Public Law 111–80, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010, and changes references to the Food Stamp Program to its new name—the Supplemental Nutrition Assistance Program.

Benefits

The benefit of this provision will extend eligibility to deployed service members who might otherwise not be eligible due to the inclusion of combat pay when determining income eligibility to receive WIC benefits.

Costs

The provisions of this final rule will have an insignificant effect upon the administrative burden to the Department or to State agencies. Applicants who were previously found ineligible due to being over the WIC income eligibility limits may now be found eligible when combat pay is excluded from the income eligibility determination. This, in turn, may increase the number of persons served, resulting in a small cost increase to the WIC Program. We estimate that the rule will increase WIC costs by less than $1 million per year, or about $4 million from FY 2010 when State agencies began implementing the combat pay exclusion through FY 2014.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires Agencies to analyze the impact of rulemaking on small entities and consider alternatives that would minimize any significant impacts on a substantial number of small entities. Pursuant to that review, it is certified that this rule would not have a significant impact on small entities.

The provisions of this rulemaking are applicable to all State and local agencies that administer the WIC Program.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulations on State, local, and Tribal governments and the private sector. Under Section 202 of the UMRA, FNS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures by State, local, or Tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, Section 205 of the UMRA generally requires FNS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This final rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local or Tribal governments or the private sector of $100 million or more in any one year. Thus, the rule is not subject to the requirements of Sections 202 and 205 of the UMRA.

Executive Order 12372

WIC is listed in the Catalog of Federal Domestic Assistance under No. 10.557. For the reasons set forth in the final rule at 7 CFR part 3015, Subpart V and related Notice (48 FR 29115, June 24, 1983), this program is included in the scope of Executive Order 12372 that requires intergovernmental consultation with State and local officials.

Federalism Summary Impact Statement

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency’s considerations in terms of the three categories of regulations (see 1512–1, “Regulatory Decision Making Requirements.”) After a careful review of the rule’s intent and provisions, FNS has determined that this rule is not intended to limit or reduce in any way the ability of protected classes of individuals to receive benefits in the WIC Program. Federal WIC regulations specifically prohibit State agencies that administer the WIC Program, and their cooperators, from engaging in actions that discriminate against any individual in any of the protected classes (see 7 CFR 246.8 for the nondiscrimination policy in the WIC Program). Where State agencies have options, and they choose to implement a certain provision, they must implement it in such a way that it complies with the WIC Program regulations set forth at § 246.8. This rule simply excludes combat pay given to United States Armed Service members that is received in addition to basic pay as a result of the service member’s deployment or service in a designated combat zone from income eligibility determination for WIC, and codifies the name change for what was formerly known as the Food Stamp Program to its new name—SNAP.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

E.O. 13175 requires Federal agencies to consult and coordinate with Tribes
PART 246—SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC)

1. The authority citation for part 246 continues to read as follows:

2. Part 246 of this chapter is amended as follows:
   a. Remove the words “Food Stamp Program” and “the Food Stamp Program” and add in their place, the word “SNAP” each time they appear in this part;
   b. Remove the words “Food Stamp Act of 1977” and add in their place, the words “Food and Nutrition Act of 2008” each time they appear in this part;
   c. Remove the words “food stamp” and add in their place, the word “SNAP” each time it appears in this part; and
   d. Remove the words “food stamps” wherever they appear and add in their place, the words “SNAP benefits”.

3. In §246.2, a definition of Supplemental Nutrition Assistance Program (SNAP) is added, to read as follows:

§246.2 Definitions.

-- Supplemental Nutrition Assistance Program (SNAP), formerly known as the Food Stamp Program, is the program authorized by the Food and Nutrition Act of 2008 (7 U.S.C. 2011, et. seq.), in which eligible households receive benefits that can be used to purchase food items from authorized retail stores and farmers’ markets.

4. In §246.7, a new paragraph (d)(2)(iv)(D)(35) is added, to read as follows:

§246.7 Certification of participants.

(d) * * * *

(2) * * *

(iv) * * *

(D) * * *

(35) Combat pay received by the household member under Chapter 5 of Title 37 or as otherwise designated by the Secretary.

Dated: June 8, 2011.

Kevin Concannon,
Under Secretary, Food, Nutrition, and Consumer Services.

BILLING CODE 3410–30–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–0010; Airspace Docket No. 11–AAL–1]

Amendment of Federal Airports; Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; delay of effective date.

SUMMARY: This action changes the effective date for the amendment of all Anchorage, AK, Federal Airports that are affected by the relocation of the Anchorage VHF Omnidirectional Range (VOR) navigation aid. The FAA is taking this action due to a failed flight inspection.

DATES: The effective date of the rule published on April 28, 2011 (76 FR 23687), is delayed until further notice.


SUPPLEMENTARY INFORMATION:

Background

Federal Register Document FAA–2011–0010, Airspace Docket No. 11–AAL–1, published in the Federal Register on April 28, 2011 (76 FR 23687), proposed the amendment of all Anchorage Federal Airports affected by the relocation of the Anchorage VOR navigation aid. Although satisfactory flight inspection reports were filed in April 2011, these reports were in error. These Federal airways are being impacted by flight inspection delays due to the relocation of the navigation aid, thereby delaying the effective date of June 30, 2011, until further notice. This will allow better coordination for the chartering of the airspace.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation (1) is not a significant regulatory action under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated