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October 24, 2019

The Honorable Sonny Perdue  
Secretary  
U.S. Department of Agriculture  
1400 Independence Avenue, SW  
Washington DC 20250

Dear Secretary Perdue:

We write to request an extension of the comment period for the Department of Agriculture's (the Department) recently released informational analysis on the potential effect of its proposed rule, *Revision of Categorical Eligibility in the Supplemental Nutrition Assistance Program (SNAP)*, on federal school meal programs.

In multiple letters to the Department, the House Committee on Education and Labor (the Committee) requested that this information be included as part of the Regulatory Impact Analysis (RIA) of the proposed rule to give the American public the entire 60-day period to comment.<sup>1</sup> The Department did not provide the requested information. The Department, instead, published this information separately almost three months after the request and reopened the comment period for only 14 days. Given the importance and the magnitude of the proposed rule's effect on school meal access and eligibility, fourteen days is an inadequate amount of time for public comment.

On July 22, 2019, two days before the rule was published, the Department informed Committee staff of its estimate that more than 500,000 children would lose their automatic eligibility for free school meals as a result of the rule. On the eve of appearing at a hearing before the Committee, however, the Department released the analysis indicating that 982,000 children would be affected, almost twice the estimate it initially provided.<sup>2</sup> Additionally, during his testimony

<sup>1</sup> Letter from Robert C. "Bobby" Scott, Chairman, U.S. House of Representatives Educ. and Labor Comm., to Sonny Purdue, Sec'y of Agric. (July 26, 2019); and letter from Robert C. "Bobby" Scott, Chairman of the U.S. House of Representatives Educ. and Labor Comm., to Sonny Purdue, Sec'y of Agric. (Sept. 10, 2019).

<sup>2</sup> U.S. Dep't of Agric., Proposed Rule: Revision of Categorical Eligibility in the Supplemental Nutrition Assistance Program (RIN 0584-AE62) – Potential impacts of Participants in the National School Lunch Program and School Breakfast Program 3 (2019), <https://www.regulations.gov/document?D=FNS-2018-0037-16046>.

before our Committee on October 16, 2019, Deputy Under Secretary Brandon Lipps was asked how many children are expected to fall through the cracks and no longer receive free school meals for which they are financially eligible due to the increased barriers of submitting an individual application as opposed to being directly certified; this question remains unanswered. As Chairs of the Committee on Education and Labor and Subcommittee on Civil Rights and Human Services which oversee child nutrition programs, we maintain that a rule that puts nearly one million children at risk of losing automatic free school meal eligibility should not be taken lightly. In fact, such a proposal merits oversight.

In addition, Section 6(a)(3)(C) of Executive Order 12866 requires the Department to include in its RIA the “costs anticipated from the regulatory action” including adverse effects on health.<sup>3</sup> Despite multiple questions from Committee members during the hearing on the proposed rule, the Department failed to explain why it decided that removing automatic access to free school meals for nearly one million children is not an adverse effect that should have been included in the RIA during the initial comment period. The Department’s failure to include the analysis in its RIA deprived the public of the opportunity to provide meaningful comments on the effects of the proposed rule during the 60-day comment period. It is the position of the Committee that the opportunity for the public to comment not be short-changed due to the Department’s initial failure to include the required analysis with the proposed rule.

The Department should be consistent and give the public the time to review the recently released analysis in order to appropriately comment on the proposal. We request that the Department extend the public comment period to 60 days, given the large number of children this rule would affect and the omission of analysis of this critical effect from the RIA as initially published.

We look forward to hearing from the Department by October 30, 2019, with your decision regarding this request.

Sincerely,



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**ROBERT C. “BOBBY” SCOTT**  
Chair  
Committee on Education and Labor



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**SUZANNE BONAMICI**  
Chair  
Subcommittee on Civil Rights and Human  
Services

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<sup>3</sup> Exec. Order No. 12,866, 3 C.F.R. § 649 (1994), *reprinted as amended in* 5 U.S.C. § 601 (2012).