

STATE OF VERMONT  
AGENCY OF HUMAN SERVICES

DCF

Department for Children and Families

<sup>DS</sup>  
MG

BULLETIN NO.: 23-20

FROM: Miranda Gray, Deputy Commissioner  
Economic Services Division

DATE: 2/2/24

SUBJECT: Crisis Fuel Assistance Rules

CHANGES ADOPTED EFFECTIVE 05/01/24

STATUS

       Proposed Rule  
  X   Final Proposed Rule  
       Final Rule

RULE REFERENCE(S):

2900–2989

Summary of Proposed Rule

The proposed rules would repeal the fuel rules, referenced above, and replace them with two new sets of rules: one for seasonal fuel assistance (2900–2927) and one for crisis fuel assistance (3100–3113). This bulletin addresses the new crisis fuel rules.

The new rules clarify existing rules and incorporate recent federal guidance and significant statutory changes that have occurred since the rules were last amended in 2009. To conform to statutory changes, the new rules eliminate asset and resource requirements for households and change the method for calculating income to mirror the new seasonal fuel rules. The new rules also incorporate many of the new requirements added to the seasonal fuel rules, such as the requirement for applicants to produce identification, provide social security numbers, and supply immigration documentation if they are not U.S. citizens.

The new rules limit the number of benefits a household may receive during a heating season in order to comply with a change in state law. A new rule was also added to conform to federal LIHEAP requirements, which provides for expedited assistance when a household is at imminent risk of losing heat and a household member with a medical condition is unable to relocate to a heated space.

*Specific Changes to Rule Sections*

Former Section	New Section	Explanation
2900–2971.2	2900–2927	<b>Fuel Program.</b> These rules are repealed, and the new rules replacing them are discussed in ESD Bulletin B23-18.
2980 <sup>1</sup>	3100	<b>Crisis Fuel Assistance.</b> Introductory section reorganized with several provisions moved to other rules. Purpose-of-rules provision remains unchanged along with provision permitting DCF to contract with community organizations to provide services. Legal citations added. Provision regarding household membership and eligibility moved to new rule 3102. Provision regarding application period moved to new rule 3104. Definition of “director” repealed in favor of the word “Department,” which is defined in new rule 3101.
N/A	3101	<b>Definitions.</b> New rule has many identical definitions from revised rule 2901, but terms not used in crisis fuel rules are omitted.
2981	3102	<b>Eligibility, Crisis Fuel.</b> Title slightly reworded. Rule reorganized and clarified to show all requirements for crisis fuel assistance. New eligibility requirements added: qualified immigrant status or U.S. citizenship; Vermont resident must reside in living unit during winter; and specific circumstances constituting emergency, such as low fuel supply and utility disconnect notice. Provision regarding household membership and income moved here from old rule 2980, and rule amended to generally follow seasonal rules for both factors, except for self-employment income. Requirement for extenuating circumstances was dramatically shortened and simplified to give crisis workers more discretion to determine what circumstances constitute unforeseen emergencies. Provision making benefits available to certain renters moved from old rule 2983 to new rule 3102. References to referrals and future crisis prevention were moved from old rule 2981 to new rule 3110.
2982	N/A	<b>Expedited Fuel Benefits, Crisis Households.</b> Rule repealed as duplicative of old rule 2954. This rule, which only addresses seasonal fuel applications, despite title, is unnecessary in crisis fuel rules. A rule to expedite crisis fuel applications is unnecessary because such applications are already processed expeditiously, and criteria to expedite applications are generally the same criteria to obtain crisis fuel assistance in the first place.
N/A	3103	<b>Life-Threatening Home Heating Crisis.</b> New rule added, to conform to federal LIHEAP requirements, provides for expedited assistance when household is at imminent risk of losing heat and a member with a medical condition is unable to relocate to a heated space.

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<sup>1</sup> The original fuel rules do not contain numbers 2972–2979.

2983	3104 3105	<p><b>Crisis Fuel Application.</b> Old rule divided into two new rules. New rule 3104 keeps the same title and provisions of first four paragraphs of old rule. Rule now specifies that applications for crisis assistance will only be accepted during fuel season. Rule also keeps provisions from last paragraph addressing consequences for failing to provide all necessary information and documents. All these provisions remain mostly unchanged. Provision from old rule, making benefits available to certain renters, was moved to new rule 3102. New provisions added requiring applicants to produce identification, provide social security numbers, give fuel supplier's name and account number, and supply immigration documentation if they are not U.S. citizens. Application periods from old rule 2980 were moved here and remain unchanged, though DCF now has discretion to change deadlines based on available funding.</p> <p>Remainder of old rule 2983 used to create new rule 3105, "Crisis Fuel After-Hours Assistance." New rule specifies that after-hours applications are only accepted during fuel season, but DCF may limit dates and times it accepts applications. New rule specifies after-hours assistance available only if there is no heat at all. Applicants must still show crisis was unavoidable, but DCF now has greater discretion to imposes other limitations on after-hours assistance.</p>
2984	N/A	<p><b>Income, Crisis Fuel.</b> Repealed. Amendments to 33 V.S.A. §§ 2604(a) and 2609(a) require income for all fuel assistance to be counted in same way it is counted under 3SquaresVT, eliminating need for separate crisis fuel income rule. Income now addressed in new crisis eligibility rule 3102.</p>
2985	N/A	<p><b>Resources, Crisis Fuel.</b> Repealed. Amendment to 33 V.S.A. § 2609(a) eliminated resources as eligibility criteria.</p>
N/A	3106	<p><b>Crisis Fuel Heating Season.</b> New rule added clarifying length of season, which differs from heating season in seasonal fuel rules. Rule allows Commissioner to adjust length of season as needed.</p>
2986	3107	<p><b>Verification, Crisis Fuel.</b> Title slightly reworded. Provision requiring income verification mostly unchanged. Provision regarding resources removed due to changes to 33 V.S.A. § 2609(a), eliminating resource requirement. Provision regarding failure to produce verification removed as duplicative of new rule 3104. Assistance may no longer be granted to first-time applicants before verification of identification and immigration status, even in urgent circumstances, as a result of federal monitoring report. Federal LIHEAP requirements also led to another new provision requiring medical verification in cases of life-threatening home heating crisis. Other verification requirements unchanged.</p>
2987	3108	<p><b>Crisis Fuel Benefits.</b> Rule reorganized, simplified, and divided into three new rules. New rule 3108 keeps old title and describes types</p>

