USDA
United States Department of Agriculture

CHILD NUTRITION PROGRAM
STATE WAIVER REQUEST TEMPLATE

Child Nutrition Programs are expected to be administered according to all statutory and regulatory requirements; waivers to the requirements are exceptions. However, Section 12(l) of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1760(l), provides authority for USDA to waive requirements for State agencies or eligible service providers under certain circumstances. When requesting the waiver of statutory or regulatory requirements for the Child Nutrition Programs (CNPs), including the Child and Adult Care Food Program (CACFP), the Summer Food Service Program (SFSP), the National School Lunch Program (NSLP), the Fresh Fruit and Vegetable Program (FFVP), the Special Milk Program (SMP), and the School Breakfast Program (SBP), State agencies and eligible service providers should use this template. State agencies and eligible service providers should consult with their FNS Regional Offices when developing waiver requests to ensure a well-reasoned, thorough request is submitted. State agencies and eligible service providers are encouraged to submit complete waiver requests at least 60 calendar days prior to the anticipated implementation date. Requests submitted less than 60 calendar days prior to the anticipated implementation should be accompanied by an explanation of extenuating circumstances.

For more information on requests for waiving Program requirements, refer to SP 15-2018, CACFP 12-2018, SFSP 05-2018, *Child Nutrition Program Waiver Request Guidance and Protocol- Revised*, May 24, 2018.

1. **State agency submitting waiver request and responsible State agency staff contact information:** State of Montana, Montana Department of Public Health and Human Services, Human and Community Services Division

State agency contact:
Name: Jessie Counts
Email: jessie.counts@mt.gov
Telephone: (406)444-0640

2. **Region:** MPRO

3. **Eligible service providers participating in waiver and affirmation that they are in good standing:** The State of Montana, Montana Department of Public Health and Human Services, Human and Community Services Division is in good standing.

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(l)(2)(A)(iii) and 12(l)(2)(A)(iv) of the NSLA]:**

   The goal of this project is to evaluate the impact of restricting nutrient-poor food items on SNAP and Summer EBT households in Montana, where diet-related chronic conditions are a growing concern. Montana's State Health Improvement Plan (Montana State Health Improvement Plan) identifies Cardiovascular Health as Priority Area 2. This demonstration aims to reduce purchases of high-sugar drinks, energy drinks, candy, and prepared desserts by making them ineligible for SNAP and Summer EBT purchases. These items are associated with increased risk of obesity, Type 2 diabetes, and cardiovascular disease. By implementing this restriction, Montana seeks to encourage healthier food choices and purchasing that more closely aligns with the Dietary Guidelines for Americans, as well as improve overall dietary quality among low-income households. The intended outcomes include:

   - Decrease in SNAP- and Summer EBT-funded purchases of high-sugar beverages, energy drinks, candy, and prepared desserts within the first year
   - Increased availability of healthier food choices in rural and tribal communities
   - Increase in fruit and vegetable purchases
   - Improved health indicators over time, measured through participant surveys and redemption data analysis

   This project will provide critical evidence on whether targeted food restrictions can positively influence nutrition behaviors across the state and specifically in rural and tribal communities, where access to healthcare and healthy food options is typically limited.

5. **Specific Program requirements to be waived (include statutory and regulatory citations). [Section 12(l)(2)(A)(i) of the NSLA]:**
   The state agency requests a waiver of Section 13A(b)(1)(A) of the NSLA, which restricts Summer EBT (SEBT) purchases to the statutory definition of "food" under Section 3 of the Food and Nutrition Act. Because the SEBT statutory authority falls under NSLA rather than SNAP, the existing SNAP food restriction waiver does not modify SEBT purchasing rules. This waiver would allow the state agency to apply the same modified definition of "food" to SEBT benefits statewide.

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

Summer EBT Food Restriction Demonstration Waiver Request Montana

SNAP- and Summer EBT-Eligible Food and Food Products Amended by the Food Restriction Demonstration Waiver

Montana's proposed alternative procedure is to modify the items that can be excepted from the definition of "Eligible foods". Items that are not defined as "Eligible foods" cannot be purchased with SNAP or Summer EBT benefits at SNAP-authorized retailers in Montana. Montana specifically will include as an exception, and ineligible for purchase with SNAP and Summer EBT, candy, high-sugar beverages, energy drinks, and prepared desserts.

