USDA United States Department of Agriculture | Food and Nutrition Service | Mountain Plains Region | 1244 Speer Boulevard, Suite 903 Denver, Colorado 80204-3585

Reply to Attn of: SFSP-495
SP-04-05

MAR 1 0 2004

Subject: Seamless Summer Feeding Waiver Prototype Application and Guidance

To: STATE AGENCY DIRECTORS (Special Nutrition Programs) - Colorado ED, Iowa, Kansas, Missouri ED, Missouri DH, Montana OPI, Montana DPHHS, Nebraska, North Dakota, South Dakota, Utah and Wyoming

Attached are the revised seamless waiver prototype application and the question and answer guidance for Fiscal Year 2004. We have revised these materials based on your comments. For ease of reading, we have highlighted changes from the previous guidance provided in Policy Memorandum SFSP-478/SP 03-15 dated April 10, 2003.

An important clarification addresses permissible times of operation for the waiver. In response to questions about when the seamless waiver may operate throughout the year, we have specified in both documents that the waiver may only operate during times when the Summer Food Service Program (SFSP) would operate in accordance with the SFSP Regulations. These Regulatory provisions are now listed in the prototype application as SFSP provisions that may not be waived in seamless waiver operations (see Part B, Item 2, non-exempted SFSP provisions). To further explain the policy on the times and conditions for the operation of the waiver by year-round schools, we relied on previously issued SFSP policy guidance, including SFSP Policy Memorandum SFSP-372: "Continuous School Calendar" and Year-Round SFSP, dated February 16, 1999.

If you have any questions, please contact my staff at 303-844-0354.

Mary Nelson

DARLENE SANCHEZ
for Regional Director
Special Nutrition Programs

Attachments

Seamless Summer Feeding Waiver
Application Prototype: FY 2004

Part A: Identify School Food Authority (SFA); describe waiver request and special provisions

1. Information about the SFA requesting the waiver

- Name, address, and phone number of responsible SFA official requesting the waiver.
- Optional -- list all child nutrition programs operated by the SFA
- Optional -- explain why the SFA wants to operate the waiver

2. Description of the waiver request

(a) _____ seeks approval under the waiver provisions found in section 12(l) of the Richard B. Russell National School Lunch Act (NSLA) (42 U.S.C. 1760) to operate a Seamless Summer Feeding Waiver in specific locations within its jurisdiction, referred to as *waiver sites.*

(b) The waiver combines features of the National School Lunch Program (NSLP), the School Breakfast Program (SBP), and the Summer Food Service Program (SFSP). The purpose of this waiver is to feed children in low-income areas during the summer months (or during extended breaks of a year-round school schedule). This waiver reduces paperwork and administrative burden that is normally associated with operating all three programs. To accomplish this, _____ requests a waiver of significant portions of the SFSP Federal regulations at 7 CFR Part 225. Specific provisions to be waived are identified in Part B. In lieu of SFSP regulations that are waived, _____ will follow corresponding requirements, where applicable, in the NSLP and SBP regulations at 7 CFR Parts 210 and 220, respectively.

(c) Location and description of waiver sites

Include the following information for each waiver site:

- Name, address, and phone number of site
- Sites operating on a year-round school calendar
- Percent of free/reduced price eligibility for school meals
- Type of site: open, restricted open, closed enrolled, migrant, or camp
- Organization that will operate the site for the SFA
- How meals will be advertised to the community (n/a for enrolled sites or camps)
- For closed enrolled sites only:
    - Identify all sites located in eligible areas
    - Identify data used to qualify each site (school or census data in eligible areas, income eligibility applications in other areas)
    - Explain why the SFA is sponsoring closed sites

- For camps only:
  - Indicate type of camp, residential or non-residential
  - Identify all camps located in eligible areas
  - Explain why the SFA is sponsoring the camp
  - Certify that the camp will only claim reimbursement for children that are determined eligible for free/reduced price meals
- Other information required by the State agency (e.g., estimated number of meals to be served, beginning and ending dates of meal service, days during week that meals will be served, types of meals to be served, etc.)

3. Special Provisions of the Seamless Summer Feeding Waiver

_____ agrees to operate the Seamless Summer Feeding Waiver based on the following special provisions:

(a) General Program Administration and Sponsor Responsibilities
As required in § 225.14(c)(1) of the SFSP regulations, the SFA demonstrates financial and administrative capability for program operations and accepts final responsibility for total Program operations at all sites.

(b) Site Eligibility
The SFA will follow SFSP policy (established in the body of regulations, instructions, handbooks, and other written guidance) to choose waiver sites.

To the greatest extent possible, waiver sites will be located in eligible areas where 50 percent or more of the children qualify for free or reduced price school meals. These sites will be open to the community located in the eligible area, except that in some cases, participation may later be limited for reasons of safety, security, or control.

Schools that operate academic summer school sessions at waiver sites must be open for meals to all children in the area eligible community. Otherwise, schools will be ineligible to participate in the waiver, and meals at such schools will be reimbursed based on the individual student eligibility for free, reduced price, or paid rates.

Year-round schools may operate waiver sites for off-track students, provided that the sites are open to all children in the area eligible community. Meals for on-track students will be reimbursed based on the individual student eligibility for free, reduced price, or paid rates.

The SFA will not claim any meals under the seamless waiver at any site without receiving prior approval from the State agency.

(c) Times of Operation

The SFA will follow the SFSP regulations and policies that specify when the program may operate. These times are:

- May through September for schools operating on a traditional school year calendar;
- Other times during the year for schools operating on a continuous school calendar (i.e., year-round) when all or part of the children are on vacation for at least 15 continuous school days *; and
- October through April for unanticipated school closures. **

* The 15-day requirement is based on the SFSP regulatory definition of a continuous school calendar as one in which a school operates year-round with scheduled breaks lasting at least 15 continuous school days per break. Therefore, SFAs may operate the SFSP or the seamless waiver at year-round schools during breaks lasting 15 continuous school days. However, if it is the policy of the school district to break for shorter periods of time, the State agency may waive the 15-day requirement to accommodate year-round schools with shorter scheduled breaks under certain conditions.

** SFAs may operate the SFSP or the seamless waiver when schools are closed due to natural disasters, major building repairs, court orders relating to school safety or other issues, labor-management disputes, or when approved by the State agency for similar causes (see § 225.6(e)(1)(iii)). However, meals may only be served at non-school sites (see § 225.6(d)(1)(i)-(iv)). Note: year-round schools may respond to unanticipated school closures at any time of the year.

(d) Participant Eligibility

All persons meeting the definition of Children in the SFSP Federal regulations at § 225.2 are eligible to participate. This includes all persons in the community who are 18 years of age and under and (as defined at § 225.2) those persons over age 18 who meet the State agency definition of mentally or physically disabled persons.

(e) Meal Service

The SFA will follow NSLP meal service requirements for lunch or snacks (§ 210.10) and SBP meal service requirements (§ 220.8) for breakfast. With State agency approval, the SFA may serve a supper meal, using applicable NSLP meal service requirements for lunches.

The following provisions apply to meal service at waiver sites:

- Second meals are not reimbursable and may not be claimed;
- Production and menu records will be maintained that show compliance with meal requirements;

- The designated lunch period will be between the hours of 10 a.m. and 2 p.m., unless otherwise exempted by the State agency;
- The SFA may allow offer versus serve meals at waiver sites; and
- Off-site consumption of meals will not be allowed, except as part of a scheduled event such as a planned field trip.

(f) Number and Types of Reimbursable Meals
The number and types of meals will comply with the SFSP requirements at § 225.16(b), as described below:

- All sites except camps or migrant sites:
  With State agency approval, the SFA may serve up to two meals at all sites, except for camps or migrant sites. Meal service may include breakfast, lunch, snack, or supper. The SFA may not claim both lunch and supper meals at the same site on the same day.

- Camps and migrant sites:
  With State agency approval, the SFA may serve up to three meals or two meals and a snack per day.

(g) Free meals for eligible participants
Meals at all approved waiver sites, except camps, must be served free to all children in accordance with § 225.6(e)(4) of the SFSP regulations. Sponsors of camps may charge for the meals served to children who are ineligible to receive free or reduced price school meals.

(h) Claims and Reimbursements
Meals served under the seamless waiver are reimbursable at the "free" rates prescribed by USDA for the NSLP (including snacks) and the SBP. However, meals served at camps that are approved as waiver sites are reimbursable only for children who are eligible for free or reduced price rates for school meals. **Camps participating in the seamless waiver may not claim any meals at the NSLP paid rate for campers who are ineligible for free or reduced price meals.**
Supper meals, if permitted by the State agency, may be claimed at the free rate for NSLP lunches. All lunches and suppers served under this waiver will receive the standard commodity support rate available for the NSLP. Waiver sites that qualify for the severe need breakfast rate will continue to receive this differential.

(i) Monitoring
The SFA will review the meal counting, claiming, and meal pattern compliance within three weeks of starting operations for all new sites and sites operated by non-SFA personnel. At the State agency's option, the SFA does not have to review waiver sites that were reviewed within the last two years and had no significant operational deficiencies.

Edit checks, as outlined in § 210.8 will not be required for food service operations conducted under the waiver.

(j) Additional Reporting/Reviews/Evaluation
The State agency will include sites operated under this waiver in the management review requirements described at 210.18 of the NSLP regulations. If a CRE is conducted of the SFA, at least one waiver site must be visited while it is in operation.

FNS reserves the right to conduct an evaluation of these waiver sites. The evaluation may include periodic special reviews. The SFA agrees to cooperate as necessary, including making all applicable records and operations available for review.

FNS may request additional information for evaluation purposes. In the event that additional information on waiver site operations is required, FNS will allow sufficient time for the State agency and the SFA to comply with the request.

Part B: Specific Regulatory Requirements to be Waived

1. Exempted SFSP Regulations
To operate the Seamless Summer Feeding Waiver, the SFA requests a waiver from the following regulatory provisions in 7 CFR Part 225:
7 CFR 225.3, Administration, entire section
7 CFR 225.4, Program management and administration plan, entire section
7 CFR 225.5, Payments to State agencies and use of Program funds, entire section
7 CFR 225.6, State agency responsibilities, **entire section except subparagraphs in (d) and (e) as noted below**
7 CFR 225.7, Program monitoring and assistance, entire section;
7 CFR 225.8, Records and reports, entire section;
7 CFR 225.9, Program assistance to sponsors, entire section;
7 CFR 225.10, Audits and management evaluations, entire section;
7 CFR 225.11, Corrective action procedures, entire section;
7 CFR 225.12, Claims against sponsors, entire section;
7 CFR 225.13, Appeal procedure, entire section;
7 CFR 225.14, Requirements for sponsor participation, entire section except subparagraphs in (c) and (d) as noted below
7 CFR 225.15, Management responsibilities of sponsor, entire section
7 CFR 225.16, Meal service requirement, entire section except paragraph (b) as noted below
CFR 225.17, Procurement standards, entire section;
7 CFR 225.18, Miscellaneous administrative provision, entire section.

2. Non-exempted SFSP provisions
SFSP regulatory provisions at 7 CFR 225 that remain in force include:
§ 225.1
-- States the general purpose and scope of the SFSP

§ 225.2
-- Provides definitions of terms used in the program

§ 225.6(d)(1)(i)-(iv)
-- Specifies criteria that must be considered by the State agency in approving sites, including the requirement that site to operate during an unanticipated school closure must be non-school sites

§ 225.6(e)(1)(i)-(iii)
-- Specifies the periods of time during which the program may operate as:
- **May through September for children on school vacation**
- **Any time during the year when schools operating on a continuous school calendar schedule breaks for all or part of the children**
- **October through April for unanticipated school closures.**

§ 225.6(e)(4)
-- Requires that sponsors agree to serve meals at no cost.

§ 225.6(e)(7)
-- Requires sponsors to agree to claim reimbursement only for the types of meals agreed upon with the State agency and served without charge to children at approved sites during the approved meal service period. This paragraph also prohibits permanent changes to the serving time of any meal unless approved by the State agency.

§ 225.14(c)(1)
-- Requires that sponsors demonstrate financial and administrative capability to operate the program and requires sponsors to accept final financial and administrative responsibility for the total program operations at all sites.

§ 225.14(c)(2)
-- Requires that sponsors must not have been declared seriously deficient in operating the program.

§ 225.14(c)(3)
-- Requires that sponsors will conduct a regularly scheduled food service for children from areas in which poor economic conditions exist (except for camps).

§ 225.14(d)(2)
-- Requires that meals served in schools must be open to children in the community as well as children enrolled in summer school.

§ 225.16(b)
-- Establishes limits on the number of meals that may be served.

3. NSLP and SBP Regulations
Although the Federal regulations governing the NSLP and the SBP are not exempted under this waiver, some provisions may be difficult to follow for waiver sites. Therefore, FNS will provide technical assistance as necessary to the State agency and the SFA in adapting requirements.

Seamless Summer Feeding Waiver:
Questions and Answers For State Agencies and School Districts

FY 2004 Edition

General

1. Q **What is the seamless waiver?**

A The purpose of the waiver is to encourage more School Food Authorities (SFAs) to provide meals in the summer and other times when school is not in session. The seamless waiver combines features of the National School Lunch Program (NSLP), the School Breakfast Program (SBP), and the Summer Food Service Program (SFSP). By replacing most of the SFSP rules, the waiver reduces paperwork and administrative burden, making it easier for SFAs to feed children in low-income areas during the summer months or during the extended breaks of a year-round school schedule.

2. Q **What organizations may participate in the seamless waiver?**

A Only SFAs may participate in the seamless waiver as sponsors. However, with State agency approval, other non-profit organizations may operate waiver sites under SFA sponsorships.

3. Q **Are there any special provisions for the seamless waiver?**

A Yes. FNS has distributed a Seamless Waiver Prototype Application, which contains the special provisions that the waiver must operate under. **FNS updates this prototype annually if necessary to reflect any changes in policies or procedures governing the seamless waiver. State agencies may use the prototype or a State version of the prototype, provided that the State version contains all required information from the prototype.** Any SFA interested in applying for the waiver should review the current year's prototype or the State version of this waiver application format for detailed information about the waiver.

State Agency Approval of Waiver Applications

4. Q **What are the criteria for SFA participation in the waiver?**

A The SFA must be able to demonstrate administrative capability and financial viability to properly operate any child nutrition program. The State agency should not approve applications from SFAs that are considered to have problems operating either the NSLP or the SFSP, or is determined to be seriously deficient in the administration of the SFSP or the Child and Adult Care Food Program. Previous participation in the SFSP is not a requirement for participating in the Seamless Waiver.

5. Q **Can a State agency deny the waiver application if a school has had problematic CREs in the past or problematic SFSP reviews?**

A The State agency should not approve the application of any SFA that has demonstrated problems operating the NSLP, SFSP, or any other child nutrition program.

6. Q **How should additions or deletions of sites be handled under the waiver?**

A The State agency must approve any additional sites under the waiver. Any changes, including deletions, to the particular sites can be handled as an addendum to the initial approved waiver.

7. Q **Are State agencies required to provide training to SFAs approved to operate this waiver?**

A There is no mandatory training, but FNS encourages State agencies to provide training and technical assistance to SFAs based on their assessment of need for training.

Eligible Sites

8. Q **Can an SFA sponsor a site that is located outside of its district?**

A Yes, with State agency approval.

9. Q **Can an SFA sponsor non-school sites operated by other organizations?**

A Yes.

10. Q **What sites are eligible for participation in the waiver?**

A The SFA should follow SFSP policy in selecting sites under the waiver. The following types of sites are allowed as waiver sites. Eligible sites are school or non-school facilities (buildings or outdoor locations) that are:
Open - located in eligible areas and open to all children through age 18 in the community, including sites in year-round schools;
Restricted open - located in eligible areas and initially open to all children though age 18 in the community but later restricted by the sponsor for security, safety, or control reasons, including sites in year-round schools;
Closed enrolled - located in eligible or non-eligible areas that are limited to a group of enrolled children through age 18, of which at least 50 percent are eligible for free or reduced price school meals (academic summer schools closed to the community are ineligible to participate in the waiver); and
Migrant- primarily serving children through age 18 of migrant families, as certified by a migrant organization.
Camps - residential and non-residential camps that offer regularly scheduled food service as part of an organized program for enrolled children. Only meals served to children through age 18 who are eligible for free or reduced price school meals (based on income eligibility

applications) may be reimbursed.

11. Q **May closed enrolled sites under the seamless waiver located in eligible areas (i.e., those areas where 50 percent or more of the children are eligible for free or reduced price school meals) take advantage of the new SFSP policy allowing closed enrolled sites to qualify for participation based on area data?**

A Yes. Closed enrolled sites that are located in eligible areas may qualify for participation in either the SFSP or the seamless waiver using area data. This policy does not apply to residential or non-residential camps.

12. Q **Can sites qualify for area eligibility for open, restricted open, or closed enrolled sites in eligible areas based on data other than the nearest school's percent of free or reduced price enrollment eligibility for school meals?**

A Yes. The SFA may use census block group data. FNS must approve the use of data from other sources, such as departments of welfare and education and zoning commissions, prior to use. Generally, we prefer that the most current data be used whenever possible, which would be annual school data.

13. Q **Once approved to operate the waiver, must site eligibility be redetermined each year?**

A No. A new sponsor or a new site must use current data to establish eligibility for participation in the seamless waiver, as in the SFSP. Once in the waiver, as in the SFSP, a site may continue to qualify as an eligible open site using the same school data for two more years.

14. Q **Will the fact that schools under Provisions 2 or 3 do not have current eligibility data affect a school's eligibility to participate under the waiver?**

A No. We will accept data from a school site's base year to determine area eligibility. School sites must use the percent of eligible students, not the claiming percentages.

15. Q **Can a SFA limit its sponsorship just to school sites?**

A Yes. However, FNS encourages providing food service at as many sites in the community as possible. A SFA should match its sponsorship of sites with its financial and administrative capabilities. Where feasible, a SFA could enlarge its summer food service to children in the community by sponsoring non-school sites that are operated by other non-profit organizations.

16. Q **Can schools operating an academic summer school, whether private or public, participate in the waiver as closed enrolled sites?**

A No. If the school site provides meals only to enrolled summer school

students, it is not eligible to participate in the waiver. Section 225.14(d)(2) of the SFSP Regulations, which is not waived for seamless summer feeding sites, requires that meal services at academic summer school sites must be open to children in the community.

17. Q **What are the criteria of approvable closed enrolled sites under the seamless summer feeding waiver?**

A An approvable closed enrolled site could include any program for children, other than an academic summer school, provided that at least 50 percent of the enrolled children are eligible for free or reduced price school meals. Examples of closed enrolled sites include recreation programs and enrichment classes or programs. The SFA could sponsor and operate these sites or sponsor sites that are operated by local government, school, or private non-profit organizations.

18. Q **What are the requirements for site applications?**

A The SFSP site application requirements, as described in §225.6(c)(2) and (3) are waived. SFAs must submit the following information for each site:

1 Name and address
2 Indicate if the site operates on a year-round school calendar
3 Free/reduced price data to support site eligibility
4 Type of site
5 Organization to operate the site, if other than the SFA
6 How meals will be advertised to the community (N/A for closed enrolled sites or camps)
7 For closed enrolled sites: whether the sites are located in eligible areas, how it determined that at least 50 percent of the enrolled group of children in a non-eligible area qualify for free/reduced priced school meals, and why it is sponsoring enrolled sites.
8 For camps: whether the camp is residential or non-residential, whether it is located in an eligible area, a statement that only meals served to children who qualify for free/reduced price meals will be claimed for reimbursement, and the reason for sponsoring camps.
9 Other information, as required by the State agency.

19. Q **Can a year-round school with short off-track breaks (e.g., *two weeks*) participate in the waiver?**

A Yes, as long as the school is on a year-round/continuous schedule and two-week breaks are part of the school schedule.

20. Q **Can meals be claimed under the seamless waiver during winter or spring breaks or at other times when school is closed?**

A The policy on times of operation for seamless waiver sites follows the SFSP regulations and written guidance. Schools operating on a traditional school calendar may not serve seamless meals during winter or spring breaks; schools operating on a year-round calendar may serve seamless

waiver meals during any scheduled school break that last at least 15 continuous school days, unless the school district schedules shorter periods of time for vacation breaks. Seamless waiver meals may be served at non-school sites sponsored by the SFA during unanticipated school closures* (see Q&A 21 for an explanation of this term). The times of operation for both SFSP sites and seamless waiver sites are summarized below for schools operating on traditional and year-round calendars.