	3109 3110	<p>of crisis fuel benefits available, including fuel delivery and overdue-bill payments. These provisions remain unchanged. New provision added, in response to federal LIHEAP guidelines, now requires “reasonable efforts” to resolve heating emergencies within 48 hours. Another new provision clarifies there is no right to any particular form of assistance.</p> <p>Provision limiting number of benefits issued to household during heating season was moved to new rule 3109, titled “Crisis Fuel Limits,” and amended to conform to 33 V.S.A. § 2609(b), which limits benefits to once or twice per season. New rule also clarifies that benefits may only be issued if funding is available, regardless of eligibility.</p> <p>Provisions about referrals were significantly cut, simplified, and moved to new rule 3110, “Crisis Fuel Referrals.” Appropriate referrals still required to prevent future emergencies, but lengthy examples of programs removed from rule. Weatherization referral remains unchanged, and new rule clarifies that applicants must follow up on referrals to qualify for future assistance.</p>
2988	3112	<p><b>Appeal Rights, Crisis Fuel.</b> Rule rewritten and retitled, “Crisis Fuel Notice and Appeal Rights,” to provide timelines and clarify each step required to appeal a crisis benefits decision. Crisis fuel worker must now provide written notice of appeal rights. Rule further clarifies that director of Community Action Agency hears first appeal, not DCF. DCF must now approve appeal denials before applicant or beneficiary may request a fair hearing with Human Services Board. Rule specifies that failure to follow procedure will result in appeal denial. Other procedures in rule are basically unchanged.</p>
2989	3111	<p><b>Recoupment, Crisis Fuel.</b> Rule retitled “Recoupment.” Old rule 2989 is nearly identical to old seasonal fuel recoupment rule 2904. Simplified language from new seasonal recoupment rule 2925 was used in this new crisis fuel rule to ensure DCF can recoup any overpayment using any lawful means, including methods already listed in existing rule 2989. Time limits remain unchanged. Provision requiring disqualification was added to match seasonal fuel rule.</p>
N/A	3113	<p><b>Severability.</b> New legal housekeeping rule added to prevent inadvertent repeal of crisis fuel rules by courts.</p>

## Rulemaking Process

### ***A. Informal Public Input Process***

1. The proposed rules were filed with the Interagency Committee on Administrative Rules (ICAR) on September 11, 2023, and approved at ICAR’s meeting on October 9, 2023.
2. The proposed rules were filed with the Secretary of State’s Office on November 2, 2023.
3. The Secretary of State published a notice of rulemaking on its website and in newspapers on November 8, 2023, and November 16, 2023, respectively.
4. The Department posted the proposed rule on its website, <https://dcf.vermont.gov/esd/laws-rules/proposed>, and notified advocates, subscribers, and members of the public of the proposed rule.

### ***B. Formal Notice and Comment Period***

1. An in-person and virtual public hearing was held on December 19, 2023, in Waterbury, VT. Public comments were made by the Champlain Valley Office of Economic Opportunity, Capstone Community Action, and a retired Department employee. The deadline for written public comment was December 27, 2023, but none was received. A summary of the comments and the Department’s responses are below.
2. The anticipated effective date of the rule is on or about May 1, 2024. This date is subject to change.

To get more information about the Administrative Procedures Act and the rules applicable to state rulemaking, visit the website of the Office of the Vermont Secretary of State at: <https://sos.vermont.gov/secretary-of-state-services/apa-rules>. If you have general questions about the rulemaking process, email [sos.statutoryfilings@vermont.gov](mailto:sos.statutoryfilings@vermont.gov) or call 802-828-3700.

For information on upcoming hearings before the Legislative Committee on Administrative Rules (LCAR), visit the Vermont Legislature’s website at: <https://legislature.vermont.gov/committee/detail/2024/39> or call 828-2228.

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**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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Crisis Fuel Assistance

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**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\(a\)](#).



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Definitions

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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.

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Crisis Fuel Eligibility

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**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;

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Crisis Fuel Eligibility

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- 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.

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Life-Threatening Home Heating Crisis

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**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).

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Crisis Fuel Application

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**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:

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Crisis Fuel Application

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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.

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Crisis Fuel After-Hours Assistance

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**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.

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Crisis Fuel After-Hours Assistance

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- 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.

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Crisis Fuel Heating Season

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**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.

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Crisis Fuel Verification

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**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.

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Crisis Fuel Verification

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- 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.

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Crisis Fuel Benefits

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**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.

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Crisis Fuel Benefits

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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.

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Crisis Fuel Limits

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**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.

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Crisis Fuel Referrals

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**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.

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Recoupment

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**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.

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Crisis Fuel Notice and Appeal Rights

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**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.

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Crisis Fuel Notice and Appeal Rights

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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.

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Crisis Fuel Notice and Appeal Rights

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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.

