

May 4, 2005

980013

SUBJECT: FSP - Arkansas - FSP - Request to Waive 7 CFR 273.24

TO: Judy K. Barron, Regional Director
Food Stamp Program
Southwest Region

This is in response to the Arkansas State Agency's request to exempt individuals residing in certain areas from the work requirements of 7 CFR 273.24 based on insufficient jobs. The areas include 46 counties and 1 city. Arkansas is requesting these areas because they meet one or more of the following criteria:

- Has been identified as a labor surplus area
- Is currently located in the Delta Regional Authority Coverage; or
- Had an unemployment rate more than 20 percent above the national average during the calendar year (CY) 2004.

As you know, before a waiver is submitted to the Certification Policy Branch (CPB), it must be reviewed for accuracy and consistency by the regional office. Outstanding issues should be resolved before they are submitted to CPB. Arkansas' waiver request was sent with no evident review or analysis of the State agency's documentation and with no indication whether the material and data met the requirements outlined in memoranda regarding ABAWD waivers dated March 11, 2004 and April 22, 2004 and 7 CFR 273.24(f).

Specifically, the State agency asked us to exempt the 42 counties in the Delta Regional Authority (DRA) based on unsubstantiated documentation in attachment II that the Delta Region is a area lacking in sufficient jobs. None of the submitted documents were published in an academic study or other publication in accordance with 7 CFR 273.24(f)(2)(ii). In a subsequent contact with the State agency, we were told, "Applying strict criteria, the Authority will review each county/parish and community in the Delta as for qualification as an Economically Distressed County..." However, Arkansas did not explain what the DRA's "strict criteria" are. In spite of this, the Region recommended approval.

We, therefore, prepared our own analysis. We separated the 46 counties and 1 city into 2 categories: those areas eligible for exemption based on their Labor Surplus Area (LSA) designation for fiscal year (FY) 2005, and those counties eligible because their unemployment rates are 20 percent above the national average for a 24-month period. We calculated the combined unemployment rates of the 42 DRA counties (even though some were also designated as LSAs) and the unemployment rate for Columbia County following the procedures described in the previously mentioned memoranda.

Based on our analysis, we are approving 3 counties and 1 city based on their FY 2005 LSA designation. The 42 Arkansas DRA counties are approved because the combined unemployment rate for these counties is 20 percent above the national average for CY 2003-2004. Columbia County is denied; its unemployment rate is not 20 percent above the national average for the same period.

Our detailed response is attached. If you have any questions, please contact Patricia Maggi of my staff at (703) 305-2468.

/s/

Patrick Waldron
Branch Chief
Certification Policy Branch
Program Development Division

Attachment

cc: Bob Dalrymple, OANE (w/attachment)
Kate Fink, OANE (w/attachment)
Barbara Hallman, PAD (w/Attachment)
Dan Wilucz, QCB, PAD (w/Attachment)
FNS National Arbitrator (w/Attachment)
All Regions except SWRO

DIR: I:/CPB/Waivers 2005/980013 AR 2005 waiver extension:PMaggi:4-15-05; 2nd rev.
4-22-05:so

WAIVER RESPONSE

1. **Waiver serial number:** 980013
2. **Type of request:** Extension and Modification
3. **Primary regulation citation:** 7 CFR 273.24
4. **Secondary regulation citation:**
5. **State:** Arkansas
6. **Region:** SWRO
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 Food and Nutrition Service (FNS) 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. **Description of proposed alternative procedures:** Based on subsequent e-mails from the Region, the State agency is requesting exemptions for residents of a total of 46 counties and 1 city. The areas are as follows:

Arkansas County	Desha County	Lincoln County	St. Francis County
Ashley County	Drew County	Lonoke County	Searcy County
Baxter County	Fulton County	Marion County	Sharp County
Bradley County	Hot Springs City in Garland County	Mississippi County	Union County
Calhoun County	Grant County	Monroe County	Van Buren County
Chicot County	Greene County	Ouachita County	White County
Clay County	Hot Spring County	Perry County	Woodruff County
Cleveland County	Independence County	Phillips County	
Columbia County	Izard County	Poinsett County	
Craighead County	Jackson County	Polk County	
Crittenden County	Jefferson County	Prairie County	
Cross County	Lawrence County	Pulaski County	
Dallas County	Lee County	Randolph County	

Arkansas is requesting these areas because they meet one or more of the following criteria:

- Has been identified as a labor surplus area
- Is currently located in the Delta Regional Authority Coverage; or
- Had an unemployment rate more than 20 percent above the national average during the calendar year (CY) 2004.

