

Montana School Nutrition Programs
Notice of Proposed Summer Food Service Program Regulation Waiver Request

The OPI School Nutrition Programs submitted a waiver to the USDA Mountain Plains Regional Office (MPRO) for the program requirements listed below (1-4). For more information, please contact Christine Emerson at cemerson@mt.gov.

First Week Site Visits

We are requesting the discretion to waive the first week site visit requirements for sites that have operated successfully in the previous year, for SFA sponsors in good standing, and for CACFP sponsors in good standing.

7 CFR 225.15(d)(2) Sponsors shall visit each of their sites at least once during the first week of operation under the Program and shall promptly take such actions as are necessary to correct any deficiencies.

Offer Versus Serve:

We are requesting a waiver to extend Offer Versus Serve to non-school food authority sponsors and to allow OVS with use of both the NSLP and SFSP meal patterns.

Section 13(f)(7) of the NSLA OFFER VERSUS SERVE.—A school food authority participating as a service institution may permit a child to refuse one or more items of a meal that the child does not intend to consume, under rules that the school uses for school meals programs. A refusal of an offered food item shall not affect the amount of payments made under this section to a school for the meal.

42 USC 1761(f)(7) OFFER VERSUS SERVE.—A school food authority participating as a service institution may permit a child to refuse one or more items of a meal that the child does not intend to consume, under rules that the school uses for school meals programs. A refusal of an offered food item shall not affect the amount of payments made under this section to a school for the meal.

7 CFR 225.16(f)(1)(ii) Offer versus serve. School food authorities that are Program sponsors may permit a child to refuse one or more items that the child does not intend to eat. The school food authority must apply this “offer versus serve” option under the rules followed for the National School Lunch Program, as described in part 210 of this chapter. The reimbursements to school food authorities for Program meals served under the “offer versus serve” must not be reduced because children choose not to take all components of the meals that are offered.

Meal Time Restrictions:

We are requesting to waive the meal time restriction on the amount of time that must elapse between meal services, the time restrictions associated with supper, and the amount of time limited for each meal/snack service.

7 CFR 225.16(c)(1) Three hours must elapse between the beginning of one meal service, including snacks, and the beginning of another, except that 4 hours must elapse between the service of a lunch and supper when no snack is served between lunch and supper. The service of supper shall begin no later than 7 p.m., unless the State agency has granted a waiver of this requirement due to extenuating circumstances. These waivers shall be granted only when the State agency and the sponsor ensure that special arrangements shall be made to monitor these sites. In no case may the service of supper extend beyond 8 p.m. The time restrictions in this paragraph shall not apply to residential camps.

7 CFR 225.16(c)(2) The duration of the meal service shall be limited to two hours for lunch or supper and one hour for all other meals.

Use of Area Eligibility with Closed, Enrolled Sites:

We are requesting a waiver to extend the use of area eligibility to closed enrolled sites operating in needy areas where 50% or more of the children residing in the area are eligible for free and reduced price meals under the National School Lunch Program and School Breakfast Program, thereby waiving the requirement that individual eligibility determinations be made by submitting applications.

Section 13(a)(1)(A)(i)(III) of the NSLA an area— (aa) for which the program food service site documents the eligibility of enrolled children through the collection of income eligibility statements from the families of enrolled children or other means; and (bb) at least 50 percent of the children enrolled at the program food service site meet the income standards for free or reduced price school meals under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

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7 CFR 225.15(f) Application for free Program meals—(1) Purpose of application form. The application is used to determine the eligibility of children attending camps and the eligibility of sites that are not open sites as defined in paragraph (a) of the definition of “areas in which poor economic conditions exist”, in §225.2. In these situations, parents or guardians of children enrolled in camps or these other sites must be given application forms to provide information described in paragraph (f)(2) or (f)(3) of this section, as applicable. Applications are not necessary if other information sources are available and can be used to determine eligibility of individual children in camps or sites.

Meal Service During COVID-19 Outbreak:

We are requesting a waiver to support schools and communities in providing meals to children in areas experiencing school closures in response to COVID-19. The waiver will allow for an alternative grab-and-go meal service that will limit participants' interaction and proximity to other participants and therefore decrease the risk of COVID-19 exposure.

Section 13(c)(1) of the Richard B. Russell National School Lunch Act (NSLA) (42 U.S.C. 1761(c)(1)), codified at 7 CFR 225.6(d)(1)(iv), authorizes the provision of Summer Food Service Program (SFSP) or National School Lunch Program Seamless Summer Option (SSO) meal service to children during unanticipated school closures.

Based on the exceptional circumstances relating to the declaration of a public health emergency due to COVID-19 by the U.S. Department of Health and Human Services, effective January 27, 2020, and pursuant to the waiver authority granted at section 12(l) of the National School Lunch Act (NSLA), the Food and Nutrition Service (FNS) is providing additional flexibilities in an effort to address concerns regarding the loss of meals for low-income children.

FNS has the ability to waive the requirements for serving meals in a congregate setting 7 CFR 225.6(e)(15) and the requirement to serve meals at a non-school site for COVID-19-related SFSP or SSO meal service operations.

Suspend Area Eligibility Requirements

The Montana Office of Public Instruction (OPI) seeks to temporarily suspend area eligibility requirements for SFAs and COs operating the Summer Food Service Program (SFSP) through June 30, 2020 and/or upon expiration of the federally and/or state declared public health emergency, whichever is earlier.

Montana OPI seeks an extension of the suspension of area eligibility requirements for SFAs and COs operating the Summer Food Service Program (SFSP) through August 31st, 2020.

Those requirements found under 7 CFR 225.6(c)(2)(G): "For open sites and restricted open sites, documentation supporting the eligibility of each site as serving an area in which poor economic conditions exist."

New SFSP Sponsor Review Waiver

The Montana Office of Public Instruction (OPI) seeks to temporarily suspend the New SFSP Sponsor Review Requirement for any Montana OPI approved School Food Authority (SFA) who meets all of the following requirements:

- In good standing;
- Current School Nutrition Programs sponsor who is new to the Summer Food Service Program (SFSP) for unanticipated school closures;
- Approved by MT OPI to operate the SFSP during mandated unanticipated school closure, either through Governor's orders or local school board vote to declare emergency school closures under [MCA 20-9-806](#), due to the COVID-19 outbreak;
- Are only operating the Summer Food Service Program for unanticipated school closures between the dates of March 16th through June 30th, 2020.



7 CFR 225.7(d)(2)(ii)(A) Conduct a review of every new sponsor at least once during the first year of operation.

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To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

- (1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;
- (2) fax: (202) 690-7442; or
- (3) email: program.intake@usda.gov.

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