

August 26, 2008

990047

SUBJECT: FSP-South Dakota-ABAWD Request to Waive 7 CFR 273.24(f)

TO: Jody Cornwell, Regional Director
Food Stamp Program
Mountain Plains Region

This is in response to the South Dakota State Agency's amended request of May 5, 2008, to modify and extend its waiver of the work requirements of 7 CFR 273.24 for individuals residing in 16 counties based on insufficient jobs. The State based its determination of insufficient jobs on U.S. Department of Labor, Bureau of Labor Statistics data.

To avoid delays in the future, the South Dakota State agency may want to seek help in constructing its ABAWD waivers to ensure that the areas requested meet the stated criteria of insufficient jobs and that there are no duplication of areas requested.

Our detailed response is attached. If you have any questions, please contact Vicky Robinson at vicky.robinson@fns.usda.gov or at (703) 305-2476.

/S/ Patrick Waldron for

Angela Kline
Assistant Chief
Certification Policy Branch
Program Development Division

Attachment(s)

cc: All Regions (except MPRO)
Bob Dalrymple, ORNA
John Knaus
Civil Rights

FINAL:FNS:FSP:PDD:CPB:VROBINSON:08/15/08:JRagan:08/25/08:305-2519
DIR:I:CPB:WAIVERS:FY2008:990047 SD ABAWD mod & ext

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WAIVER RESPONSE

1. **Waiver serial number:** 990047
2. **Type of request:** Extension and Modification
3. **Primary regulation citation:** 7 CFR 273.24(f)
4. **Secondary regulation citation:**
5. **State:** South Dakota
6. **Region:** Mountain Plains
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; did not participate in and comply with requirements of a program under Section 20 or a comparable program established by the State; or was exempt from these requirements.

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:** The South Dakota State Agency is requesting to extend its ABAWD waiver for individuals residing in 13 counties previously approved. The State agency modified its waiver by adding the counties of Campbell, Dewey, and McPherson and combining all 16 counties into one economic area that is eligible based on having an aggregate average unemployment rate (UER) of at least 20 percent above the national average of 4.7, or 5.6 percent, for the 24-month period of July 2005 through June 2007 as follows:

Combined Economic Area:

County	Labor Force	Unemployment	Area UER
Campbell	21,030	668	
Corson	34,362	2,064	
Dewey	64,606	6,102	
McPherson	28,638	1,233	
Walworth	65,674	2,808	
Ziebach	22,292	1,405	
Bennett	35,149	1,734	
Custer	115,083	3,603	
Haakon	28,234	783	
Jackson	30,656	1,750	
Mellette	22,597	1,063	
Shannon	96,257	8,401	
Todd	86,052	4,793	
Buffalo	13,038	1,836	
Hyde	18,387	668	
Lyman	48,389	2,169	
Total Combined Economic Area	730,444	41,080	5.6

The State agency also requested to approve the reservation areas within the counties of Corson, Dewey, Walworth, Ziebach, Bennett, Jackson, Mellette, Shannon, Todd, Buffalo, Hyde, and Lyman be approved separately based on each county having an unemployment rate of 20 percent above the national average of 4.7, or 5.6 percent, for the 24-month period of July 2005 through June 2007

9. **Action and reason for approval or denial:** We are approving South Dakota's request in part. Able-bodied adults without dependents (ABAWDs) who reside within the preceding counties that have been combined into one economic area will be exempt from work requirements based on insufficient jobs. Although the State agency also requested that the reservation areas within the same counties be waived, these areas do not have to be approved separately.

In the future, if the State agency wishes to approve certain reservation areas separately in their entirety, including those that may overlap counties not approved under this waiver, then the State agency would need to specifically identify the reservation areas they wish to waive and submit a separate data analysis based on Census 2000 data and Bureau of Labor Statistics data. The waiver's rationale as submitted is flawed in that it duplicates areas already requested and 5 of the 12 counties requested with reservation areas (Walworth, Bennett, Mellette, Hyde, and Lyman) did not independently meet the threshold of having an unemployment rate of 20 percent above the national average, or 5.6 percent.

10. **Regulatory or legislative basis for action:** The waiver is approved pursuant to 7 CFR 273.24(f), which allows the Secretary to waive the applicability of the work requirement provision for any group of individuals in the State if the Secretary makes a determination that the area in which the individuals reside has insufficient jobs.
11. **Conditions and reasons:** None.
12. **Information required for extension:** To receive an extension the State agency must provide verifiable data indicating that there are insufficient jobs in the affected areas.
13. **Expiration date:** The waiver is approved retroactively for one year from May 1, 2008 through April 30, 2009.
14. **Limitation on regional office approval of like requests:** Approval of this waiver is limited to the South Dakota State agency.
15. **Quality control procedures:** N/A
16. **Date of national office action:** August 15, 2008
17. **Date of State agency's request:** May 5, 2008
18. **Date of regional office transmittal of request to national office:** July 7, 2008
19. **Date of regional office transmittal of response to State agency:**
20. **Actual implementation date:**