9. Action and reason for approval or denial:

LSA designation:

The following 30 counties and 3 cities are designated as labor surplus areas (LSAs) for fiscal year (FY) 2005 by the Employment and Training Administration of the Department of Labor (DOLETA):

Ashley County	Drew County	Mississippi County	Sharp County
Bradley County	Fulton County	Monroe County	St. Francis County
Calhoun County	Hot Spring County	Ouachita County	Stone County
Chicot County	Hot Springs City in Garland County	Perry County	Union County
Clay County	Izard County	Phillips County	Van Buren County
Crittenden County (less West Memphis City)	Jacksonville City in Pulaski County	Pine Bluff City in Jefferson County	Woodruff County
Cross County	Jackson County	Poinsett County	
Dallas County	Lawrence County	Polk County	
Desha County	Lee County	Randolph County	

Many of these counties are included in the Delta Regional Authority. To avoid having the same counties listed as approved for both their LSA designation and for having unemployment rates greater than 20 percent above the national average for a 24-month

period, we are approving the following areas based solely on their FY 2005 LSA designation by the DOLETA:

Hot Springs City in Garland County	Perry County
Hot Spring County	Polk County

Unemployment rate greater than 20 percent above the national average:

In addition to the designated LSAs, the State agency is also requesting exemptions for 42 Arkansas counties in the Delta Regional Authority Coverage (DRA). The DRA covers economically distressed areas in 240 counties/parishes in eight States. Its goal is to stimulate economic development and foster partnerships that will have a positive impact on the region’s economy. Some of the previously listed LSA counties are also included in the DRA. These counties are marked with an “*”. We used the 24-month period of CY 2003-2004 and the relevant workforce data obtained from the BLS website (<http://www.bls.gov>) to calculate the Arkansas DRA Coverage areas’ unemployment rate. For example, we calculated Arkansas County’s 24-month labor force and unemployed figures as follows:

Arkansas	Year	Period	Labor force	Unemployed
	2003	Jan	10,546	737
	2003	Feb	10,627	671
	2003	Mar	10,655	595
	2003	Apr	10,731	561
	2003	May	10,749	572
	2003	Jun	11,036	669
	2003	Jul	11,078	654
	2003	Aug	10,916	579
	2003	Sep	11,000	547
	2003	Oct	10,856	561
	2003	Nov	10,763	637
	2003	Dec	10,798	689
	2004	Jan	10,527	779
	2004	Feb	10,595	714
	2004	Mar	10,622	681
	2004	Apr	10,690	592
	2004	May	10,797	589
	2004	Jun	10,928	678
	2004	Jul	11,285	746
	2004	Aug	11,212	637
	2004	Sep	11,176	672
	2004	Oct	11,331	725
	2004	Nov	11,250	842
	2004	Dec	11,210	985

24-month totals 261,378 16,112

We repeated this calculation for each of the 42 DRA Coverage counties and obtained the following grand totals:

County	Labor Force	Unemployed
Arkansas	261,378	16,112
Ashley*	247,288	27,098
Baxter	347,177	21,208
Bradley*	120,203	10,917
Calhoun*	54,372	5,274
Chicot*	140,166	16,524
Clay*	170,176	15,717
Cleveland*	87,446	5,991
Craighead	1,085,597	54,904
Crittenden*	565,454	44,245
Cross*	191,463	19,140
Dallas*	85,257	8,396
Desha*	161,318	16,643
Drew*	230,680	18,911
Fulton*	108,073	6,343
Grant	165,250	10,466
Greene	440,275	27,516
Independence	419,660	28,204
Izard*	109,486	8,733
Jackson*	188,368	18,666
Jefferson	897,217	80,682
Lawrence*	173,102	16,923
Lee*	99,446	11,534
Lincoln	133,172	8,523
Lonoke	661,852	28,637
Marion	154,647	8,352
Mississippi*	549,284	71,434
Monroe*	90,105	542,675
Ouachita*	274,937	25,288
Phillips*	549,284	1,094,447
Poinsett*	242,175	20,713
Prairie	7,663,548	2,177,366
Pulaski	15,239,650	23,3557
Randolph*	29,393,703	4,527,394
Searcy	68,708	3,994
Sharp*	150,095	11,953
St. Francis*	296,225	30,242
Stone	119,093	7,688
Union*	508,251	42,335
Van Buren*	155,738	11,296
White	792,672	45,750
Woodruff*	85,883	10,778
24-MONTH	63,477,874	9,392,569

TOTALS

UER 0.147966 **14.7966**
 * LSA for FY 2005

The national unemployment average for CY 2003-2004 is 5.7 percent; 20 percent above the national average is 6.8 percent (referred hereafter as the threshold). An area must have an average 24-month unemployment rate of 6.8 percent or greater in order to be exempt from the ABAWD work requirements.

