



United States
Department of
Agriculture

Food and
Nutrition Service

Mountain
Plains
Region

1244 Speer Boulevard, Suite 903
Denver, Colorado 80204-3585

CRB

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Reply to
Attn. of: MPFS-300:FS 10-1-1

MAR 04 2002

Subject: FSP – Request to Extend Waiver Nos. 980061, 980062, and 990047 – South Dakota

To: Arthur T. Foley
Director
Program Development Division
Food Stamp Program
Food and Nutrition Service, USDA
Alexandria, Virginia 22302-1594

Attached is a request from the State of South Dakota to extend and modify the subject waivers. Under these waivers, individuals residing in certain areas of the State are exempt from the Able-Bodied Adults Without Dependents (ABAWD) provisions of Section 273.24 of the Regulations.

The waived counties include Bennet, Buffalo, Campbell, Corson, Day, Dewey, Jackson, Marshall, Mellette, Shannon, Todd, and Ziebach. Individuals who reside on reservation land in the following counties will also be exempt: Gregory, Hyde, Lyman, Moody, Roberts, and Tripp.

Based on the justification submitted with the request, we recommend approval for a period of 1 year. Approval should be through March 31, 2003. We also recommend approval be granted under one waiver (Waiver No. 990047). If this is granted, we will rescind Waiver Nos. 980061 and 980062.

If there are any questions concerning this request, or if you need additional information, Kathie Herrman may be contacted at (303) 844-0347 or by e-mail at kathie.herrman@fns.usda.gov.

ALLAN C. NICKELS
Regional Director
Food Stamp Program

Attachment



DEPARTMENT OF SOCIAL SERVICES

FOOD STAMPS

700 Governors Drive

Pierre, South Dakota 57501-2291

(605) 773-3493

FAX (605) 773-6834

February 12, 2002

Allan C. Nickels
Food and Consumer Services
Food Stamp Program
Regional Director
Mountain Plains Region
1244 Speer Boulevard
Suite 903
Denver, Colorado 80204-3585

Dear Mr. Nickels:

Attached please find South Dakota's waiver request to allow us to exempt able-bodied, childless adults from time limited benefits.

Please let me know if you need any additional information.

Thank you.

Sincerely,

Judy Toelle,
Administrator

WAIVER REQUEST

1. **Waiver serial number:** 980061, 980062, & 990047
2. **Type of request:** Extension and Modification
3. **Primary regulation citation:** 7 CFR 273.24
4. **Secondary regulation citation, if any:**
5. **State:** South Dakota
6. **Region:** MPRO
7. **Regulatory requirements:** 7 CFR 273.24 provides that no individual shall be eligible to participate in the Food Stamp Program as a member of any household if, during the preceding 36 month period, the individual received food stamp benefits for not less than 3 months (consecutive or otherwise), during which the individual did not work 20 hours or more per week, averaged monthly; did not participate in and comply with the requirements of a work program for 20 hours or more per week; or did not participate in and comply with requirements of a program under Section 20 or a comparable program established by the State.

7 CFR 273.24 (f) also provides that, upon the request of a State agency, the Secretary may waive the applicability of the above provision for any group of individuals in the State if the Secretary makes a determination that the area in which the individuals reside has an unemployment rate of over 10 percent, or does not have a sufficient number of jobs to provide employment for the individuals.

8. **Proposed alternative procedures:** We are requesting a waiver of 7 CFR 273.24 for all individuals residing on or adjacent to South Dakota's American Indian reservation or tribal government land.

We are requesting approval to exempt the areas listed below:

Waived Counties Request: Bennett, ^{LSA}Buffalo, ^{LSA}Campbell, ^{LSA}Corson, ^{LSA}Day, ^{LSA}Dewey, ^{LSA}Jackson, ^{LSA}Marshall, ^{LSA}Mellette, ^{LSA}Shannon, ^{LSA}Todd, and ^{LSA}Ziebach. ^{LSA}

Waived individuals who reside on reservation land in the following Counties: Gregory, Hyde, Lyman, Moody, Roberts, and Tripp.

9. **Justification for request:** 7 CFR 273.24 (f) allows States to waive specific areas with unemployment rates above 10 percent or areas that do not have a sufficient number of jobs to provide employment for individuals. The law provided FNS authority to waive ABAWD provisions to recognize the challenges that individuals may face in finding and keeping permanent employment. USDA specifically identified rural areas and Indian reservations as areas that should be waived. (12-3-96 Guidance Letter).

Reservation/tribal government and adjacent areas are the most economically depressed areas in South Dakota. Some South Dakota American Indian Reservation counties are among the poorest in the nation. They are unique from other South Dakota areas because of the scarcity of transportation, jobs, and economic opportunities.