- As stated above, the intended outcomes include:
  - Decrease in SNAP and Summer EBT-funded purchases of high-sugar beverages, energy drinks
  - candy, and prepared desserts within the first year
  - Increase in fruit and vegetable purchases
  - Improved health indicators over time, measured through participant surveys and redemption data analysis

Type	Excluded Foods	Exceptions
Candy	A shelf-stable preparation of sugar, honey, or other nutritive or non-nutritive sweeteners, in combination with chocolate, fruits, nuts, or other ingredients, or flavorings, in the form of bars, drops, or pieces. Includes gelatin-based confections (gummies), licorice, hard candies, and compressed sugar pieces.	Does not include baking ingredients, fruit snacks made with real fruit and no added sugar, trail mix and similar products that are substantially nut and/or real fruit based, protein bars, or meal replacement bars.
High-Sugar Beverages	Nonalcoholic beverages that are made with carbonated water or flat water and sweetened with more than 10g of sugar per 8 fluid ounces.	Does not include carbonated or flat water that is plain or naturally flavored, artificially sweetened beverages, or any beverage that is greater than 50 percent vegetable or fruit juice

		by volume, meal replacement beverages, medical-grade electrolyte replacement beverages, milk, or milk substitute products.
Energy Drinks	Beverages that contain more than 6 mg of caffeine per fluid ounce, or more than 140mg total caffeine per container, plus one or more of the following ingredients: taurine, guarana, glucuronolactone, ginseng, yerba mate, or other stimulants, including herbal stimulants.	Does not include coffee, tea, or any beverages that are substantially coffee- or tea-based (some may be restricted by High-Sugar Beverages).
Prepared Desserts (shelf-stable)	Prepared desserts mean processed, shelf-stable, ready-to-eat, pre-packaged sweet food intended for immediate consumption without any further preparation. This would include foods mostly made from "chemically" modified substances extracted from foods, along with additives to enhance taste, texture, appearance, and durability, with minimal whole foods.	Does not include store-made bakery items.

7. **Description of any steps the State has taken to address regulatory barriers at the State level. [Section 12(l)(2)(A)(ii) of the NSLA]:**
   Montana Summer EBT Program will have the same restrictions as SNAP. Staff will be trained in the allowable food changes. Eligibility is not affected by these changes; therefore, staff will receive informational training, and client materials will be updated to reflect these changes. The SNAP policy team will be responsible for understanding the restricted foods, definitions, timelines, and other demonstration factors. Questions from retailers will be managed by this team.

8. **Anticipated challenges State or eligible service providers may face with the waiver implementation:**
   All SNAP retailers will be responsible for following the waiver guidelines. All SNAP retailers will be required to comply within 90 days of implementation.

Retailers will be required to update their POS devices to comply with the restrictions.

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(l)(1)(A)(iii) of the NSLA]:**

The demonstration will not impact benefit amounts or benefits issuance. There are no necessary changes to the state-level system. There will be not be a cost to the Federal Government for Summer EBT client education associated with this waiver.

10. **Anticipated waiver implementation date and time period:**

Effective November 1, 2026. Expires October 1, 2028.

11. **Proposed monitoring and review procedures:**

See attached Monitoring and Evaluation plans.

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

Montana borders four states (Idaho, Wyoming, North Dakota, and South Dakota) and one Canadian province (Alberta). Both Idaho and North Dakota are implementing food restriction waivers, and Wyoming is in the process of applying for a waiver. SNAP benefits are not accepted in Canada. Montana will:

- work with FNS to obtain the necessary data to identify any significant changes in purchase patterns for all border states;
- track client complaints through a complaint log; and
- create a log to track retailer complaints and feedback from other key stakeholders, including impacted industries

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

https://dphhs.mt.gov/HCSD/SUNBucks

14. **Signature and title of requesting official :**



Title: Deputy Director of Human Services, MT DPHHS

Requesting official's email address for transmission of response:

Jessie.counts@mt.gov

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:

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

Regional Office Analysis and Recommendations: