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November 19, 2020

**Child Nutrition Monitoring & Oversight for Sponsors operating during
COVID-19 – AR Cycle Extension Waiver Request**
Nevada Department of Agriculture-Food and Nutrition Division

1. State agency submitting waiver request and responsible State agency staff contact information:

Nevada Department of Agriculture (NDA), Food and Nutrition Division (FND)
Homa Anooshehpour, Administrator, Food and Nutrition Division
405 South 21st Street, Sparks, Nevada
775-353-3625
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2. Region:

Western

3. Eligible service providers participating in waiver and affirmation that they are in good standing:

Any approved CNP operator/sponsor, in good standing, of the National School Lunch Program (NSLP), School Breakfast Program (SBP), Child and Adult Care Program (CACFP), and Summer Food Service Program (SFSP) affected by the COVID-19 outbreak.

4. Description of the challenge the State agency is seeking to solve, the goal of the waiver to improve services under the Program, and the expected outcomes if the waiver is granted. [Section 12(I)(2)(A)(iii) and 12(I)(2)(A)(iv) of the NSLA]:

The goal of this waiver is to request flexibilities that will enable Nevada to comply with program requirements and meet the challenges that COVID-19 restrictions has brought to the Administrative Review (AR) process in the areas of onsite review and monitoring with innovative, flexible methods. Additionally, our goal is to ensure program integrity and support program sponsors as they navigate serving meals during a pandemic.

If granted, the expected outcome of this waiver request is to enable program staff to successfully complete a reasonable number of reviews in accordance with procedures to continue to ensure program integrity. This

will also enable program sponsors/operators to focus their attention on local COVID-19 needs and services and reduce the administrative burden to prepare for unnecessary monitoring during the pandemic.

School Nutrition (SN) Challenges

NDA-FND has seen a consistent increase year after year in the number of School Nutrition (SN) program sponsors. Compared to when we started the first three-year AR cycle, we have experienced a 50% increase in the number of SFAs operating SN programs. Though positive, this increase in participation has been burdensome on program staff's ability to provide technical assistance to new SFAs and complete all the required reviews in a three-year period.

NDA-FND is in year two of its current three-year cycle and we typically conduct approximately 12-15 ARs during a regular year. During the 2019–20 school year (SY), the COVID-19 pandemic resulted in the closure of all schools in the state of Nevada effective March 16, 2020; this closure, in addition to seven new SFAs, generated a schedule of 21 required ARs for the 20-21 calendar year. With the current extensions of SSO/SFSP operations through June 30, 2021, we had to postpone 15 reviews scheduled for SY 20-21 due to these SFAs electing to operate SFSP/SSO. This has left us with six (6) ARs scheduled and we were able to move up three ARs from 21-22, for a total of 9 currently scheduled ARs in SY 20-21.

For the current 9 scheduled reviews this school year, an additional challenge is that NDA-FND has been unable to conduct onsite reviews because SFAs are not allowing outside visitors on campus. If this continues, and flexibilities such as video monitoring are not approved to replace onsite visits, NDA-FND will have to add these 9 onsite observations to the 21-22 SY reviews.

NDA-FND's third year review cycle currently has 28 reviews that will need to be completed, 15 postponed from SY 20-21 and 13 regularly scheduled reviews; this is physically impossible for SN program staff, and if we must add on the nine (9) onsite observations from SY 20-21, this will result in 37 reviews that must be completed in SY 21-22, an even more daunting challenge.

Community Nutrition (CN) Challenges

Due to COVID-19 restrictions and nationwide waivers, NDA-FND has also had an increase in SFSP sponsors/operators, including 10-12 School Food Authorities (SFAs) that are providing meals through SFSP. In a "normal" year, we conduct around 10 SFSP ARs and we currently have 18 reviews scheduled for FFY 21. This number of reviews is already a burden on program staff to complete, and with the need to change to remote reviews using a desk audit process and virtual methods such as Zoom, video observation, etc., reviews are taking approximately three times longer to complete.

NDA-FND had five new sponsors submit claims in September and we were informed we had to complete ARs of these sponsors by the end of November in order to verify the September claims. Though this was difficult to accomplish in a short amount of time, and added additional workload for staff and sponsors, we completed all five.

We are requesting to waive the program monitoring and assistance regulation that requires annual review of sponsors whose reimbursements count as half the aggregate from the previous year. Due to this regulation, our largest sponsor already gets reviewed every year. If this is not waived, NDA-FND will have to add additional sponsor reviews to meet the dollar amount requirement and by our calculations that will add approximately 3-4 additional reviews to our current scheduled 18, raising the number to 21+, and will

include multiple program sponsors that were just reviewed in October. This is a huge burden on both the sponsor and NDA-FND program staff and this number is not physically possible for our staff.

5. Specific program requirements to be waived (include statutory and regulatory citations). [Section 12(I)(2)(A)(i) of the NSLA]:

NDA requests the following program requirements be waived:

- NSLA Section 22(b)(1)(C)(i) and 7 CFR 210.18(c) that requires all SFAs to receive an administrative review once every three-year cycle and at least every four years.
 - NDA-FND School Nutrition is currently operating on a three-year cycle for ARs and requests to move to a four-year cycle.
 - We also ask that SFSP reviews be aligned with this cycle too, moving from a three-year cycle to a four-year cycle. SFSP sponsors that have large reimbursements include SFAs so this makes sense to align.
- If the four-year AR cycle is approved, NDA-FND requests to also waive the requirement of 7 CFR 210.19(a)(5) that requires all SFAs with a Food Service Management Company (FSMC) to be reviewed once during a three-year period. NDA-FND completes the FSMC review in conjunction with the Administrative Review to limit the burden on the state and sponsor, so we want to align the FSMC review with the four-year AR cycle.
- Allow the onsite review requirements in 7 CFR 210.18(a) and 7 CFR 210.18(e)(1) to be fulfilled through video monitoring/virtual observation in the 2020-2021 school year due to campuses being closed to outside visitors. These would be scheduled with sponsors whenever time, capacity and high-speed connectivity will allow.
- 7 CFR 225.7(d)(ii)(B) that requires the state agency to annually review sponsors whose reimbursements count as half the aggregate from the previous year.

