

USDA Interim Final Rule Summary: Non-Congregate Summer Meals

In December 2022, the [Consolidated Appropriations Act of 2023](#) authorized a permanent option for non-congregate summer meals in rural areas without congregate service. As required by law, on December 29, 2023, USDA issued its [Interim Final Rule](#) (IFR): Establishing the Summer EBT Program and Rural Non-Congregate Option in the Summer Meal Programs. The IFR takes immediate effect and will guide implementation in Summer 2024, but the IFR is still open for [public comment](#) until April 29, 2024 to inform a future final rule.

This report summarizes the updates made by the IFR to the regulations for non-congregate meal service, including the following areas:

- [Subpart A: New or Updated Definitions](#)
- [Subpart B: State Agency Responsibilities](#)
- [Subpart C: Requirements for Sponsor Participation](#)
- [Subpart D: Responsibilities of Sponsors](#)
- [Subpart E: Non-Congregate Meal Service](#)
- [Subpart F: Monitoring](#)
- [Subpart G: Miscellaneous](#)

Subpart A: New or Updated Definitions

- **Congregate meal service:** New. Food service at which meals are provided to children are consumed on site in a supervised setting.
- **Non-congregate meal service:** New. Food service at which meals are provided for children to consume all components off-site. Must be operated at sites designated “rural” with no congregate meal service. (See updated definition for “rural” below.)
- **Rural:** Updated. USDA updated and expanded its definition to incorporate the classification schemes used to identify rural pockets for 2023 and provide additional discretion to the Department. Rural includes any area:
 - In a county not part of a Metropolitan Statistical Area (MSA) based on the Office of Management and Budget (OMB) definition; or
 - Classified as non-metropolitan based on Rural-Urban Continuum Codes (RUCC) and Urban Influence Codes (UIC); or
 - In a census tract classified as non-metropolitan based on Rural-Urban Commuting Area (RUCA) codes; or
 - In an MSA that is not part of a Census Bureau-defined urban area (this includes areas considered rural under the NCES Locale Classifications); or

- Not part of an urban area within the State, as determined by the Secretary; or
- Considered a “pocket” within an MSA which, at the option of the State agency and with relevant USDA Food and Nutrition Service Regional Office (FNSRO) approval, is determined to be rural in character based on other data sources.

NOTE: USDA has released an updated [FNS Rural Designation Map](#) to reflect the new, comprehensive framework. [No Kid Hungry’s Summer Eligibility Map](#) has also been updated to reflect the new definition.

- **Site:** Updated. “The place where a child receives a Program meal,” including “the indoor or outdoor location where congregate meals are served, a stop on a delivery route of a mobile congregate meal service, or the distribution location or route for a non-congregate meal service.” For home delivery, a child’s residence is not considered a non-congregate meal site for Program monitoring purposes.
 - **New site:** Updated. Clarifies that experienced sites operating a non-congregate meal service for the first time are considered new for Program purposes.
- **Conditional Non-Congregate Site:** New definition. Site which qualifies for Program participation because it conducts non-congregate meal service for children eligible for free or reduced-price meals in an area that does not meet the definition of “areas in which poor economic conditions exists” and is not a camp.
- **Site supervisor:** Updated definition. “The individual who has been trained by the sponsor and is responsible for all administrative and management activities at the 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. Except for non-congregate meal service sites using delivery services, the individual is on site for the duration of the food service.”
- **Operating costs:** Updated definition. Clarifies that costs to deliver non-congregate meals in rural areas under the Program are an allowable cost.
- **Good standing:** New definition. “The status of a program operator that meets its Program responsibilities, is current with its financial obligations, and, if applicable, has fully implemented all corrective actions within the required period of time.”

Subpart B: State Agencies Responsibilities

- **Department Notification:** By January 1 each fiscal year, each State agency must notify USDA regarding State’s intention to administer the Program in that fiscal year and State Agency must enter into a written agreement with FNS for administration of the program. State agencies administering the summer meal programs must also develop and implement a coordinated services plan for the program in their State separate from the Management and Administration Plan (MAP).

- **Management and Administration Plan (MAP) Requirements:** Program MAP must include “all provisions previously required under the NSLA, the new additional requirement under section 13(n)(1), and the State agency’s plan for Program delivery in areas that could benefit the most from the provision of non-congregate meals. This includes the State’s plan to identify rural areas with no congregate meal service, and plan to target priority areas for non-congregate meal service.”
- **Priorities and Outreach Mandate:** State agencies are required to identify areas with no congregate meal service that could benefit the most from the provision of non-congregate meals and encourage participating service institutions in those areas to provide non-congregate meals as appropriate.
- **Application Requirements:** Modifies minimum information that must be demonstrated by sites to include provision of non-congregate meal service.
 - Site information sheets provide State agencies with the documentation needed to determine if the site can demonstrate administrative capability and financial viability to effectively operate a meal service. The site information sheet completed by the sponsor must demonstrate or describe the estimated number and types of meals to be served and times of service; documentation of eligibility; and, if the site qualifies as a camp, documentation of the number of children enrolled in the Program who meet the Program’s income standards.
 - **New sites** are also required to describe an organized and supervised system for serving meals to children; whether the site is rural and the documentation supporting the rural designation as discussed later in this section; whether the meal service is congregate or non-congregate; and, if the site qualifies as a conditional non-congregate site, documentation of the number of children enrolled in the Program who meet the Program’s income standards.
 - For **experienced sites**, the site information sheets must include whether the meal service to be provided is congregate or non-congregate; whether the site is rural and documentation supporting the rural designation which is discussed later in this section; and, if the site qualifies as a conditional non-congregate site, documentation of the number of children enrolled in the Program who meet the Program’s income standards.
 - New and experienced sites are required to demonstrate they qualify as rural. Sponsors/sites will need to submit proof, such as a screenshot of their location on the FNS map.
- **Approval of Sites and Determining No Congregate Meal Service:**
 - State agencies must not deny a sponsor’s application based solely on intent to provide non-congregate meal service.
 - Proposed sites are required to serve an “area in which poor economic conditions exist” unless it is a conditional non-congregate site.
 - Each vended site must have an approved level for the maximum number of children’s meals which may be served under the program as they relate to congregate and non-congregate meal service.

- When approving applications for non-congregate, State agencies must ensure the proposed site:
 - Is rural,
 - Will only distribute the allowable number of reimbursable meals that would be provided over a 10-calendar day period,
 - Serves an area in which poor economic conditions exist or is approved for reimbursement only for meals served free to enrolled children who meet the Program's income standards,
 - Will not serve an area where children would receive the same meal at an approved congregate site unless it can be demonstrated to the satisfaction of the State agency that the site will serve a different group of children who may not otherwise be served.
- State agencies are required to ensure that site will only conduct non-congregate service when **not** providing congregate service **and** the sponsor has a system in place to prevent meal service overlap. For sites that operate both congregate and non-congregate, it is not considered overlap to provide congregate breakfast and non-congregate lunch intended to be eaten later offsite, but the service times must still be different.
- **Duration of Rural Designation:**
 - Program sponsors are required to re-determine rural designations every 5 years. Redetermination before the 5-year period may be required by State agencies if it determines an area's rural status has changed significantly since the previous determination.
 - USDA will update data sources/map showing rural areas by Jan. 1st of each year, but they do not expect classifications to change much year to year because most are based on decennial census data with only occasional updates in between.
- **Clarification of Existing Requirements**
 - Sponsors operating conditional non-congregate sites are exempt from the requirement that they include a statement that meals served are free at all sites, but these sites that charge separately for meals must include specific eligibility information in the policy statement.
 - For the purpose of the written agreement between sponsors and State agencies, sponsors operating conditional non-congregate sites are excepted from serving meals without cost to all children and may charge for meals served to children who don't meet the Program's income standards.
 - State agency or sponsor may terminate agreement at its convenience, upon mutual agreement, for considerations other than either party's performance of Program responsibilities.
 - Serious deficiencies of simultaneous service of more than one meal to any child and excessive instances of offsite consumption apply only to congregate meal service operations.
 - Creates a new violation specific to non-congregate service for distributing more than the daily meal limit when multi-day service is used.

Subpart C: Requirements for Sponsor Participation

- **Sponsor Eligibility:** The IFR does *not* change the eligibility of service institutions listed under requirements at § 225.24(b) in response to the stakeholder feedback.

Subpart D: Responsibilities of Sponsors

- **Identification and Determination of Eligible Children:** Codifies summer 2023 guidance for obtaining written parental consent for home delivery and the requirement that non-SFA sponsors enter into a written agreement or MOU with the State agency or local SFA if they choose to receive student data from them for the purpose of identification and eligibility determination. Non-SFA sponsors may still collect applications as needed following the requirements outlined in § 225.15(f) if they choose not to obtain data through an MOU with the State agency or SFA.
- **Meal Ordering and Second Meals:** Limits reimbursement of second meals to congregate meal service only.
- **Requirements Specific to Sponsors Operating Conditional Non-Congregate Sites**
 - Sponsors operating a conditional non-congregate site must certify that it will collect information on participants' eligibility to support its claim for reimbursement.
 - Sponsors of these sites must notify participants of the availability of free meals and if a free meal application is needed.

Subpart E: Non-Congregate Meal Service

- **Non-Congregate Meal Service Requirements:** Codifies the additional meal service requirements for non-congregate meals created by statute and reiterates pertinent existing requirements continue to apply.
- **Non-Congregate Meal Service Options:** Establishes the use of three options for non-congregate meal service: Multi-Day Meal Issuance, Parent or Guardian Meal Pick-Up, and Bulk Meal Items. These options are available to sponsors in good standing. ***State agencies may prohibit sponsors from using these options only on a case-by-case basis if the agency determines that a sponsor does not have the capability to operate or oversee non-congregate meal services at their sites.***
 - **Multi-Day Meal Issuance:** Statute allows that over a 10-day calendar period, the number of reimbursable non-congregate meals can equal but not exceed the number of meals that could be provided under congregate feeding over the same period. No further limitations were established for summer 2023.
 - IFR codifies statute.
 - State agencies may establish a calendar period shorter than 10 days on a case-by-case basis for individual sponsors considering concerns with program integrity, food safety, and meal quality.