Times of Operation for Schools on a Traditional School Calendar

- May through September
- October through April for non-school sites that are responding to an unanticipated school closure

Times of Operation for Schools on a Continuous or Year-Round Calendar

- During scheduled breaks that last for at least 15 continuous school days unless the school district has scheduled shorter vacation breaks throughout the year
- Any time during the year for non-school sites that are responding to an unanticipated school closure

21. Q **What is an unanticipated school closure?**

A An unanticipated school closure is defined in the SFSP regulations at § 225.6(e)(1)(iii) as a natural disaster, major building repair, court order relating to school safety or other issues, labor-management dispute, or other similar cause as approved by the State agency. As mandated by the National School Lunch Act, the SFSP regulations (§225.6(d)(1)(iv)) specify that the meals provided during an unanticipated school closure must be served at a non-school site.

Meal Service

22. Q **What are the types and number of meals that may be served and reimbursed under the waiver?**

A The number and types of meals that may be served under the waiver are described in the SFSP regulations at §225.16(b). A maximum of two meals, such as lunch and breakfast, or lunch and a snack, may be served per day to children at all sites, except migrant sites and camps. At migrant sites and camps, a maximum of three meals may be served, such as breakfast, lunch, and a snack. Only migrant sites and camps may be reimbursed for lunch and supper served on the same day. For camps, both residential and non-residential, only the meals served to income eligible children (based on free/reduced price applications) will be reimbursed.

23. Q **What meal pattern/menu planning system is to be used for a supper under the Seamless Waiver, the NSLP lunch or the SFSP**

supper/lunch?

A Any of the options available in the NSLP regulations.

24. Q **Will a-la-carte sales be allowed at the same time that the seamless waiver meals are being served?**

A Yes. The NSLP meal service rules are in effect. However, children should be encouraged to participate in the meal service being offered before they pay for a-la-carte items.

25. Q **Can meals be served on weekends?**

A Yes, with State agency approval. A SFA that plans to serve weekend meals should include this information in its waiver application.

26. Q **Can a school participating under the waiver as an open site serve staggered meal times for community children and school children attending summer school?**

A Yes, but it must be the same meal service (i.e., food served, length of serving time, eating area, etc.).

27. Q **Must a school differentiate between meal counts for on-track (NSLP) and off-track (waiver) students in year-round sites?**

A Yes. Since all off-track students at waiver sites receive free meals, the school must be able to distinguish between them and the on-track students who may be paying reduced rates or paid rates for their meals.

28. Q **Are waiver sites required to get permission from the State agency prior to a field trip?**

A **Only if required by the State agency; there is no Federal requirement in either the NSLP or the SFSP that SFAs must obtain permission prior to serving meals on a field trip.**

Local Level Monitoring

29. Q **When must waiver sites be reviewed by the SFA?**

A SFAs are required, as a condition of operating the waiver, to review within three (3) weeks of starting operation each site that is newly approved to operate the waiver or that is operated by non-SFA personnel. The SFA must review the site's meal counting, claiming, and meal pattern compliance. At the State agency's option, waiver sites that were reviewed within the last two years and had no serious problems do not have to be reviewed by the SFA for the current year.

30. Q **Do SFAs have to conduct edit checks, as required under §210.8 of the NSLP regulations, for waiver sites?**

A No. Edit checks will not be required for the waiver sites during the period of time that the SFA is operating the sites under the seamless waiver rules.

However, SFAs should ensure that meal counts match participation and that claims reflect the number of meals served. During non-waiver periods, the SFA must conduct edit checks outlined in §210.8.

State Level Monitoring

31. Q **Are State agencies required to review waiver sites?**

A Yes. State agencies must review at least one waiver site in operation at all SFAs scheduled for CRE review during the previous School Year (SY) or current SY. This may involve a second visit to the SFA to evaluate the seamless waiver site in operation. For example, the review of waiver sites could be conducted as follows:

CRE review	Waiver site review
SY 2003/2004	summer of 2003 or 2004
SY 2004/2005	summer of 2004 or 2005

State agencies are not required to conduct annual reviews of SFAs that operate under the seamless waiver or any special reviews for SFAs outside the normal CRE review schedule. However, State agencies are encouraged to review waiver sites even if a CRE is not scheduled for that SFA, especially if concerns arise about management of the waiver operations. SMI reviews are not required for waiver sites.

