



DEPARTMENT OF EDUCATION


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Mark A. Holodick, Ed.D.
Secretary of Education
(302) 735-4000
(302) 739-4654 - fax

June 30, 2022

MEMORANDUM

TO: Summer Food Service Program (SFSP) Sponsors

FROM: Aimee F. Beam, MS, RD, LDN 
Education Associate, Nutrition Programs

RE: **SFSP 2022 Operational Memo #16**
Keep Kids Fed Act Nationwide Waivers

On June 30, 2022, USDA released information regarding waiver extensions authorized as part of the Keep Kids Fed Act of 2022. Attached are an initial set of nationwide waivers based on authority amended by the Keep Kids Fed Act of 2022 to support CNP operations in summer 2022 and SY 2022-23. There are five attachments:

- Cover Memo
- Nationwide Waiver to Extend Area Eligibility Waivers for Summer 2022 Operations – EXTENSION 5
- Nationwide Waiver to Allow Area Eligibility for Closed Enrolled Sites for Summer 2022 Operations – EXTENSION 4
- Nationwide Waiver to Allow Summer Food Service Program Reimbursement Rates for the Seamless Summer Option in Summer 2022
- Nationwide Waiver to Allow Fiscal Action Flexibility for Meal Pattern Violations Related to COVID-19 Supply Chain Disruptions Impacting School Meals in School Year 2022-2023 – EXTENSION

The use of these waivers is opt in only. If you wish to use any of these waivers for a SFSP meal site you must contact Chaneya Edwards (Chaneya.edwards@doe.k12.de.us). You must provide:

- Site name
- Plan to ensure Program integrity

Please contact us with any questions at 302-857-3356.

Attachments (5)

cc: Nutrition Team



Food and
Nutrition
Service

Braddock
Metro Center

1320
Braddock
Place
Alexandria
VA 22314

DATE: June 30, 2022

SUBJECT: Child Nutrition Nationwide Waiver Update for Summer 2022 and School Year 2022-2023

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

This memorandum announces a new suite of Child Nutrition Program (CNP) nationwide waivers and flexibilities to support continuity of program operations and ensure access to meals in summer 2022 and school year (SY) 2022-2023.

Child Nutrition Program operators across the nation continue their exceptional efforts to maintain program access in the face of numerous challenges stemming from the COVID-19 pandemic. Recognizing the widespread nature of these challenges and their impacts, on June 25, 2022, President Biden signed the Keeping Kids Fed Act, Public Law 117-158 (KKFA). This critical new law will provide relief to CNP operators in a variety of ways, including temporary increased reimbursements in the school meal programs and in the Child and Adult Care Food Program, as well as a partial extension of USDA's nationwide waiver authority.

The Food and Nutrition Service (FNS) is initiating implementation of the KKFA with the establishment of four nationwide waivers. The waivers will streamline CNP access, enhance CNP flexibility, and reduce administrative burden on State and local partners, as well as program participants. These nationwide waivers are extensions of nationwide waiver flexibilities offered in summer 2021 and SY 2021-2022.

The following nationwide waivers are effective immediately for States that choose to adopt them:

- Nationwide Waiver to Extend Area Eligibility Waivers for Summer 2022 Operations – EXTENSION 5
- Nationwide Waiver to Allow Area Eligibility for Closed Enrolled Sites for Summer 2022 Operations – EXTENSION 4
- Nationwide Waiver to Allow Summer Food Service Program Reimbursement Rates for the Seamless Summer Option in Summer 2022
- Nationwide Waiver to Allow Fiscal Action Flexibility for Meal Pattern Violations Related to COVID-19 Supply Chain Disruptions Impacting School Meals in School Year 2022-2023 – EXTENSION

Looking ahead, FNS anticipates the announcement of further KKFA implementation activities, and remains committed to providing CNP operators with needed resources and flexibilities. State and local program operators across the country have worked tirelessly to make sure children have access to nutritious meals despite unprecedented challenges, and we will do our part to continue to support our partners.

Sincerely,

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J. Kevin Maskornick
Director
Community Meals Policy Division



Food and Nutrition Service

Braddock Metro Center

1320 Braddock Place Alexandria VA 22314

DATE: June 30, 2022

CODE: COVID-19: Child Nutrition Response #107

SUBJECT: Nationwide Waiver to Extend Area Eligibility Waivers for Summer 2022 Operations – EXTENSION 5

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

Issuing Agency/Office:	FNS/Child Nutrition Programs
Title of Document:	Nationwide Waiver to Extend Area Eligibility Waivers for Summer 2022 Operations – EXTENSION 5
Document ID:	
Z-RIN:	
Date of Issuance:	June 30, 2022
Replaces:	N/A
Summary:	(1) This waiver extends until September 30, 2022, the Nationwide Waiver to Extend Area Eligibility Waivers – Extension 4 granted on March 9, 2021 that expired on September 30, 2021. (2) This waiver and flexibilities apply to State agencies administering, and local organizations operating, the National School Lunch Program Seamless Summer Option and the Summer Food Service Program during Summer 2022. (3) This document relates to 42 U.S.C. 1761(a)(1)(A)(i) and 7 CFR 225.2, 225.6(c)(2)(i)(G), 225.6(c)(3)(i)(B), 225.6(d)(1)(i), 225.14(c)(3), and 225.16(b)(4).
Disclaimer:	The contents of this guidance document have the force and effect of law as authorized by the Families First Coronavirus Response Act (the Act) (P.L. 116-127), as amended, unless otherwise provided.

Pursuant to the authority in Section 2202(a) of the Families First Coronavirus Response Act (the FFCRA) (P.L. 116-127), as amended, and based on the exceptional circumstances of the COVID-19 pandemic, the Food and Nutrition Service (FNS) is extending a nationwide waiver for area eligibility for the purposes of providing meals under the Child Nutrition Programs and to ensure continuity of program operations. This waiver extends the *Nationwide Waiver to Extend Area Eligibility Waivers – EXTENSION 4* – granted on March 9, 2021, that expired on September 30, 2021. This extension applies to the Summer Food Service Program (SFSP) and FNS is extending this flexibility to the National School Lunch Program Seamless Summer Option (SSO) until September 30, 2022.

Section 2202(a) of the FFCRA permits the Secretary of Agriculture to establish a waiver, due to the COVID-19 pandemic, for all States for purposes of providing meals or to ensure continuity of

program operations under the Child Nutrition Programs. FNS recognizes that State agencies and local Program operators continue to need additional support and flexibility to serve meals to children in need while managing the impacts of COVID-19. SFSP and SSO operators recognize the need to modify summer feeding models to ensure the provisions of meals or continuity of program operations. This extension eases administrative burdens and provides for greater access to meals this summer.

Therefore, pursuant to the FFCRA authority cited above, FNS extends the ability for States to continue operating open sites in areas that are not located in “*Areas in which poor economic conditions exist*,” as defined at section 13(a)(1)(A) of the Richard B. Russell National School Lunch Act (NSLA) and as referenced at 42 U.S.C. 1761(a)(1)(A)(i) and in regulation at 7 CFR 225.2, 7 CFR 225.6(c)(2)(i)(G), 7 CFR 225.6(c)(3)(i)(B), 7 CFR 225.6(d)(1)(i), 225.14(c)(3), and 7 CFR 225.16(b)(4). This extension is effective immediately and remains in effect through September 30, 2022. FNS also extends area eligibility flexibilities to SSO operations for the duration of this waiver.

Consistent with Section 2202(a)(2) of the FFCRA, this extension applies automatically to all States that elect to use it, without further application. This extension may apply to any site operating under a State area eligibility plan. If the State agency elects to implement this extension, it must notify its respective FNS Regional Office, which will acknowledge receipt. State agencies should inform local Program operators of these flexibilities as quickly as possible, and work in partnership with local operators to provide meals to all participants in a safe and accessible manner. State agencies must continue their plan for ensuring that meal sites are targeting benefits to children in need, for example, children who may be eligible for benefits due to the economic impacts of COVID-19. State agencies should work with local Program operators in developing their plans as local Program operators are best situated to determine how to provide these assurances.

As required by Section 2202(d) of the FFCRA, each State that elects the area eligibility flexibilities must submit a report to the Secretary not later than one year after the date such State elected to receive the extension. The report must include a summary of the use of this extension by the State agency and local Program operators.

FNS appreciates the exceptional effort of State agencies and local Program operators working to meet the nutritional needs of participants. State agencies should direct questions to the appropriate FNS Regional Office.

Sincerely,

J

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J. Kevin Maskornick
Director
Community Meals Policy Division



Food and
Nutrition
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Braddock
Metro Center

1320
Braddock
Place
Alexandria
VA 22314

DATE: June 30, 2022

CODE: COVID-19: Child Nutrition Response #108

SUBJECT: Nationwide Waiver to Allow Area Eligibility for Closed Enrolled Sites for Summer 2022 Operations – EXTENSION 4

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

Issuing Agency/Office:	FNS/Child Nutrition Programs
Title of Document:	Nationwide Waiver to Allow Area Eligibility for Closed Enrolled Sites for Summer 2022 Operations – EXTENSION 4
Document ID:	
Z-RIN:	
Date of Issuance:	June 30, 2022
Replaces:	N/A
Summary:	(1) Under this waiver, for all States, Summer Food Service Program operators of closed enrolled sites during the COVID-19 pandemic may determine site eligibility through area eligibility, without collecting income eligibility applications until September 30, 2022. This flexibility also applies to the National School Lunch Program Seamless Summer Option. This waiver extends the <i>Nationwide Waiver to Allow Area Eligibility for Closed Enrolled Sites in the Summer Food Service Program and National School Lunch Program Seamless Summer Option</i> , granted on March 9, 2021 that expired on September 30, 2021. (2) The waiver and flexibilities apply to State agencies administering, and local organizations operating, the Summer Food Service Program or National School Lunch Program Seamless Summer Option during Summer 2022. (3) This document relates to 42 U.S.C. 1761(a)(1)(A)(i)(III) and 7 CFR 225.15(f).
Disclaimer:	The contents of this waiver have the force and effect of law as authorized by the Families First Coronavirus Response Act (the Act) (P.L. 116-127), as amended, unless otherwise provided.

Pursuant to the Families First Coronavirus Response Act (the FFCRA) (P.L. 116-127), as amended, and based on the exceptional circumstances of the COVID-19 pandemic, the Food and Nutrition Service (FNS) is extending a nationwide waiver to allow area eligibility for closed enrolled sites in the Summer Food Service Program (SFSP) through September 30, 2022, to ensure continuity of program operations that will provide access to nutritious meals for program participants this summer. This waiver extends the *Nationwide Waiver to Allow Area Eligibility for Closed Enrolled Sites in the Summer Food Service Program and the National School Lunch Program Seamless Summer Option - EXTENSION 3* granted on March 9, 2021, that expired on September 30, 2021. This waiver extension applies to the Summer Food Service Program (SFSP) and FNS is extending this flexibility to the National School Lunch Program Seamless Summer Option (SSO).

Section 2202(a) of the FFCRA permits the Secretary of Agriculture to establish a waiver for all States for the purposes of providing meals under the Child Nutrition Programs or to ensure continuity of program operations. Under the Richard B. Russell National School Lunch Act at 42 U.S.C. 1761(a)(1)(A)(i)(III) and Program regulations at 7 CFR 225.15(f), closed enrolled sites are required to collect income eligibility applications to determine that 50 percent of the children are eligible for free and reduced-price meals. However, FNS recognizes that, to ensure continuity of program operations, extending the waiver of the collection of income applications for closed enrolled sites would reduce administrative burden on State agencies and sponsors and would provide access to nutritious meals and meal supplements during the summer months.

Therefore, pursuant to the FFCRA authority cited above, FNS extends, for all States that elect to be subject to this waiver, the waiver of those requirements at 42 U.S.C. 1761(a)(1)(A)(i)(III) and Program regulations at 7 CFR 225.15(f), that require applications in order to serve SFSP meals at closed enrolled sites that are area eligible. This waiver is effective immediately and remains in effect through September 30, 2022. FNS extends this flexibility to SSO for the duration of this waiver.

