

June 10, 2005

2030008

SUBJECT: FSP – New Mexico Waiver Request – 7 CFR 273.24

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

We are approving New Mexico's request to extend this waiver, but our approval does not cover all of the counties that New Mexico requested. Our detailed response is attached. If there are any questions, please contact Thomas O'Connell, of my staff, by email.

We appreciate the work of David Short as we have worked through the many difficult issues of this waiver.

We are approving this request retroactively to May 1, 2005. The waiver will expire on April 30, 2006.

/s/

Harriet Kornegay
Assistant Chief
Certification Policy Branch
Program Development Division

Attachment

cc: Dan Wilucz, QCB, PAD
Barbara Hallman, SAB, PAD
Kate Fink, OANE (w/attachments)
Bob Dalrymple, OANE (w/attachments)
All Regions (except MPRO) w/attachments
FNS National Arbitrator
Civil Rights

FINAL:USDA:FNS:FSP:PDD:CPB:TO'CONNELL:6/10/05:je
File:I:CPB:Waivers:FY 2005:2030008 New Mexico ABAWD Extension:
Approval:O'Connell

WAIVER RESPONSE

- 1. **Waiver serial number:** 2030008
- 2. **Type of request:** Extension/Modification
- 3. **Primary regulation citation:** 7 CFR 273.24
- 4. **Secondary regulation citation:** None
- 5. **State:** New Mexico
- 6. **Region:** Southwest
- 7. **Regulatory requirements:** 7 CFR 273.24 provide 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.
- 8. **Description of proposed alternative procedures:**

The State agency wishes to extend and modify waiver 2030008 to encompass thirty counties and eight pueblos and reservations. The counties are:

Catron	Chavez	Cibola	Colfax	Curry
DeBaca	Dona Ana	Eddy	Grant	Guadalupe
Harding	Hidalgo	Lea	Lincoln	Luna
McKinley	Mora	Otero	Quay	Rio Arriba
Roosevelt	San Juan	San Miguel	Sandoval	Sierra
Socorro	Taos	Torrance	Union	Valencia

The reservations are:

Canoncito	Isleta	Nambia	Pojoaque
San Ildefonso	Santa Clara	Tesuque	Sandia

- 9. **Action and reason for approval or denial:** We are approving this waiver to encompass all the counties, pueblos, and reservations listed above, except for Lincoln and Union.

The threshold for obtaining a waiver, 120 percent of the national average unemployment rate, was 6.9 percent for 24 months of Calendar Years 2003 and 2004. The combined unemployment rate for all of the jurisdictions above was

6.8 percent. Therefore, it is not possible to approve the waiver as the state agency originally requested. At New Mexico's request, we deleted Lincoln and Union counties. The remaining jurisdictions then had a satisfactory combined unemployment rate of 6.9 percent.

The New Mexico state agency had proposed using Calendar Years 2003 and 2004 for all of the jurisdictions, except for Canoncito. For Canoncito the state agency proposed using Calendar Years 2002 and 2003 and combining that unemployment rate with the remaining jurisdictions' average rate over Calendar Years 2003 and 2004.

That is something that we cannot do. The state agency has the authority to define the area for which it is requesting a waiver. In this case, the area is a group of counties, pueblos, and reservations. Once the state agency defines that area, the state agency then measures the unemployment rate for that area. Either the area, as whole, has a high unemployment rate or it does not. But the measurement must be contemporaneous across the defined area for us to make that decision. A measurement that combines different time periods tells us nothing about the availability of jobs in the area.

Therefore, we are approving the waiver, but:

- Deleting Lincoln and Union counties, and
- Including Canoncito, using Calendar Years 2003 and 2004.

10. **Regulatory or legislative basis for action:** 7 CFR 273.24(f).
11. **Conditions and reasons:** N/A
12. **Information required for extension:** Please submit supporting unemployment data that relies on data from the federal Bureau of Labor Statistics (or its cooperating agency) and/or methods and data indicating a lack of sufficient jobs.
13. **Expiration date:** This waiver will expire on April 30, 2006.
14. **Limitation, if any, on regional office approval of like requests:** This waiver is limited to the New Mexico Human Services Department only.
15. **Quality control procedures:** N/A
16. **Date of national office action:**
17. **Date of State agency's request:** April 1, 2005, revised on May 5, 2005 and on May 25, 2005.

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18. **Date of regional office transmittal of request to national office:**
19. **Date of regional office transmittal of response to State agency:**
20. **Actual implementation date:**