6. Detailed description of alternative procedures and anticipated impact on Program operations, including technology, state systems, and monitoring:

NDA-FND anticipates no change in AR procedures with a change from a three-year to a four-year schedule for either the NSLP or SFSP. The alternative procedure would be allowing video/virtual monitoring and observation of closed campuses in place of onsite visits for school year 20-21 school nutrition reviews if approved. To ensure the safety of all staff and comply with sponsor regulations on visitors, we plan to conduct current year reviews remotely via desk audit, video monitoring, pictures, videos, etc. to fulfill all the requirements of the onsite component of the review. SFSP is already utilizing this approved format.

The impact on Program operations is anticipated to be positive in that these flexibilities will reduce the administrative burden on the state agency and sponsors. NDA-FND program staff will be able to successfully complete required Administrative Reviews with an additional year in the cycle, easing the burden and stress on staff and preventing accumulation of overtime and/or compensatory time.

NDA-FND will continue to provide annual training and technical assistance as needed and will also develop any internal procedures needed for conducting, completing, and documenting ARs under this waiver.

NDA-FND does not anticipate any impact on other items noted above.

7. Description of any steps the State has taken to address regulatory barriers at the State level [Section 12(I)(2)(A)(ii) of the NSLA]:

There are no regulatory barriers at the state level.

8. Anticipated challenges State or eligible service providers may face with the waiver implementation:

NDA-FND does not anticipate this waiver will present any challenges.

9. Description of how the waiver will not increase the overall cost of the Program to the Federal Government. If there are anticipated increases, confirm that the costs will be paid from non-Federal funds. [Section 12(I)(1)(A)(iii) of the NSLA]:

NDA-FND does not anticipate any increase in the overall cost of the Program to the Federal Government. There are no additional staff costs to implement this waiver.

10. Anticipated waiver implementation date and time period:

NDA-FND requests that this waiver take effect immediately, including application to the current 20-21 review cycle for NSLP and SFSP, and extending the current three-year cycle to four years. From the approval date, NDA-FND will revise the current three-year schedules and begin to conduct Administrative Reviews on a four-year cycle. This change would also be immediately applied to the SN FSMC reviews for alignment purposes.

Regarding the request to waive onsite monitoring/observation for school nutrition programs, we request this change initially apply to the 20-21 school year AR schedule, with the option to revisit after June 30, 2021 to assess the situation due to the COVID-19 pandemic.

11. Proposed monitoring and review procedures:

NDA-FND will modify the review procedures to include any review components that have been approved for waiver under this request. For instance, for the current 20-21 school year, NDA-FND proposes to conduct offsite reviews of all SFAs operating NSLP. The offsite review, “desk audit,” would include virtual onsite monitoring of meal services using technology such as facetime/video monitoring, pictures, recorded video observation, etc. We will also review SFAs that are still operating NSLP during the 2020-21 school year and conduct video observations of meal services of SSO sites scheduled for a review in the 21-22 school year.

NDA-FND will develop any internal procedures needed for conducting, completing, and documenting ARs under this waiver and will track all procedures approved through this waiver to keep documentation of our processes and procedures when utilizing this flexibility.

Program integrity will remain a priority, and if it is found necessary at any time to conduct a review more frequently due to potential integrity concerns identified, the state agency reserves the right to do so.

Additionally, NDA-FND will review all new SFSP sponsors and/or those that had operational issues in the prior FFY.

12. Proposed reporting requirements (include type of data and due date(s) to FNS):

NDA-FND SN staff will continue to submit the FNS-640 report annually, which reports on Administrative Reviews conducted in the previous program year.

We will also provide any other requested data and reporting to the Western Region office as requested including adjusted AR schedules, etc.

13. Link to or a copy of the public notice informing the public about the proposed waiver [Section 12(I)(1)(A)(ii) of the NSLA]:

Notice to be released:

The NV Department of Agriculture (NDA), Food and Nutrition Division (FND) is requesting a waiver from the United States Department of Agriculture, Food and Nutrition Services for child nutrition program operators/sponsors of the NSLP, SBP, and SFSP affected by COVID-19. The purpose of this waiver is to support schools and communities in providing meals to children in areas experiencing school, district or facility closure in response to COVID-19. NDA-FND requests to allow the state agency flexibilities in conducting and completing program sponsor administrative reviews and onsite compliance monitoring.

<https://agri.nv.gov/Food/Food/>

Signature and title of requesting official:

Homa Anooshehpour, PhD
Administrator, Food and Nutrition Division
Nevada Department of Agriculture
775-353-3625

TO BE COMPLETED BY FNS REGIONAL OFFICE:

FNS Regional Offices are requested to ensure the questions have been adequately addressed by the State agency and formulate an opinion and justification for a response to the waiver request based on their knowledge, experience and work with the State.

Date request was received at Regional Office:

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• Date Received: _____

Check this box to confirm that the State agency has provided public notice in accordance with Section 12(I)(1)(A)(ii) of the NSLA

• *Regional Office Analysis and Recommendations:*

Recommend Approval

Recommend Denial