

March 10, 2005

970264

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

TO: Ralph E. Anzur
Acting Regional Director
Food Stamp Program
Mountain Plains Region

This is in response to your memorandum of February 8, 2005, forwarding the Wyoming State Agency's request to extend waiver 970264. The waiver requests an exemption from the work requirement for able-bodied adults without dependents for individuals living on the Wind River Indian Reservation. An overwhelming majority of the Reservation's population resides in Fremont County, which the State agency asserts has an unemployment rate for calendar year (CY) 2002 and 2003 that is 20 percent above the national average for the same period.

We are denying the waiver. Using unemployment data from the Bureau of Labor Statistics, we calculated the Reservation's 24-month unemployment rate as 6.4 percent. This unemployment rate is not 20 percent above the national average.

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

/s/

Patrick Waldron
Chief
Certification Policy Branch
Program Development Division

Attachment

cc: All Regions (except MPRO) w/Attachment
Dan Wilucz, QC, PAD w/Attachment
Bob Dalrymple, OANE w/Attachment
Kate Find, OANE w/Attachment
FNS National Arbitrator w/Attachment

DIR: I:/CPB/Waivers/FY2005/970264 WY 2005 Extension:PMaggi:3-4-05:so

WAIVER RESPONSE

1. **Waiver serial number:** 970264
2. **Type of request:** Extension
3. **Primary regulation citation:** 7 CFR 273.24
4. **Secondary regulation citation:** None
5. **State:** Wyoming
6. **Region:** Mountain Plains
7. **Regulatory Requirements:** Under 7 CFR 273.24 no individual may 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.

Under 7 CFR 273.24(f), at a State agency's request, the Food and Nutrition Service (FNS) may waive the time limits for any group of individuals in the State if the Secretary determines that the area in which the individuals reside has an unemployment rate of over 10 percent, or has insufficient jobs to provide employment for the individuals. As provided at 7 CFR 273.24(f)(3)(iii) an acceptable way to establish that an area has insufficient jobs to provide employment for individuals residing in an area is for the area to have an unemployment rate for a 24-month period that is 20 percent above the national average for the same 24-month period.

8. **Description of proposed alternative procedures:** The Wyoming State Agency wishes to extend waiver 970264 so that enrolled tribal members residing on the Wind River Indian Reservation are exempt from the work requirement provisions of 7 CFR 273.24. The State agency is requesting the waiver on the basis that the overwhelming majority of the Reservation's population resides in Fremont County. Wyoming obtained information from the Bureau of Labor Statistics (BLS) for Fremont County showing it had an unemployment rate of 6.2 percent in 2002 and 6.5 percent in 2003.

A very small number of the reservation's population resides in Hot Springs County. Wyoming did not provide any data about this county's unemployment rate.

9. **Action and reason for approval or denial:** We are denying Wyoming's request. We note that the State agency failed to calculate Fremont County's 24-month

percent. In order for Fremont County to be exempt from the ABAWD work requirements, its unemployment rate must be 20 percent above the national average. The national unemployment average for CY 2002-2003 is 5.9 percent; 20 percent above the national average is 7.1 percent. Fremont County's unemployment rate is not 20 percent above the national average.

In our FY 2004 approval, we asked that Wyoming get labor force estimates based on census share data for Fremont and Hot Springs Counties, and apply the estimates to local area unemployment statistics for the two counties to determine the unemployment rate on the Reservation. Therefore, we obtained BLS data for Hot Springs County for CY 2002-2003.

Year	Period	labor force	employment
2002	Jan	2356	2213
2002	Feb	2337	2185
2002	Mar	2359	2210
2002	Apr	2373	2254
2002	May	2384	2274
2002	Jun	2442	2330
2002	Jul	2441	2356
2002	Aug	2381	2307
2002	Sep	2278	2192
2002	Oct	2291	2211
2002	Nov	2275	2189
2002	Dec	2266	2153
2003	Jan	2132	2022
2003	Feb	2177	2060
2003	Mar	2193	2105
2003	Apr	2282	2199
2003	May	2262	2193
2003	Jun	2336	2282
2003	Jul	2346	2289
2003	Aug	2309	2256
2003	Sep	2167	2110
2003	Oct	2286	2226
2003	Nov	2276	2202
2003	Dec	2252	2161
Total		55201	52979

We obtained the census share ratios for the Reservation and calculated its unemployment rate as follows:

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Wind River Reservation	County EMP	Census Share	County UEMP	Census Share	EMP (Cnty EMP x Cen Shr)	UNEMP (Cnty Unemp x Cen Shr)	FORCE (Res EMP + Res UEMP)	UEMP % (Res UEMP/Res LF)
Fremont	417789	0.614623	26357	0.7116	256782.73	18755	275538.159	0.068068
Hot Springs	52979	0.042419	2222	0	2247.3162	0	2247.3162	0
Total UEMP								6.8%

The unemployment rate for the Wind River Reservation for CY 2002-2003 is 6.8 percent, which is less than the 7.1 percent threshold. The Reservation is not eligible for an ABAWD waiver. Wyoming may use its 15 percent case month exemptions for the residents of the Reservation.

10. **Regulatory or legislative basis for action:** This waiver is denied because the data does not meet the criteria for a waiver approval under 7 CFR 273.24(f). This regulation allows 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 Secretary determines that the area has an unemployment rate of over 10 percent or does not have a sufficient number of jobs to provide employment for the people residing in the area.
11. **Conditions and reasons:** None
12. **Information required for extension:** Please submit supporting unemployment data that relies on standard BLS data and/or methods and data indicating a lack of sufficient jobs. The Wyoming State Agency must obtain labor force estimates based on census share data for Fremont and Hot Springs Counties, and apply the estimates to local area unemployment statistics for the counties to determine the unemployment rate on the Reservation.
13. **Expiration date:** N/A
14. **Limitation on regional office approval of like requests:** This waiver is limited to the Wyoming State Agency.
15. **Quality Control Procedures:** N/A
16. **Date of national office action:**
17. **Date of State agency's request:** February 8, 2005
18. **Date of regional office transmittal of request to national office:** February 17, 2005
19. **Date of regional office transmittal of response to State agency:**

20. **Actual implementation date:**