

MAY 11 2005

2050050

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

TO: Mary Ann Ferris
Regional Director
Food Stamp Program
Northeast Region

This is in response to the April 15, 2005 email from your office forwarding the New York State Agency's March 24, 2005 request to obtain approval to waive the work requirements for able-bodied adults without dependents (ABAWDS) living in Labor Surplus Areas (LSA) and in areas in which the unemployment rate exceeds the national average by 20% during the given time period.

Our response is attached. If you have any questions, please contact Celeste Perkins at (703) 305-2507.

SIGNED

Harriet Kornegay
Assistant Branch Chief
Certification Policy Branch
Program Development Division

Attachment

FINAL:USDA:FNS:FSP:PDD:CPB:CPerkins:so
FILE: New York
DIR:I:CPB:Waivers:2050050 New York ABAWD

Symbol	Signature	Date	Symbol	Signature	Date
	<i>Perkins</i>	<i>05-10-05</i>			
	<i>Kornegay</i>	<i>5/10</i>			

OFFICIAL RECORD COPY

WAIVER RESPONSE

1. **Waiver serial number:** 2050050
2. **Type of request:** Initial
3. **Primary regulation citation:** 7 CFR 273.24
4. **Secondary regulation citation:** None
5. **State:** New York
6. **Region:** Northeast Region (NERO)
7. **Regulatory requirements:** The Food Stamp Program regulations at 7 CFR 273.24(b), 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.

The Food Stamp Program regulations at 7 CFR 273.24(f) also provide 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 we make 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:** The New York State Agency is requesting a waiver for 23 counties designated as LSAs: Auburn City in Cayuga County, Binghamton City in Broome County, Buffalo City in Erie County, Cortland County, Elmira City in Chemung County, Jefferson County, Watertown City, Lewis County, Newburgh City in Orange County, New York City, Bronx County, Kings County, New York County, Lockport City, Niagara Falls City, Orleans County, Oswego County, Rochester City in Monroe County, Schyler County Saint Lawrence County, Steuben County, Syracuse City in Onondaga County, and Utica City in Oneida County. The counties all appear on the Department of Labor's (DOL's) list of Labor Surplus Areas for fiscal year 2005 (which DOL recently posted on their web site at http://www.doleta.gov/programs/pdf/lssa_listing_of_areas.pdf). The State agency is also seeking a waiver for seven additional areas based on average unemployment rates that exceed the national average by 20 percent. These areas include: Allegany County, Cattaraugus County, Franklin County, Genesee County,

Jamestown City in Chautauqua County, Niagara County, and Richmond County. In support of its request, the State agency provided labor market data for all of the counties listed in their waiver request. The State agency allows counties the option to elect to decline to be a part of the statewide waiver.

9. **Action and reason for approval or denial:** We are approving the New York State agency's request for a waiver of the work requirements of 7 CFR § 273.24 based on certain counties listed on the recently published 2005 Labor Surplus Area List and seven counties that unemployment rates exceed the national average by 20 percent in a 24 month period. The data is based on labor market data for fiscal years 2003 and 2004 for the counties: Allegany County, Cattaraugus County, Niagara County, and Richmond County. The data is based on labor market data for calendar years 2003 and 2004 for Franklin County, Genesee County, and Jamestown City in Chautauqua County. This data was extracted from the website of the Bureau of Labor Statistics (BLS).

Based on the information provided by the State agency from the Bureau of Labor Statistics web page, we are approving these seven areas that unemployment rates exceed the national average by 20 percent in a recent 24 month period.

Area	Total Labor Force FY 2003-2004	Total Unemployment FY 2003-2004	Average Unemployment Rate FY 2003-2004
Allegany County	577147	44711	7.7%
Cattaraugus County	1005900	71805	7.1%
Niagara County	2610101	195350	7.5%
Richmond County	522129	374629	7.2%
Area	Total Labor Force CY 2003-2004	Total Unemployment CY 2003-2004	Average Unemployment Rate CY 2003-2004
Franklin County	537605	36785	6.9%
Genesee County	742986	51253	6.9%
Jamestown City in Chautauqua County	376161	26082	6.9%

20% above the National UR for FY 2003-2004: 7.0
 20% above the National UR for CY 2003-2004: 6.9

We are also approving the State agency's request to allow counties to decline to participate in the statewide waiver. New York has a state supervised-county administered structure. FNS has long recognized that in such a structure, counties may elect to adopt procedures and options that do not apply in other counties in the State. Conditions for the approval are noted in Section 11.

10. **Regulatory or legislative basis for action:** State agencies have the authority to request exemptions for jurisdictions within the State or for the entire State per 7 CFR 273.24(f)(2)(ii), which provides FNS authority to waive the applicability of the work requirement provision for any group of individuals in the State if FNS makes a determination that the area in which the residents reside has insufficient jobs.
11. **Conditions and reasons:**
 - The State agency has 30 days from the date of approval to provide a list of counties identifying their status with respect to the waiver.
 - The State agency must provide documentation from the responsible official in each county indicating the decision to be in or out of the waiver.
 - Lastly, if the county changes its option, the State agency must notify the Regional Office immediately.
12. **Information required for extension:** N/A
13. **Expiration date:** April 30, 2006
14. **Limitation, if any, on regional office approval of like requests:** This waiver applies to New York only.
15. **Quality control procedures:** N/A
16. **Date of national office action:**
17. **Date of State agency's request:** March 24, 2005
18. **Date of regional office transmittal of request to national office:** April 15, 2005