

WAIVER REQUEST

1. **Waiver serial number:**
970090
2. **Type of request:**
Extension
3. **Primary regulation citation:**
Section 6 (o) of the Food Stamp Act, as amended by Section 824 of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, P.L. 104-193.
4. **Secondary regulation citation:**
7 CFR 273.24 (f)(2)(ii)
5. **State:**
Montana
6. **Region:**
MPRO
7. **Regulatory Requirements:**

Under 7 CFR 273.24(b) individuals are not 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; participate in and comply with the requirements of a work program for 20 hours or more per week; or participate in and comply with requirements of a program under Section 20 or a comparable program established by the State.

Under 7 CFR 273.24(f), upon the request of a State agency, the Food and Nutrition Service (FNS) may waive the applicability of the above provision for any group of individuals in the State if the FNS 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. **Description of the proposed alternative procedures:**

Under SNAP regulations at 7 CFR 273.24(f)(2), a State can qualify for a 12-month statewide ABAWD waiver if the Department of Labor (DOL)'s Unemployment Insurance Service determines it meets the criteria for extended unemployment benefits (EB) as evidence of insufficient jobs. The Unemployment Compensation Extension Act of 2008 (P.L. 110-449), which was signed into law on November 21, 2008, introduced new criteria used by DOL for the EB program.

As a result, some States qualify for extended unemployment benefits based on the criteria of the Emergency Unemployment Compensation (EUC) program, rather than the traditional EB criteria. States may be eligible for statewide waivers if the state is listed on the DOL Extended Benefits Trigger Notice as being “ON” extended benefits, regardless of whether the State qualified based on the traditional EB criteria or the revised EUC criteria.¹ States can qualify for a 12-month waiver up to 12 months after the trigger date².

The DOL began determining and publishing which states were eligible for the different levels of EUC in November 2008 on the EUC Trigger Notice. The criteria for EUC have been modified several times³, but currently to trigger on to at least the second tier of benefits⁴, states must have a 3-month average Total Unemployment Rate (TUR) of 6 percent or more.

The Department of Labor’s EUC Trigger Notice No. 2012-48⁵ on December 16, 2012 shows the State’s 3-month TUR was 6.1 percent, making the State eligible for at least the second tier of emergency unemployment compensation benefits.

9. Justification for request:

As stated in number 8 above, this request to exempt residents residing in the entire State from the work requirements of 7 CFR 273.24 due to having insufficient jobs is based on the State qualifying for extended unemployment benefits. Montana is eligible for a 12-month statewide waiver up to 12 months from the trigger notice date, therefore, it would be eligible for a 12-month waiver beginning up to December 2013. The time period of this request, October 1, 2013 through September 30, 2014, falls within that timeframe.

10. Anticipated implementation date and time period for which waiver is needed:

The State is requesting a one-year waiver from October 1, 2013 through September 30, 2014.

11. Proposed quality control review procedures:

¹ SNAP-ABAWD Statewide Waivers-New Criteria for Unemployment Insurance Extended Benefits Trigger guidance issued by FNS on January 8, 2009: <http://www.fns.usda.gov/snap/rules/Memo/2009/010809.pdf>.

² Various FNS memos have provided guidance that explains that states are eligible for a 12-month waiver up to 12 months from the trigger notice date, such as “Supplemental Nutrition Assistance Program (SNAP)-Able Bodied Adults Without Dependents Waivers for Fiscal Year 2012”:

http://www.fns.usda.gov/snap/rules/Memo/PRWORA/abawds/waivers_2012.pdf

³ <http://www.ows.doleta.gov/unemploy/pdf/euc08.pdf> lists the different modifications to the program. The most recent, the American Taxpayer Relief Act of 2012 (P.L. 112-240), extended the expiration date of the EUC program to January 1, 2014.

⁴ Currently, all states are eligible for the first tier of benefits; Tier 2 requires a 6% TUR, Tier 3 requires a 4% 13-week Insured Unemployment Rate (IUR) or a 7% TUR, and Tier 4 requires a 6% IUR or a 9% TUR.

⁵ Extended Benefits Trigger Notices can be found at:

http://www.workforcesecurity.doleta.gov/unemploy/claims_arch.asp. This trigger notice is located at https://ows.doleta.gov/unemploy/euc_trigger/2012/euc_121612.html. Trigger notice was issued the week of December 16, 2012.

There are no special quality control procedures needed in conjunction with this waiver.

12. Signature and title of requesting official:

Melinda Cummins - Manager

13. Date of request:

7-25-13