32. Q **Can a CRE be scheduled during the summer to avoid making the second visit to the seamless waiver site?**

A Only if the school is operating the NSLP on a year-round basis.

33. Q **Do findings from waiver sites, reviewed on a CRE, contribute to CRE thresholds?**

A No. Findings from a review of the seamless waiver site should not be incorporated into the CRE report or the annual FNS-640 report; a separate report on these findings can be issued to the SFA as an addendum to the CRE report.

34. Q **How should States review seamless waiver sites when conducted during a CRE?**

A States should determine the best method to evaluate the certification (in closed enrolled sites), meal count, and meal service procedures of the waiver site. Although it is not required, the State agency may choose to validate a claim of the seamless waiver site.

Program Access

35. Q **What can be done to ensure that SFAs operating an academic**

summer school make a concerted effort to attract children from the community who are not attending summer school?

A Both in the approval process and in the review of sites, State agencies should ensure that schools approved as seamless sites make a reasonable effort to advertise the availability of free meals to children in the community who will not be attending summer school.

SFAs applying for the waiver must describe how each site will advertise the availability of meal services to children in the community. The SFA should provide enough detail in its waiver application so the method of advertising meal services to the public can be documented and confirmed later during a review by the State agency or FNS. For example, if the SFA stated that waiver site meals would be advertised in a publication, a copy of the advertisement should be available. Other examples would include documentation of public service announcements by radio or television stations, and copies of flyers provided to students or mailed to students' parents.

During a scheduled CRE, the State agency should observe community participation at the site and attempt to confirm whether the school site advertised meals as described in the waiver application.

36. Q **If a school does not want to open its cafeteria to children in the community, can it serve its summer school children in the cafeteria and the other children outside somewhere, for example, in a park across the street or on the school playground?**

A Regardless of the location of the site, whether in the cafeteria of the school or in the park across the street, the same facilities must be used to feed both groups of children. If the school does not want to open its meal service to children in the community who are not attending summer school, it is not eligible to participate in the waiver.

37. Q **Are State agencies/SFAs required to track meal service for hours, days, and weeks of operation?**

A It is the State agency's option to require this information on the waiver application, and it would be the State's option, as well, to require the SFA to monitor the waiver sites for compliance with the waiver procedures approved by the State.

Rates

38. Q **Will qualifying schools continue to receive the severe need breakfast rates under waiver operations?**

A Yes.

39. Q **Will schools participating as waiver sites continue to receive the commodity rates under NSLP?**

A Yes. Schools will receive the full commodity allotment for both lunches and suppers.

40. Q **Will schools participating in the waiver still receive the extra $.02 differential?**

A Yes. However, for schools that did not already earn the extra $.02 differential prior to coming onto the seamless waiver, the meals served under the seamless waiver cannot be used to help a school qualify for the extra funding.

41. Q **What rates will non-school sites receive?**

A In most cases, the SFA will receive the same reimbursement rates for non-school sites as for the school sites. When different schools within the SFA's jurisdiction qualify for different rates, such as the severe need breakfast rate, then the non-school site will earn the same reimbursement rates as the nearest school. If the SFA is sponsoring a school that is outside its jurisdiction, the SFA will receive the same NSLP reimbursement rates that the school site earns during the regular school year.

42. Q **Since there is no supper rate in the NSLP, what will be the reimbursement rate for suppers under the waiver?**

A The NSLP lunch rate, including commodity support rate and, if the SFA is qualified, the $.02 severe need differential.

43. Q **When may SFAs begin claiming seamless waiver rates (i.e., the free rates for all meals)?**

A Once the regular school year is over or, in the case of year-round schools, during the breaks throughout the year for off-track students.

Reporting

44. Q **How will participation under the waiver be reported?**

A Participation will be counted as the number of **reimbursable** free meals served monthly under the waiver. State agencies should report the number of meals served by type on the FNS-10 electronic report as follows:

- Include lunches and suppers served under the waiver in the meals reported on lines 5a (and on line 5b if applicable) of the FNS-10.

- Include snacks served under the waiver on line 5c only (do not include them in the subtotal for Area Eligible Snacks on line 5d).

- Include breakfasts served under the waiver on line 6 and on line 7, if applicable.

45. Q **On which FNS-10 reports should State agencies include waiver activity?**

A Waiver activity should be reported on both the 30-day and 90-day reports for each month that waiver meals are served. For the 30-day, report the total of actual and estimated meals; for the 90-day, report actual meals only.

46. Q **Since the new NSLP and SBP rates for the upcoming SY are effective for July, how would the claims for June and July be handled?**

A State agencies should refer to the NSLP regulations, at 7 CFR 210.8(c)(1), for combining claims of months with Seamless Waiver activity. Since the NSLP rates change on July 1, the June and July claims cannot be combined. June meals served under the waiver would be included in the same claim as regular NSLP meals for June. If the SFA did not operate the regular NSLP in June but operated the waiver for 10 days or less, it could combine the June waiver meals on the May claim. Conversely, if it operates the waiver for 10 days or less during July, it could combine the July and August claims.

47. Q **How will waiver site meals be reported on the SF-269 report?**

A Since waiver meals are claimed under the NSLP and SBP on the FNS 10, financial activity related to these meals must also be reported under these programs on the SF-269. The waiver site meals will be reported on the SF-269 as follows:

- Report Status of Funds for lunches, suppers, and snacks in Column 14 - School Lunch;
- Report Status of Funds for breakfasts in Column 15 – School Breakfast.

48. Q **Can a Food Service Management Company (FSMC) under contract with a SFA for NSLP meal service handle the same administrative tasks for meals served under the seamless waiver?**

A Yes, assuming that the contract covers summer meal service under the NSLP. FSMC personnel would follow the NSLP regulations at §210.16, which describe permissible administrative tasks that the company can perform on behalf of the SFA.

SFSP Issues

49. Q **What provisions of the SFSP apply to SFAs participating in the waiver?**

A The following provisions are not waived and require that SFAs must:

1 **Operate seamless waiver sites only during the times and conditions under which SFSP sites may operate. (§ 225.6(d)(1)(i)-(iv) and § 225.6(e)(1)(i)-(iii)).**

2 Agree to serve meals at no cost (§ 225.6(e)(4)).

3 Agree to claim reimbursement only for the types of meals (breakfast, lunch, snack, or supper) agreed upon with the State agency, which are served at approved sites during approved meal service periods (§ 225.6(e)(7)).

4 Demonstrate financial and administrative capability to operate the program and accept final financial and administrative responsibility for the total program operations at all sites (§ 225.14(c)(1)).

5 Not be seriously deficient in operating the SFSP (§ 225.14(c)(2)).

6 Conduct a regularly scheduled food service for children from areas in which poor economic conditions exist (§ 225.14(c)(3)).

7 For schools, operate sites that are open to children in the community (§ 225.14(d)(2)).

8 For all sites except migrant sites or camps, serve up to two meals (combination may not include lunch and supper), or one meal and one snack, or two snacks per day (introductory paragraph (b) of § 225.16).

9 Serve up to three reimbursable meals per day to children attending residential or non-residential camps, which are eligible for free or reduced price school meals, based on income eligibility applications. (§ 225.16(b)(1)).

10 Migrant sites may serve up to three meals or two meals and a snack per day (§ 225.16(b)(4)).

50. Q How does the seamless waiver affect the SFSP review schedule?

A As long as a SFA is participating in the seamless summer feeding waiver, it is not considered to be a sponsor under the SFSP. Therefore, the SFA should be taken out of the pool of SFSP sponsors to be reviewed by the SFSP State agency. This would include removing the SFA from the list of sponsors whose prior year reimbursements equal half of all reimbursements, as required in §225.7(d)(2)(ii)(B) of the SFSP regulations.

51. Q **Can a State agency still use one percent of funds from the approved Management and Administration Plan (MAP) for health inspections of waiver sites (§225.5(f))?**

A No. We do not have the legal authority to authorize the use of these funds for any purpose other than specified in section 13(k)(3) of the National School Lunch Act. These funds may only be used for health inspections and meal quality tests for SFSP sites. Waiver sites are not considered to be part of the SFSP, since reimbursement and most operating rules come from the NSLP. **SFAs must follow NSLP guidelines and requirements concerning health inspections.**

52. Q **Are schools participating in the waiver required to attend the annual SFSP training?**

A No. SFSP training requirements are waived; SFAs and schools participating in the seamless summer feeding waiver are not considered to be participating as sponsors of the SFSP.