Advocacy Suggests Improvements to the USDA's Food and Nutrition Service's Proposed Rule on Providing Regulatory Flexibility in the SNAP Program

On June 4, 2019, the Office of Advocacy sent a letter to the U.S. Department of Agriculture's Food and Nutrition Service (FNS) suggesting that the agency improve the regulatory analysis contained in the Providing Regulatory Flexibility for Retailers in the Supplemental Nutrition Assistance Program (SNAP). A copy of Advocacy's comment letter may be accessed at https://advocacy.sba.gov/.

- On April 5, 2019, United States Department of Agriculture's Food and Nutrition Service (FNS) published in the Federal Register a proposed rule titled: Providing Regulatory Flexibility for Retailers in the Supplemental Nutrition Assistance Program (SNAP) (84 Fed. Reg. 13555).

- In the rulemaking FNS proposes to make changes to a 2016 final rule. FNS proposes to modify the definition of the term ''variety'' as it pertains to the stocking requirements for SNAP authorized retail food stores. The agency believes that the proposed changes would provide retailers with more flexibility in meeting the enhanced stocking requirements of the 2016 final rule. FNS states that the new requirements will require SNAP authorized retailers to carry six fewer items to their stock.

- While generally supportive of the changes contained in the proposed rule, small SNAP food retail businesses contacted Advocacy suggesting that FNS should improve it regulatory analyses as they could not reasonable calculate the costs of complying with the proposed rule.

- Advocacy commended FNS for increasing the flexibilities contained in the proposed rule, but Advocacy suggested that FNS should improve its regulatory impact analysis under Executive Order 12866 and its initial regulatory flexibility analysis under the Regulatory Flexibility Act (RFA). This would allow affected small SNAP authorized food retailers to comply with the proposed rule.

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