Consistent with section 2202(a)(2) of the FFCRA, this extension applies automatically to all States that elect to use it, without further application. State agencies must inform their Regional Office if they elect to be subject to the waiver. However, for SFSP and SSO operators to use these flexibilities, they must contact the state agency for approval and provide the State agency any necessary information to complete the report requirements discussed below. State agencies should inform local Program operators of the flexibilities provided by this waiver as quickly as possible, and work in partnership with local operators to provide meals to all participants this summer.

Please note, State agencies that have already received a traditional SFSP waiver of the closed enrolled site requirements may elect to be covered by this nationwide waiver during the COVID-19 pandemic, in place of their waiver. As previously determined, the SFSP waivers will remain in effect through April 30, 2023, or until FNS publishes a final regulation that supersedes the approval, whichever comes first. Therefore, there is no

need for State agencies to withdraw or resubmit those requests.

As required by Section 2202(d), each State that elects the closed enrolled site flexibility must submit a report to the Secretary not later than one year after the date such State received the extension. The report must include a summary of the use of this waiver by the State agency and local Program operators.

FNS appreciates the exceptional effort of State agencies and local Program operators working to meet the nutritional needs of participants. State agencies should direct questions to the appropriate FNS Regional Office.

Sincerely,

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J. Kevin Maskornick
Director
Community Meals Policy Division



Food and
Nutrition
Service

Braddock
Metro Center

1320
Braddock
Place
Alexandria
VA 22314

DATE: June 30, 2022

CODE: COVID-19: Child Nutrition Response #109

SUBJECT: Nationwide Waiver to Allow Summer Food Service Program Reimbursement Rates for the Seamless Summer Option in Summer 2022

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

Issuing Agency/Office:	FNS/Child Nutrition Programs
Title of Document:	Nationwide Waiver to Allow Summer Food Service Program Reimbursement Rates for the Seamless Summer Option in Summer 2022
Document ID:	
Z-RIN:	
Date of Issuance:	June 30, 2022
Replaces:	N/A
Summary:	(1) This waiver allows school food authorities to claim National School Lunch Program Seamless Summer Option meals and snacks at the Summer Food Service Program reimbursement rates through September 30, 2022. (2) This waiver applies to State agencies administering, and local organizations operating, the National School Lunch Program Seamless Summer Option in summer 2022. (3) This document relates to 42 U.S.C. 1761(b)(1)(C).
Disclaimer:	The contents of this waiver have the force and effect of law as authorized by the Families First Coronavirus Response Act (the Act) (P.L. 116-127), as amended.

Pursuant to Section 2202(a) of the Families First Coronavirus Response Act (the FFCRA) (P.L. 116-127), as amended, and based on the exceptional circumstances of the COVID-19 pandemic, the Food and Nutrition Service (FNS) is establishing a nationwide waiver to allow school food authorities to claim National School Lunch Program Seamless Summer Option (SSO) meals and snacks at the applicable Summer Food Service Program (SFSP) reimbursement rates in summer 2022. This waiver will ensure continuity of program operations and access to nutritious meals for program participants this summer.

Section 2202(a) of the FFCRA permits the Secretary of Agriculture to establish a waiver for all States for the purposes of providing meals under the Child Nutrition Programs or to ensure continuity of program operations.

Under the National School Lunch Act, 42 U.S.C.1761(b)(1)(C), school food authorities operating SSO are reimbursed for meals and snacks at rates in accordance with those of the National School Lunch Program and School Breakfast Program. SSO meals and snacks are excluded from using the SFSP reimbursement rates. However, FNS recognizes that State agencies and local Program operators have incurred significant costs during COVID-19 operations and continue to need additional support and flexibility to ensure continuity of program operations that provide access to meals for children while managing the impacts of COVID-19.

Therefore, pursuant to the waiver authority cited above, FNS waives, for all States, the requirement at 42 U.S.C. 1761(b)(1)(C) that reimbursements for SSO meals and snacks shall not be paid at the SFSP reimbursement rates. For summer 2022, FNS establishes the payment rates for SSO meals and snacks at the level of reimbursement paid for SFSP meals and snacks, in accordance with the provisions of 42 U.S.C. 1761(b)(1)(A) and (B) of the National School Lunch Act. This waiver is effective immediately and remains in effect through September 30, 2022. States and program operators are advised that the SSO may only be operated during traditional summer vacation periods and, for year-round schools, during school vacation periods longer than 10 school days, consistent with 42 USC 1761(a)(8). The nationwide waiver¹ allowing SSO to operate when school is open during the regular school year expires June 30, 2022.

Consistent with Section 2202(a)(2) of the FFCRA, this waiver applies automatically to all States that elect to use it, without further application. State agencies must elect to be subject to this waiver in order to use it. State agencies must inform their FNS Regional Office if they elect to be subject to the waiver. If the State agency elects to implement this waiver, it must notify its respective FNS Regional Office, which will acknowledge receipt. State agencies should inform school food authorities of the flexibilities provided by this waiver as quickly as possible,² and work in partnership with school food authorities to provide meals to all participants in an accessible manner.

As required by Section 2202(d) of the FFCRA, each State that elects to be subject to this waiver must submit a report to the Secretary not later than one year after the date such State elected to receive the waiver.³ The report must include a summary of the use of this waiver by the State agency and local Program operators.

¹ COVID-19: Child Nutrition Response #85, *Nationwide Waiver to Allow the Seamless Summer Option through School Year 2021-22*, published April 20, 2021. <https://www.fns.usda.gov/cn/covid-19-child-nutrition-response-85>

² The burden associated with the requirement to elect Nationwide Waiver participation will be included in an upcoming change request to OMB Control #0584-0654.

³ FNS will submit to OMB for approval a revision to OMB Control #0584-0607 to cover the reporting requirements of this waiver under the Paperwork Reduction Act.

FNS appreciates the exceptional effort of State agencies and local program operators working to meet the nutritional needs of participants. State agencies should direct questions to the appropriate FNS Regional Office.

Sincerely,

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J. Kevin Maskornick
Director
Community Meals Policy Division



Food and
Nutrition
Service

DATE: June 30, 2022
CODE: COVID-19: Child Nutrition Response #110

Braddock
Metro Center

SUBJECT: Waiver to Allow Fiscal Action Flexibility for Meal Pattern
Violations Related to COVID-19 Supply Chain Disruptions
Impacting School Meals in School Year 2022-2023 --
EXTENSION

1320
Braddock
Place
Alexandria
VA 22314

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

Issuing Agency/Office:	FNS/Child Nutrition Programs
Title of Document:	Waiver to Allow Fiscal Action Flexibility for Meal Pattern Violations Related to COVID-19 Supply Chain Disruptions Impacting School Meals in School Year 2022-2023—Extension
Document ID:	
Z-RIN:	
Date of Issuance:	June 30, 2022
Replaces:	N/A
Summary:	(1) FNS waives, for all States, the requirements to take fiscal action for meal pattern violations related to COVID 19 supply chain disruptions during School Year 2022-2023. (2) This waiver is available to State agencies administrating the National School Lunch Program and School Breakfast Program. These flexibilities also apply to the National School Lunch Program Seamless Summer Option. (3) This document relates to 7 CFR 210.18(D)(2).

Pursuant to the authority in Section 2202 of the Families First Coronavirus Response Act (the FFCRA) (P.L. 116-127), as amended, and current national supply chain constraints due to COVID-19, the Food and Nutrition Service (FNS) is granting a waiver of certain fiscal action requirements in the National School Lunch Program (NSLP) and the School Breakfast Program (SBP). This waiver is available for any State where there is a supply chain disruption with respect to foods served under such a qualified program and such disruption is due to COVID-19. FNS is also extending this flexibility to the NSLP Seamless Summer Option (SSO) for the duration of this waiver.

Section 2202(c) of the FFCRA permits the Secretary of Agriculture to grant a waiver relating to the nutritional content of meals served if the Secretary determines that a waiver is necessary to provide meals and meal supplements and that there is a supply

chain disruption due to COVID-19. Such disruptions may include unanticipated cancellation of food and supply contracts and unexpected substitutions of food products by suppliers, with respect to foods served under the Child Nutrition Programs.

The Richard B. Russell National School Lunch Act, 42 U.S.C. 1769(c) establishes a unified accountability system, known as the school meal programs administrative review, and program regulations at 7 CFR 210.18 establish requirements for State agencies conducting administrative reviews of school food authorities (SFAs) operating the school meal programs¹. Program regulations at 7 CFR 210.18(l)(2) require State agencies to take fiscal action for missing meal components or production records and for repeat violations involving milk type and vegetable subgroups. FNS recognizes that given current supply chain disruptions that are a result of the COVID-19 pandemic, State agencies and SFAs need additional support and flexibility to continue to serve meals to children during the COVID-19 pandemic. SFAs are facing various supply chain challenges in purchasing and receiving food through their regular procurement channels. Specifically, some districts and schools are experiencing unanticipated cancellation of food and supply contracts, lack of availability of certain foods, unexpected substitution of food products, and increased food and supply prices due to COVID-19 supply chain disruptions.

Therefore, pursuant to the waiver authority cited above, FNS is granting a waiver, for all States, for the following regulations when there is a supply chain disruption with respect to foods served under the NSLP, SBP, or SSO and such disruption is due to COVID-19:

- The requirement to apply fiscal action for missing food components or missing production records as detailed in 7 CFR 210.18(l)(2)(i); and
- The requirement to apply fiscal action for repeated violations involving milk type and vegetable subgroups as detailed in 7 CFR 210.18(l)(2)(ii).

When determining whether this waiver is applicable during an administrative review, State agencies should consider all of the information SFAs have available that illustrates that a COVID-19 supply chain disruption occurred. This waiver is available through June 30, 2023.

States are reminded that under 7 CFR 210.18(l)(2)(iii-iv) fiscal action for repeat violations of the requirements for food quantities and whole grain-rich foods, and for repeat violations of the dietary specifications for calories, saturated fat, sodium, and trans fat is discretionary. FNS strongly encourages State agencies to use this discretion not to take fiscal action for meal pattern violations resulting from a supply chain disruption with respect to foods served under the NSLP, SBP, or SSO and such disruption is due to COVID-19.

FNS is committed to supporting schools in serving the most nutritious meals possible, and expects schools to meet meal pattern requirements to the greatest extent possible.

¹ The burden associated with administrative reviews for the School Meals Programs is included at OMB Control # 0584-0006, Information Collection for the National School Lunch Program – Part 210 (7/31/23).

Before implementing this waiver, States should consider other options, such as the emergency procurement flexibilities at 2 CFR 200.320(c), to ensure meal pattern requirements continue to be met to the greatest extent possible. However, FNS understands schools are concerned about their ability to meet the meal pattern requirements due to supply chain constraints, and we encourage State agencies to use this flexibility when there is a supply chain disruption due to COVID-19 that is preventing or impending NSLP, SBP, or SSO meal service during the school year. FNS will continue to focus its technical assistance resources on any specific challenges schools face.

This waiver may be implemented by States that are experiencing a supply chain disruption with respect to foods served under the NSLP, SBP, or SSO and such disruption is due to COVID-19. State agencies must notify their respective FNS Regional Office of the supply chain disruption that is impacting meal service in their State for use of the waiver². FNS reminds State agencies that a COVID-19 supply chain disruption with respect to foods served under the NSLP, SBP, and SSO is an ongoing condition that must apply to continue using the waiver.

As required by Section 2202(d) of the FFCRA and extended by the Keep Kids Fed Act, each State that elects to be subject to this waiver must submit a report to the Secretary not later than 1 year after the date such State elected to receive the waiver. The report must include a summary of the use of this extension by the State agency and local Program operators.

FNS appreciates the exceptional effort of State agencies and local program operators working to meet the nutritional needs of participants. State agencies should direct questions to the appropriate FNS Regional Office.

JESSICA SARACINO Digitally signed by JESSICA
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Date: 2022.06.30 12:34:21 -04'00'

Jessica Saracino
Director
Program Monitoring and Operational Support Division

² The burden associated with the requirement to elect Nationwide Waiver participation will be included in an upcoming revision to OMB Control #0584-0654.