We added up the total unemployed numbers for the 42 DRA counties and calculated a grand total of 9,392,569 unemployed. We then added up the total labor force numbers and calculated a grand total labor force of 63,477,874. We then divided the grand total unemployed by the grand total labor force and multiplied that figure by 100 to calculate the 14.8 unemployment rate ($9,392,569 / 63,477,874 = 0.147966$; $0.1479 \times 100 = 14.79$ percent, then rounded to 1 decimal place = 14.8).

The 42 counties are approved because their combined unemployment rate of 14.8 percent is well above the 6.8 percent threshold for CY 2003-2004.

Lastly, Arkansas wishes to exempt Columbia County because its unemployment rate is 20 percent above the national average for CY 2004. We noted the State agency used only a 12-month time period to calculate the two counties' unemployment rate. Columbia County must have an unemployment rate greater than 20 percent above the national average *for a 24-month period* (our emphasis). Therefore, we calculated the county's unemployment rates for the 24-month period CY 2003-2004 using BLS website data. Our calculations are as follows:

Columbia	Year	Period	Labor force	Unemployed
	2003	Jan	10,468	742
	2003	Feb	11,046	785
	2003	Mar	11,067	797
	2003	Apr	11,086	727
	2003	May	11,031	686
	2003	Jun	10,847	882
	2003	Jul	11,105	796
	2003	Aug	10,854	683
	2003	Sep	11,128	706
	2003	Oct	11,212	672
	2003	Nov	11,230	653
	2003	Dec	11,250	654
	2004	Jan	10,789	682
	2004	Feb	10,797	665
	2004	Mar	10,945	673
	2004	Apr	11,083	688
	2004	May	11,103	742

2004	Jun	10,944	827
2004	Jul	11,036	881
2004	Aug	10,800	700
2004	Sep	10,884	643
2004	Oct	11,228	668
2004	Nov	11,281	630
2004	Dec	11,110	664
Totals		264,324	17,246
UER		0.065246	
UER %		6.5246	

We added up the monthly unemployed and labor force figures for Columbia County. The total unemployed figure for CY 2003-2004 is 17,246; the total labor force figure is 264,324. We divided the total unemployed figure by the total labor force figure to obtain the County's 24-month unemployment rate and multiplied that amount by 100 to obtain a 6.5 percent unemployment rate ($17,246 / 264,324 = .065246$; $.065246 \times 100 = 6.54$, then rounded to 1 decimal place = 6.5). Columbia County's unemployment rate of 6.5 percent does not meet the 6.8 percent threshold. Therefore, we are denying Columbia County an exemption from the ABAWD work requirement.

With the exception of Columbia County, we are retroactively approving the State agency's waiver to April 1, 2005.

10. **Regulatory or legislative basis for action:** This waiver is approved pursuant to 7 CFR 273.24(f), which allows the FNS to waive the applicability of the work requirement provision in 7 CFR 273.24 for any group of individuals in the State if the FNS makes a determination that the area in which the individuals reside does not have a sufficient number of jobs to provide employment for the affected individuals.
11. **Conditions and reasons:** N/A
12. **Information required for extension:** To receive an extension the State agency must provide verifiable data as outlined in 7 CFR 273.24(f) indicating that there are insufficient jobs in the affected areas. Such data can be found on the State DOL or Federal DOL, BLS web sites. We strongly recommend that, for future submission, Arkansas follow the requirements of our memoranda of March 11, 2004 and April 22, 2004.
13. **Expiration date:** The waiver will expire on March 31, 2006
14. **Limitation on regional office approval of like requests:** This waiver is limited to the Arkansas State Agency.
15. **Quality Control Procedures:** N/A

16. Date of national office action:

17. Date of State agency's request: March 18, 2005

18. Date of regional office transmittal to the national office:

19. Actual implementation date: