

Streamlining Program Requirements and Improving Integrity in the Summer Food Service Program (SFSP)

Final Rule

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United States Department of Agriculture

Background

- Rescission of SFSP memoranda
- Opportunity to request State and sponsor waivers
- FNS approval of **230 waivers** for Summer 2019



Background cont.

- Congress provided USDA with emergency COVID-19 waiver authority
- KKFA partially expanded the authority
- This rulemaking is authorized under the **standard** NSLA authority



Implementation Timeline

- Effective date: October 1, 2022.
- Compliance date: Compliance with the provisions of this rule must begin May 1, 2023.

Overview: Clarify and Simplify

- Streamline to facilitate compliance
- Strengthen program integrity
- Improve program operations
- Reduce burden for SFSP sponsors and State agencies



Rescinded Waivers and Authority to Waive Regulations

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Waivers

- Area Eligibility of Closed Enrolled Sites
- First-Week Site Visit Exemptions
- Meal Service Time Flexibilities
- Offer Versus Serve at Non-SFA Sites

Closed Enrolled Sites

Previous Requirement	Waiver	Final Rule
Sites must use income eligibility applications to determine eligibility for free or reduced-price (F/RP) meals	Sites may establish eligibility based on area data of site location.	Sites may establish eligibility based on income eligibility applications <i>or</i> area data of site location

Initial Site Visits (Formerly First Week Site Visits)

Previous Requirement	Waiver	Final Rule
Sponsors must visit all sites at least once during the first week of operations	Exempts sponsors in good standing and for sites that had operated successfully the previous year	Requires a visit during the first two weeks for new sites, sites with operational problems in the prior year, and any site where the SA determines a visit is needed SA must establish criteria for operational problems

Initial Site Visits (Formerly First Week Site Visits)

Previous Requirement	Final Rule
Sponsors must conduct a food service review of each site during its first 4 weeks of operation	Allows food service reviews to occur at the same time as the initial site visit

Meal Service Times

Previous Requirement	Waiver	Final Rule
Require 3 hours between beginning one meal service and beginning of next	Eliminates all meal service time restrictions	Removes most meal service time restrictions
Require 4 hours between the service of a lunch and supper when no snack is served		Requires minimum of 1 hour between end of one meal service and beginning of next meal service (does not apply to residential camps)
Require supper to begin no later than 7 pm and not extend beyond 8 pm		

Meal Service Times

Need for Clarification and Flexibility

Breakfast meals served after lunch and claimed as a reimbursable breakfast

Need for flexibilities to conduct meal service in event of unforeseen circumstances

Final Rule

Clarifies requirements for breakfast

Allows reimbursement of meals served outside of approved meal service time if an unanticipated event occurs

Offer Versus Serve

Previous Requirement	Waiver	Final Rule
Allow children to refuse one or more food items at school food authority (SFA) sites	Extends OVS to non-SFA sponsors	Allows OVS only at SFA sites as required by the statute
Require use of NSLP meal pattern	Allows OVS under SFSP meal pattern	Allows OVS under SFSP meal pattern

Authority to Waive Statute and Regulations

This rule codifies USDA's authority to waive **statutory** and **regulatory** requirements for all Child Nutrition Programs and:

- Describes the process of requesting a waiver
- Allows the State agency the discretion to deny a waiver request
- Describes monitoring requirements for States
- Describes Data reporting requirements



Streamlining Program Requirements



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Streamlining Program Requirements

- Application procedures for new sponsors
- Demonstration of financial and administrative capability
- Performance standards for evaluating sponsor viability, capability, and accountability



Application Procedures for New Sponsors

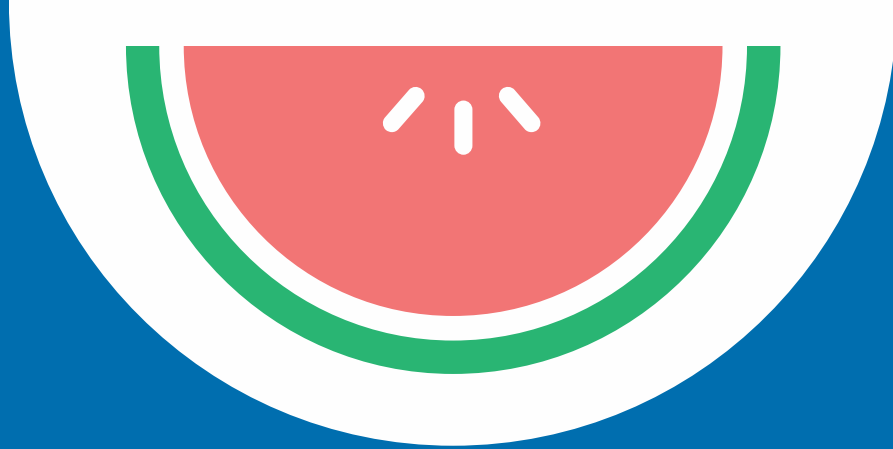
Previous Requirement	Policy Guidance	Final Rule
Includes different requirements for new and experienced sponsors applying for participation in the SFSP	Allows new CACFP or NSLP applicant sponsors in good standing to apply for participation in SFSP using streamlined procedures for experienced sponsors	Allows new CACFP or NSLP applicant sponsors in good standing to apply for participation in SFSP using streamlined procedures for experienced sponsors

Demonstration of Financial and Administrative Capability

Previous Requirement	Policy Guidance	Final Rule
Requires sponsors to demonstrate financial and administrative capability prior to approval to operate the program	SFAs and CACFP institutions in good standing do not have to submit further evidence of financial and administrative capability	SFAs and CACFP institutions in good standing do not have to submit further evidence of financial and administrative capability State agencies establish information sharing processes

Performance Standards for Evaluating Sponsor Viability, Capability, and Accountability

Previous Requirement	Final Rule
Requires sponsors to demonstrate financial and administrative capability prior to approval to operate the program	<p>Clarifies existing requirements and provides guidance to State agencies when evaluating sponsor applications</p> <p>Requires submission of a management plan addressing performance standards that correspond to CACFP:</p> <ul style="list-style-type: none">• Financial viability and financial management• Administrative capability• Program accountability



Facilitating Compliance with Program Monitoring Requirements

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Facilitating Compliance with Monitoring Requirements

- Initial site visits (Formerly First Week Site Visits)
- Approved level of meals for vended sites
- Statistical monitoring procedures
- Site selection
- Meal claim validation



Approved Level of Meals for Vended Sites

Previous Requirement	Policy Guidance	Final Rule
<p>Must establish “site cap” of maximum number of children’s meals served</p> <p>Allows adjustment only during site reviews or sponsor’s documentation</p> <p>Must disallow payments for meals served over the site cap at vended sites</p>	<p>May request adjustment to site cap at any time prior to submitting claim for reimbursement</p>	<p>May request adjustment to site cap at any time prior to submitting claim for reimbursement</p> <p>Provides guidance for determining site caps for sites lacking accurate historical records</p>

Statistical Monitoring Procedures, Site Selection

Previous Requirement	Final Rule
Set the frequency and number of required sponsor and site reviews	<p>Removes option for statistical monitoring</p> <p>Retains requirement to conduct reviews of at least 10 percent of each sponsor's sites, or one site, whichever number is greater</p> <p>State agency must develop criteria for site selection</p>

Site Selection Criteria for State Agency Sponsor Reviews

- Maximum number of meals site approved to serve
- Method of obtaining meals
- Time since last State agency review
- Type of site (i.e., open, closed enrolled, or camp)
- Type of physical location
- Rural designation
- Sponsor's affiliation

Meal Claim Validation

Previous Requirements	Final Rule
Requires validation of 100 percent of all meal claims from all sites under reviewed sponsor	<p>Creates new method for conducting meal claim validations</p> <p>Must initially validate a small sample of claims</p> <p>Requires validation of additional claims only if sufficient error is detected</p>

Stepped Increase for Meal Claim Validations

Step 1: Validate 100 percent of meal claims for the sites being reviewed

If error rate is less than 5 percent, the review is complete

If error rate is 5 percent or greater, move to step 2

Step 2: Expand validation to 25 percent of the sponsor's total sites

If error rate is less than 5 percent, the review is complete

If error rate is 5 percent or greater, move to step 3

Stepped Increase for Meal Claim Validations

cont.

Step 3: Expand validation to 50 percent of the sponsor's total sites

If error rate is less than 5 percent, the review is complete

If error rate is 5 percent or greater, move to step 4

Step 4: Expand validation to 100 percent of the sponsor's total sites

If error rate is 5 percent or greater, the review is complete



Providing a Customer-Service Friendly Meal Service



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Providing a Customer-Service Friendly Meal Service cont.

- Meal Service Times
- Off-Site Consumption of Food Items
- Offer versus Serve



Off-Site Consumption of Food Items

Previous Requirement	Policy Guidance	Final Rule
Must maintain children on site while meals are consumed	Allows children to take certain food items (i.e., one fruit, vegetable, or grain items) off-site for later consumption	Allows children to take certain food items (i.e., one fruit, vegetable, or grain items) off-site for later consumption



Clarification of Program Requirements

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Clarification of Program Requirements

cont.

- Reimbursement Claims for Meals Served Away from Approved Locations
- Timeline for Reimbursements to Sponsors
- Requirements for Media Release
- Annual Verification of Tax-Exempt Status

Reimbursement Claims for Meals Served Away from Approved Locations

Previous Requirement	Policy Guidance	Final Rule
Meals are reimbursable only when served at sites approved by the State agency	<p>Allows meals served away from the approved site location during a field trip</p> <p>Sponsors must notify the State agency</p>	<p>Allow meals served away from the approved site location during a field trip</p> <p>Sponsors must notify SA</p> <p>SA has discretion to set limits and disallow meals that they were not notified of in advance</p> <p>Sponsors would have to be capable of meeting all Program requirements on field trips</p> <p>Sponsors of open sites must continue operation at approved site location while field trip occurs</p>

Timeline for Reimbursement to Sponsors

Previous Requirement	Final Rule
SAAs must forward reimbursements to sponsors within 45 calendar days of receiving a valid claim	If the claim is determined to be potentially unlawful, the SA must still disapprove the claim within 30 calendar days with an explanation of the reason for disapproval
SA must return the incomplete or invalid claims within 30 calendar days, with an explanation of the reason for disapproval	SAAs may be exempt from the 45 calendar day timeframe for final action if more time is needed to complete a thorough examination
SA must take final action within 45 calendar days of receipt of revised claim	SAAs must notify FNSRO that they are taking the exemption

Requirements for Media Release

Previous Requirement	Policy Guidance	Final Rule
All sponsors must annually announce the availability of free meals in the media	SAs may complete media release requirement on behalf of all sponsors of open sites in the State through an all-inclusive Statewide media release	<p>Allow SAs discretion to issue a media release on behalf of all sponsors operating SFSP sites in the State, including camps</p> <p>Sponsors of camps and closed enrolled sites must <i>only</i> notify participants or enrolled children of the availability of free meals</p> <p>Renames the section, “Notification to the Community”</p>

Annual Verification of Tax-Exempt Status

Previous Requirement	Policy Guidance	Final Rule
Sponsors must be public or private nonprofit	State agencies must annually review a private nonprofit sponsor's tax-exempt status	Codify the requirement for annual confirmation of tax-exempt status at the time of application



Important Definitions



Important Definitions in the SFSP

- Self-Preparation and Vended Sites
- Roles and Responsibilities of Site Supervisors
- Unaffiliated Sites
- Unanticipated School Closure
- Nonprofit Food Service, Nonprofit Food Service Account, and Net Cash Resources



Self-Preparation Versus Vended Sites

- Adds definitions for “self-preparation site” and “vended site”
- Amends requirements at sections 225.6(c)(2)(viii) and 225.6(c)(3)(v) to require a summary of how meals will be obtained at each site as part of the sponsor application

Roles and Responsibilities of Site Supervisors

The rule adds the following definition:

- ***Site supervisor.*** The individual on site for the duration of the meal service, who has been trained by the sponsor, and is responsible for all administrative and management activities at a site including, but not limited to: maintaining documentation of meal deliveries, ensuring that all meals served are safe, and maintaining accurate point of service meal counts

Unaffiliated Sites

The rule adds the following definition:

- ***Unaffiliated site.*** A site that is legally distinct from the sponsor

Unanticipated School Closure

This rule adds a definition of *unanticipated school closure*

- Aligns with statutory requirements and existing regulatory provisions
- Allows regulatory text to be streamlined and remove duplicative and repetitive references throughout the regulations
- Recent flexibilities were permitted under special, limited-time emergency legislation

Nonprofit Food Service, Nonprofit Food Service Account, Net Cash Resources

The rule adds definitions of *nonprofit food service*, *nonprofit food service account*, and *net cash resources*

- Aligns with the terms already defined under the National School Lunch Program



Miscellaneous



Miscellaneous

- Authority to Waive Statute and Regulations
- Duration of Eligibility
- Methods of Providing Training
- Meal preparation facility reviews



Duration of Eligibility

This rule amends the duration of eligibility based on school and census data from three years to five years

- The NSLA authorizes the use of school and census data to establish area eligibility in SFSP
- Eligibility must be reassessed every five years but may be reassessed more frequently.

Methods of Providing Training

This rule amends regulations to include the option for training to be conducted via the internet

- Capability to provide mandatory trainings via the internet
- Variety of training opportunities and formats
- Accommodate varying sponsor needs
- Minimize the time and expense incurred by the State agency

Meal Preparation Facility Reviews

- Requirement is intended to verify that meals being served are prepared, stored, and transported in compliance with local health and safety standards
- SAs are required to complete the facility review as a part of the vended sponsor review
- Clarifies that each facility should be reviewed at least one time within the appropriate review cycle for each vended sponsor



Thank you!

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