- Sponsors operating multi-day must have procedures in place to document to a reasonable extent that the proper number of meals are distributed to each eligible child and procedures must be included in application to Program.
- **Parent/Guardian Meal Pick-Up:** USDA allowed for Program meals to be distributed to parents/guardians and for home delivery for summer 2023.
 - IFR codifies the option for sponsors in good standing to allow parent/guardian pick-up.
 - Sponsors opting to distribute meals to parents or guardians must have procedures in place that document, to a reasonable extent, that meals are only distributed to parents or guardians of eligible children, and that duplicate meals are not distributed to any child. These procedures must be included in the sponsor's application to participate in the Program.
 - IFR suggests use of sign-in sheets or other methods which result in accurate recording.
- **Bulk Meal Items:** Self-prep sponsors (not those with vendors) have the option to provide bulk foods. The maximum number of reimbursable meals cannot exceed the number that could be provided over a 5-day period. States can approve sponsors to provide up to 10 days' worth of bulk meals in appropriate circumstances such as extremely remote areas where more frequent distribution is impracticable. Sponsors may provide bulk meals if state agencies determine that:
 - Sponsor's proposed distribution meets State and local health standards,
 - Required food components for each reimbursable meal meet the meal pattern requirements,
 - Food items are clearly identifiable,
 - Menus are provided and indicate items and portion for each meal,
 - Food prep is minimal (i.e. no chopping, mixing, baking, etc. required).
- **Clarifications to Existing Meal Service Requirements**
 - Non-congregate meal service is exempt from requirement that breakfast be served at or close to the beginning of the child's day, that one hour must elapse between meal services, and that meals not prepared on site must be delivered within one hour of the approved meal service time for congregate meal service.
 - Rules regarding provisional flexibility to allow children to take specific food items for offsite consumption apply only to congregate meal service.

Subpart F: Monitoring

- **State Agency Responsibilities**
 - State agencies have discretion over pre-approval visits of sponsors which are a CACFP institution that had a review within the previous 12 months and no significant deficiencies.
 - State agencies are required to develop a site selection process for monitoring.
 - Sponsor and Site Reviews:
 - State agencies must include sponsors who operate congregate, non-congregate, or both in the sample selection for review.

- State agencies must conduct a review of every new sponsor at least once during the first year of operations, annually review every sponsor that had operational problems in the prior year, review each sponsor at least once every 3 years and conduct reviews of at least 10 percent of each reviewed sponsor's sites.
 - The requirement that States annually review several sponsors whose aggregate reimbursement accounts for at least half of the total reimbursements in the state remove the one-half aggregate review requirement is removed.
 - All models – congregate, non-congregate, and various meal distribution methods – must all be included in the 10 percent of sponsor's sites required to be reviewed.
 - State agencies must have the capacity to review at least 10 percent of sponsor's sites if the State agency approves a sponsor to operate more than 200 sites or serve more than an average of 50,000 children per day.
 - Amends § 225.7(e)(5) to include new non-congregate meal services, § 225.7(j) to include whether meal service is congregate or non-congregate on monitoring forms, and § 225.16(c)(1)(iii) to clarify that the approval of meal service times must be in accordance with the State agency or sponsor's capacity to monitor the full meal service during a review.
- **Sponsor Responsibilities**
 - The IFR modifies training requirements to account for the addition of congregate and non-congregate meal service in the sponsor Program training sessions for its administrative and site personnel prior to the operation of the site's first meal service.
 - Pre-operational site visits are required for new sites and those that experienced operational problems in the previous year, including existing sites switching to non-congregate meal service, to be conducted by the sponsor prior to a site operating the program. All existing sites that are new to non-congregate meal service need a site visit conducted by the sponsor within the first two weeks of Program operations. Sponsors are required to conduct a full review of food service operations at each site at least once during the first four weeks of Program operations.
 - Sites that operated non-congregate in 2023 may be treated as experienced sites.

Subpart G: Miscellaneous

- **Collection of Summer Meal Site Location Data:** State agencies are required to submit to FNS a list of open site locations and their operational details via the Summer Food Site Locator form by June 30 of each year, or a later date approved by FNRSO, and provide a minimum of two updates during the summer operational period. (Effective December 30, 2024).

- **Reimbursements:** Sponsors of conditional non-congregate sites are to be reimbursed only for meals served to children whose eligibility for Program meals is documented.
- **SSO Non-Congregate Provisions:** Adds new definition of SSO in §§ 210.2 and 220.2 and adds new §§ 210.34 and 220.23 which set forth the rural non-congregate provisions for SSO.
- **Annual Update to Approved Rural Data Sources:** Establishes annual effective date by which USDA will issue updates to the approved rural data sources to be used for designations in that program year.