As recommended by the USDA, the following data and calculations were used to determine areas with an unemployment rate (UER) above 10 percent or areas with insufficient jobs:

LABOR SURPLUS AREAS (LSAs) Attachment A 980062

According to the Labor Surplus Area Classification publication released by the US Department of Labor, the following counties in South Dakota have been identified as Labor Surplus Areas for FY2002: **Buffalo, Corson, Day, Dewey, Jackson, Mellette, Shannon, Todd, and Ziebach.**

AREAS WITH UNEMPLOYMENT RATES ABOVE 10 PERCENT (not seasonally adjusted) 980061

No areas, other than the Labor Surplus Areas above meet this criterion.

COUNTIES WITH A CURRENT UER THAT IS AT LEAST 120 PERCENT OF THE NATIONAL UER (5.26%) FOR THE TIME PERIOD OF 24 MONTHS: Attachment C

Other than areas designated as Labor Surplus Areas only one county qualified:

❖ **Campbell**

IF THE TIME PERIOD CONSIDERED IS THE MOST CURRENT THREE MONTHS, THEN ONE MORE COUNTY QUALFIES: Attachment C

❖ **Marshall**

990047

SOUTH DAKOTA AMERICAN INDIAN RESERVATIONS WITH CURRENT UER ABOVE 10 PERCENT FOR A TIME PERIOD OF 12 MONTHS: Attachment D

990047

This was calculated by using sanctioned census share ratios. According to year 2001 labor force statistics extracted from the South Dakota Department of Labor (DOL) website, the following South Dakota American Indian reservations qualify under this criterion:

- ❖ Flandreau Santee Sioux Tribe Indian Reservation – 16.7%
- ❖ Lower Brule Indian Reservation – 11.4%
- ❖ Pine Ridge Indian Reservation – 11.6%

Please note that we are not requesting waivers for all counties that overlap onto the reservation.

We are requesting waivers based on this criterion for the following counties and portions of counties that fall within or overlap these reservations.

- ❖ **Moody** (Flandreau Santee Sioux Tribe Indian Reservation)
- ❖ **Lyman** (Lower Brule Indian Reservation)

Supporting Documentation:

Attachment E – Labor force statistics used in census share calculations

Attachment F – Census share ratios

SOUTH DAKOTA AMERICAN INDIAN RESERVATIONS WITH CALCULATED UER THAT IS AT LEAST 120 PERCENT OF THE NATIONAL UER FOR A TIME PERIOD OF 24 MONTHS:

Attachment D

Using the calculated UER based on census share ratios, the following South Dakota American Indian Reservations were found to be at least 120 percent of the national unemployment rate (5.26%) for two consecutive years (SDDOL data 2000-2001):

- ❖ Crow Creek Indian Reservation – 9.5%
- ❖ Flandreau Santee Sioux Tribe Indian Reservation – 15.5%
- ❖ Lower Brule Indian Reservation – 11.7%
- ❖ Pine Ridge Indian Reservation – 12.0%
- ❖ Rosebud Indian Reservation – 8.2%
- ❖ Lake Traverse (Sisseton) Indian Reservation – 5.26%

Please note that we are not requesting waivers for all counties that overlap onto the reservation.

We are requesting waivers based on this criterion for the following counties and portions of counties that fall within or overlap these reservations.

- ❖ **Hyde** (Crow Creek Indian Reservation)
- ❖ **Gregory, Tripp** (Rosebud Indian Reservation)
- ❖ **Roberts** (Lake Traverse (Sisseton) Indian Reservation)

Supporting Documentation:

Attachment E – Labor force statistics used in census share calculations

Attachment F – Census share ratios

COUNTIES WITH AN EMPLOYMENT-TO-POPULATION RATIO CALCULATION THAT IS LOWER THAN THE NATIONAL AVERAGE OF 74.2 PERCENT **Attachment G**

Calculated by dividing the 2000 annual average employed statistic for that area by the 2000 Census population counts age 16-64 for an area. The following county qualifies under this criterion:

- ❖ **Bennett**

10. **Anticipated impact on households and State agency operations:** Approval will have a positive impact on individuals residing on reservation/tribal government land. Waiver approval will also simplify state agency administration.
11. **Caseload information, including percent, characteristics, and quality control rate for affected portion:** We currently have 18,622 households consisting of 47,862 individuals receiving food stamp benefits in South Dakota. [27% of these individuals reside on reservation/tribal government or adjacent land.] For Federal Fiscal Year 2001, we have identified an average of 1288 individuals who were non-exempt able-bodied adults without dependents (ABAWD) receiving Food Stamp benefits in South Dakota. 876 of this population (68%) resided on waived reservation/tribal government land and are currently excluded from the time limits based on the past waiver approval.
12. **Anticipated implementation date and time period for which waiver is needed:** We are requesting approval April 1, 2002 and forward. We also believe approval should be granted for more than one year. The unemployment numbers submitted with each waiver request have

remained very stable. We believe the stability of the statistics supports a longer time approval time frame so would recommend approval for a minimum of 2 years.

13. **Proposed quality control review procedures:** None.

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


Judy Toelle, Administrator

15. **Date of request:** 02-12-02