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ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 04-10, Change 7

TO: STATE WORKFORCE AGENCIES

FROM: JANE OATES /s/
Assistant Secretary

SUBJECT: Extended Benefits Program – Temporary Changes made by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, and Reminder of the Continuation of the Emergency Unemployment Compensation Nonreduction Rule

- Purpose.** To provide additional information about the temporary changes to the federal-state extended benefits (EB) program made by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, and remind states of the continuation of the Emergency Unemployment Compensation (EUC08) nonreduction rule.
- References.** Sections 501 and 502 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312; the Federal-State Extended Unemployment Compensation Act of 1970 (“EB law”), 26 U.S.C. 3304 note; 26 U.S.C. 3304(a)(11); 20 CFR Part 615; Unemployment Insurance Program Letter (UIPL) No. 45-92; UIPL No. 4-10, changes 3 and 6; UIPL No. 24-10; and Employment and Training Administration (ETA) 539 Report (OMB number 1205-0028).
- Summary of EB Changes.** P.L. 111-312 permits states to amend their laws to temporarily modify the provisions concerning EB “on” and “off” indicators. Specifically, it permits states to make determinations of whether there is an EB “on” or “off” indicator by comparing current unemployment rates to the unemployment rates for the corresponding period in the three preceding years. This comparison is called a “look-back”. (Under permanent EB law, the look-back compares current unemployment rates to rates in the previous two years.) This modification to the look-back provisions will enable many states to remain “on” EB much longer. This authority expires on December 31, 2011. This UIPL provides:

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- Additional information about this optional temporary change to the EB program.
- Draft legislation that states may use when enacting legislation to implement it.
- Revised reporting instructions for the ETA 539.

4. **EB Background.** Permanent EB law establishes “on” or “off” indicators to determine when EB periods begin and end in a state. To ensure that EB is only payable during periods of high and rising unemployment, both the mandatory indicator based on the insured unemployment rate (IUR) and the optional indicator based on the total unemployment rate (TUR) include look-back requirements. Under the mandatory IUR indicator (section 203(d) of the EB law), a state will begin and remain in an EB period (under which up to 13 weeks of EB is available) if the IUR for the previous 13 weeks is at least 5 percent and equals or exceeds 120 percent of the average of the rates for the corresponding period in each of the two previous years. Under the optional TUR indicator (section 203(f) of the EB law), a state will begin and remain in an EB period (under which up to 13 weeks of EB is available) if the average seasonally adjusted TUR for the most recent three months is at least 6.5 percent and equals or exceeds 110 percent of the rate for the corresponding three-month period in either or both of the two previous years. Additionally, under the optional TUR indicator, a state will begin and remain in a high unemployment period (section 202(b)(3)(B) of the EB law)(under which up to 20 total weeks of EB is available) if the TUR is at least 8.0 percent and equals or exceeds 110 percent of the rate for the corresponding 3-month period in either or both of the two previous years.

Under permanent EB law, because of sustained high unemployment rates during the last two years, many states are expected to trigger “off” EB based on the TUR indicator by early spring 2011. Even though states’ TURs are expected to remain high enough to continue to meet the first requirement of an EB “on indicator” (i.e., a TUR of at least 6.5 percent), they would not likely continue to meet the look-back requirement because the average seasonally adjusted TUR for the most recent three months would no longer equal or exceed 110 percent of the rate for the corresponding three-month period in either or both of the two previous years.

To enable states to remain “on” EB, section 502 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 amends the EB law to permit states to use a three-year look-back for the mandatory IUR and/or optional TUR indicator. (In general, unemployment rates three years ago were low enough to meet the look-back requirements for the EB “on” indicators.) This optional authority applies only to weeks of unemployment beginning after December 17, 2010, through weeks of unemployment ending on or before December 31, 2011. Since EB is payable under state law, states must amend the EB provisions in their laws to apply the three-year look-back when determining EB “on” or “off” indicators. States that want to use the three-year look-back should ensure this provision is effective before they would trigger “off” EB based on the two-year look-back. Otherwise, the state must remain “off” EB for at least 13 weeks, as required by section 203(b)(1)(B) of the EB law.

Attachment I offers draft legislation for the convenience of states wishing to adopt the temporary three-year look-back.

5. **EB Reporting.** States that adopt the three-year look-back provision for the IUR indicator will need to modify the reporting of the ETA 539 to reflect the actual number of prior years used in the calculation of the look-back percentage. Current guidance for the ETA 539 only allows for two years in the computation of the average rate in prior years, referred to as “AR” and defined on page I-1-14 of current reporting guidance. Revised guidance, provided in Attachment II, provides for states to use the appropriate number of prior years in the computation of the look-back percentage. It also requires states to report in the “comments” section the effective date of an enacted three-year look-back provision for any indicator. These instructions have been approved by the Office of Management and Budget as a non-substantive change to the existing ETA 539 collection.
6. **EUC08 Nonreduction Rule Reminder.** Section 501 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 extends the phase-out period and expiration date of the EUC08 program. As outlined in UIPL No. 04-10, Change 3, a state’s EUC08 agreement will no longer apply and EUC08 will not be payable in a state if the U.S. Department of Labor determines that the method governing the computation of regular compensation under the state law has been modified in a manner such that the average weekly benefit amount of regular compensation which will be payable during the period of the agreement will be less than the average weekly benefit amount of regular compensation which would otherwise have been payable during such period under the state law in effect on June 2, 2010. The period of the agreement includes EUC08 phase-out, which is currently set to expire on June 9, 2012. States considering modification of the method governing the computation of regular compensation that would be inconsistent with this rule should ensure that such amendments to their law become effective after this date. For additional information about the applicability of the nonreduction rule, see UIPL No. 24-10.
7. **Action Requested.** State administrators should distribute this advisory to appropriate staff.
8. **Inquiries.** Questions should be addressed to your Regional Office.
9. **Attachments.**

Attachment I – Draft Legislation – Temporary Three-Year “Look-back”
Attachment II – Pending Update to HB401 Guidance for the ETA 539

DRAFT LEGISLATION – TEMPORARY THREE-YEAR “LOOK-BACK”

DISCUSSION

Below is suggested legislative language for states that choose to amend their extended benefits (EB) law to provide for a temporary three-year “look-back” when determining “on” and “off” indicators as provided in Section 502 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312. This language supplements the draft language for subparagraphs (a)(2)(A) and (C) transmitted in Attachment II to UIPL No. 45-92 by creating a new subsection (b).

This suggested legislative language pertains to both the mandatory insured unemployment rate (IUR) indicator and the optional total unemployment rate (TUR) indicator. Although, in general, states are currently “on” EB through the TUR indicator, states, particularly those with temporary TUR indicators, may want to adopt the language pertaining to the IUR indicator as well as the TUR indicator language. (If authority for the three-year look-back is extended beyond December 31, 2011, it would be possible to remain “on” EB through the IUR indicator after states’ temporary TUR indicators expire due to lack of continued 100 percent Federal funding of most EB costs.) States that have not been “on” EB during this recession may not wish to adopt any of this language, as it would have no practical effect.

There are two parts of the suggested legislative language that states may want to customize—the effective date and expiration date of this provision. The effective date was written to become effective upon enactment of P.L. 111-312. The bracketed bold language following is an alternative effective date based on the date established under state law, if it is later than the date of enactment of P.L. 111-312. The expiration date was written to mirror the current statutory end date for the three-year “look-back” – December 31, 2011. The bracketed bold language following provides an alternative, based on the possibility that Congress will extend this provision. It ties expiration of the provision to the date Congress chooses. There also are placeholders in bold for insertion of citations to the appropriate sections of the state’s code.

DRAFT LANGUAGE

(b)(1) With respect to compensation for weeks of unemployment beginning after date of enactment of P.L. 111-312 **[or, if later, the date established under State law]**, and ending on or before December 31, 2011 **[or the date established in Federal law permitting this provision]**--

(A)(i)(I) there is a State "on" indicator for a week if the average rate of insured unemployment under **section XX of the state’s code** for the period consisting of such week and the immediately preceding twelve weeks equals or exceeds 5 percent, and

(II) the average rate of insured unemployment under **section XX of the state's code** for the period consisting of such week and the immediately preceding twelve weeks equals or exceeds 120 percent of the average of such rates for the corresponding 13-week period ending in each of the preceding three calendar years;

(ii) there is a State "off" indicator for a week based on the rate of insured unemployment only if for the period consisting of such week and the immediately preceding twelve weeks, paragraph (1)(A)(i) does not result in an "on" indicator.

(B)(i)(I) there is a State "on" indicator for a week if the average rate of total unemployment (seasonally adjusted), as determined by the United States Secretary of Labor, for the period consisting of the most recent 3 months for which data for all States are published before the close of such week equals or exceeds 6.5 percent, and

(II) the average rate of total unemployment in the State (seasonally adjusted), as determined by the United States Secretary of Labor, for the 3-month period referred to in subclause (I), equals or exceeds 110 percent of such average for any or all of the corresponding 3-month periods ending in the 3 preceding calendar years;

(III) there is a "high unemployment period" as provided in **section YY of the state's code** if subclause (I) were applied by substituting "8 percent" for "6.5 percent";

(ii) there is a State "off" indicator for a week based on the rate of total unemployment only if for the period consisting of the most recent 3 months for which data for all States are published before the close of such week, paragraph (1)(B)(i) does not result in an "on" indicator.

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A. Facsimile of Forms

1. ETA 539 Screen

ETA 539 - CLAIMS AND EXTENDED BENEFITS DATA

STATE	REGION	REPORT FOR PERIOD ENDING							
Week Number:			Reflected Week Ending:						
IC:		FIC:		XIC:		WSIC:		WSEIC:	
CW:		FCW:		XCW:		WSCW:		WSECW:	
EBT:		EBUI:		ABT:		ABUI:			
AT:		CE:		R:		AR:		P:	
STATUS:			STATUS CHANGE DATE:						

Comments:

OMB No.: 1205-0028

OMB Expiration Date: 09/30/2012

Average Response Time: 50 minutes

OMB Burden Statement: These reporting instructions have been approved under the Paperwork reduction Act of 1995. Persons are not required to respond to this collection of information unless it displays a valid OMB control number. Public reporting burden for this collection of information includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Submission is required to obtain or retain benefits under SSA 303(a)(6). Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, Office of Unemployment Insurance, Room S-4231, 200 Constitution Ave., NW, Washington, DC, 20210.

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2. Recommended Worksheet

RECOMMENDED WORKSHEET FOR THE TRIGGER PORTION OF THE ETA 539

For states using a two year look-back, enter zero into column 11 of the worksheet below. For states using a three year look-back, enter the rate from the third year into column 11 of the worksheet below. The calculations in columns 12 and 13 will be identical regardless of the number of years in the state look-back.

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
WK NO	Week End Date	Insured Unemployment Regular (CW)	Insured Unemployment STC Equivocal (WSECW)	Total Insured Unemployment (2) + (3)	13 Week Total Current (4) + prior 12 weeks	13 Week Average (5)/13	Covered Employment	Rate Current 13 Week year (6)/(7)	Rate First Prior Year	Rate Second Prior Year	Rate Third Prior Year	Average Rate for Prior years $\frac{(9) + (10)}{+ (11) / 3}$	Percent (8)/(12)

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02
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B. Purpose

The Federal-State Extended Unemployment Compensation Act of 1970 (Title II of Public Law 91-373, Employment Security Amendments of 1970) and amendments govern the triggering on or off of the Extended Benefit (EB) program. This report serves as the state Administrator's initial notice to the Employment and Training Administration (ETA) National Office that a state extended benefit period will begin or end for a specified week. Subchapter 5724, Part V of the ES Manual, contains additional instructions for a letter from the state agency head to the Secretary of Labor stating the date of the beginning or ending of a state extended benefit period. That letter, along with this report, will enable the ETA National Office to confirm that an extended benefit period will begin or end in an individual state, and will enable the Secretary to have published in the Federal Register the notices required by the Act.

The claims data contained on the ETA 539 report are used in current economic analysis of unemployment trends in the Nation, and in each state. Initial claims measure emerging unemployment and continued weeks claimed measure the number of the insured unemployed. These data are published in ETA's weekly release "Unemployment Insurance Claims." The comments on claims activity are used to explain the changes in the levels of the data reported from week to week.

C. Due Date and Transmittal

Weekly reports shall be submitted in time to reach the ETA National Office by the opening of business Thursday following the week in which the claims were filed. If necessary to meet the due date, any state agency may cut off its report period at noon Friday.

This report will be transmitted electronically. If electronic transmittal is not possible, the data should be phoned or faxed into the ETA National Office.

D. General Reporting Instructions

1. Interstate Claims. Some liable states have claims taking arrangements with one or more agent states where a considerable number of claimants reside whose work prior to unemployment was in the liable state. These arrangements may consist of liable state staff taking interstate claims on its claims forms in one or more agent state's local offices; agent state staff taking related interstate claims on the liable state's claims forms; or terminals are used to enter claims directly into liable state's automated reporting system. In these arrangements, interstate claims should be counted as agent interstate claims for the purposes of ETA 539 by the agent state from which the claim is filed.

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2. Initial Claims. Initial claims reported should consist of intrastate initial claims and interstate initial claims filed from the agent state. This count of interstate agent initial claims includes those taken by the agent state and those reported to the agent state as having been taken directly by the liable state.
3. Continued Weeks Claimed. This figure represents the insured unemployed in the reporting state and is used for economic purposes. The counts of continued weeks claimed for all unemployment benefit programs described in section E. consist of intrastate and interstate continued weeks claimed filed from the agent state whether actually taken by the agent state or reported back to the agent state by liable states. Interstate weeks claimed reported to the agent state by liable states should represent the total interstate weeks claimed to be included in this report as all claims filed from the agent state because the figures reported by the liable state include those claims taken directly by the agent state.

Counts of weeks compensated or of checks issued, or of processed weeks claimed should not be substituted for any part of the continued weeks claimed count unless rigid processing schedules are adhered to so that the count is not affected by administrative factors and does reflect the count of weeks claimed. Automated systems using proxy counts must be modified to gather the interstate agent state count, not the interstate liable weeks claimed count.

Continued weeks claimed should include weeks that benefits were claimed, even though such benefits were not paid or payment status is uncertain or unknown, e.g., waiting weeks, partial weeks, weeks for which denials are being served (when this is a local office reporting requirement) and weeks for which a monetary or nonmonetary issue is pending. The figures should reflect, as closely as possible, the normal seasonal level of claims activity. They should be adjusted as much as possible for administrative factors such as holiday rescheduling, the beginning or ending of biweekly reporting and reporting disruptions because of non-economic factors or emergencies such as computer failure, floods, fires, storms, etc.

4. Adjustment of Data. When claimants' filing dates for continued claims are rescheduled by the local office to a week other than their "normal" reporting week, or the state agency reschedules claimants from weekly to biweekly reporting, the counts of continued weeks claimed will often be affected. Estimates of continued weeks claimed under the UI, UCFE, UCX, and other programs should be made for each item and reported on the ETA 539 for each week that claims counts are thus affected. Because of the importance of accurate economic representation of the claims counts, only figures adjusted for non-economic distortions should be submitted. Adjustments of the weeks claimed should be made separately for each program. Only these adjusted figures should be reported on this report. Particular care should be taken to adjust biweekly data to eliminate the application of judgmental

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factors. This is easily accomplished by relying upon the application of predetermined allocation or proration rules. Worksheets supporting these adjustments should be retained for future statistical audits.

For those weeks when continued weeks claimed were adjusted, the unadjusted figures should not be reported. That is, for each report week, only the adjusted continued weeks claims should be reported.

5. Checking the Report. Entries should be made for all items. IC and CW figures should be compared with the same figures in the prior week and any large differences explained in the comments section if possible. If no activity corresponding to the items occurred during the report period, a zero should be entered. A report containing missing data can not be sent to the National Office but can be stored on the state's system. Edit checks can be found in Handbook 402, Unemployment Insurance Required Reports User's Manual, Appendix C.

E. Definitions

Except as noted below, definitions will be the same as those used in the UI program and found in the instructions for the ETA 5159, section I-2 of this handbook.

1. Federal-State UI Extended Compensation Program. A program to pay extended compensation to an individual:
 - a. For weeks of unemployment beginning in an extended benefit period.
 - b. Under those provisions of a state law which satisfy the requirements of Title II of the Employment Security Amendments of 1970, as amended. This excludes compensation payable under the UCFE and UCX program.
2. State UI Additional Compensation Program. A program totally financed by a state to pay additional compensation under a state law to exhaustees by reason of conditions of high unemployment or other special factor.
3. Short-Time Compensation (STC) Program (also known as Worksharing). A program to pay benefits to those in an approved state short-time compensation or worksharing program.
 - a. Short-Time Compensation Equivalent Initial Claims. This is the equivalent of the full time layoff initial claims that would have taken place if not for the STC program. This should be based on the employer's agreement with the state as to the proportion of hours STC claimants from their firm are being reduced. That is, if the agreement is for a 20 percent reduction in each STC claimant's hours, then each of these claimants' initial claims

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would represent 20 percent of an equivalent full time layoff initial claim. Include any residual initial claims which result from a crossover from the STC program to the regular program.

- b. Short-Time Compensation Equivalent Continued Weeks Claimed. This is based on the proportion of the week being claimed. That is, if two STC claimants each claimed 1/5th of a week and another STC claimant claimed 2/5ths of a week, the equivalent continued weeks claimed for the three claimants would be 4/5ths or .8 weeks.
4. State UI Regular Compensation Program. A program to pay compensation under any state unemployment compensation law other than extended, additional compensation or STC; and excluding compensation payable pursuant to 5 U.S.C., chapter 85.
5. State Extended Benefit Period. A payment period when Federal-State UI extended compensation is paid in a state because of the state indicator for that state.
6. 13-Week Period. The 13-week period referred to in section 9. below, includes weeks of unemployment experienced during a given calendar week and the 12 immediately preceding calendar weeks. Conceptually, weeks claimed during a week reflect insured unemployment in the prior week, so the 13-week period of unemployment will always end 1 week prior to the week in which the claims were filed.
7. Week Numbers. The first week of unemployment in the year (i.e., week one appearing in Trigger Notice YY-1) is considered the week containing January 1. Note that week one in a year represents the second report for the year, i.e., weeks claimed for the second week in the year which represent insured unemployment during the first week in the year.
8. Comparison Weeks. For the purpose of determining the corresponding 13-week period ending in each of the preceding calendar years, each calendar week shall be identified by the date (calendar month and day of the month) on which it ends. For any specific calendar week, the date of the comparable week in the immediately preceding calendar year is determined by adding one (1) to the date of the end of the specific week, or by adding two (2) if the date of the end of the specific week is February 29, or if a February 29 falls between the beginning date of the week which contains the date established by the addition of one to the specific week, and the ending date of the specific week.
9. Covered Employment. The covered employment figure used to determine the insured unemployment rate includes all employment covered by state law including private sector employment, employment in covered state and local

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government establishments and in nonprofit organizations whether the establishment is paying contributions or reimbursing for benefits. It excludes employment in Federal Government establishments.

The covered employment figure used for this report is always the 12-month average covered employment for the first 4 of the last 6 complete calendar quarters prior to the end of the last calendar week of the current 13-week period to which the insured unemployment data relate. As stated in 6. above, the 13-week period for insured unemployment will always end 1 week prior to the end of the week in which the claims were filed. (For determining the proper covered employment figure, the end of the week should always be considered to be a Saturday.) For example, the report for the week ending April 1, 2006 (due in the ETA National Office on April 6, 2006), would relate to insured unemployment for the period ending March 25, 2006. Since this latter date is still in the first calendar quarter, the covered employment figure included on the report and used in the rate calculations would be the figure for the 12-month period ending June 2005. The covered employment figure for the 12-month period ending September 30, 2005 would first be reported and used on the report for the week ending April 8, 2006 (due in the National Office by April 13, 2006, relating to the insured unemployment for the week ending April 1, 2006).

When the figure on covered employment for a quarter has been used in computing a rate of insured unemployment under P.L. 91-373, as amended, which triggers a state "on" or "off", the figure is frozen so far as trigger rate computations are concerned, and cannot be revised.

10. Determination of State Extended Benefit Period. Each week the state agency must determine whether a state extended benefit period will begin, will end, or whether there will be no change. The state indicator is the primary factor in making this determination, subject to the limitation that a state extended benefit period, once begun, continues for a minimum of 13 weeks, and once ended, must not begin again for 13 weeks. There must be an interval of at least 13 weeks between the beginning and the end of one extended benefit period or, between the end of one and the beginning of a next extended benefit period based on the state indicator.

The final items on the ETA 539 report are the notification of the status of the state extended benefit period and the date of change of status. In addition to this report, a letter of confirmation of the beginning or ending of a state extended benefit period must be sent in accordance with instructions in the Employment Security Manual, Part V section 5700.

- a. Beginning an EB Period. There are two ways a state may trigger "on" using the insured unemployment rate (IUR). First, an extended benefits period begins when all three of the following indicator conditions are met:

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- (1) R as described in F.17 below is 5.00 percent or over; and
- (2) P as described in F.19 below is 120 percent or over; and
- (3) State extended benefit payments have not been paid for at least 12 weeks including the current report week, so that there will have been at least 13 weeks of nonpayment before the week benefit payments begin.

A State must have the above trigger in its law to be in conformity. Alternatively, under the Unemployment Compensation Amendments of 1976, a state has the option to modify its "on" trigger criteria based on the insured unemployment rate (IUR) if appropriate state legislative action is taken. The amendments combined with those in the Omnibus Budget Reconciliation Act of 1981 provide that with respect to compensation for weeks of unemployment beginning September 25, 1982 (or, if later, the date established pursuant to state law), a state may by law determine whether there has been a state "on" indicator beginning an extended benefit period provided the following two indicator conditions are met.

- (1) R as described in F.17. below is 6.00 percent or over.
- (2) State extended benefit payments have not been paid for at least 12 weeks including the current report week, so that there will have been at least 13 weeks of nonpayment before the week benefit payments begin.

EB law also allows states the option of using a trigger based on the total rate of unemployment as determined by the Bureau of Labor Statistics.

Report the beginning of a state extended benefit period as the first week payable in the period using the Sunday date (or first day of the week as defined in state UI Law) to designate the beginning of the third week following the end of the insured week (the 13th week of a 13-week period for which an "on" determination is made) and 2 weeks from the end of the report week in which the claims were filed provided the above indicator conditions are met.

Example: If a state indicator was "on" (i.e., both R and P criteria as defined above are met) for the 13-week period ending December 4, 2010, the extended benefit period would begin on the first day of the third calendar week thereafter, namely, December 19, 2010. Therefore, the ETA 539 report for the week ending December 11, 2010, which represents insured unemployment for the week ending December 4, 2010, and is due in the ETA National Office by the opening of business on Thursday,

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December 16, 2010, would read "Status Change - B" and "Change Date 12/19/2010".

Example: Assume that a state had been paying extended benefits for at least 13 weeks and the state indicator was first "off" (i.e., either R or P as defined above is not met) for the week ending November 13, 2010. This first extended benefit period would therefore end on the last day of the third week thereafter, namely, December 4, 2010. (Note that the minimum 13-week extended benefit period could be for a longer period.) Since no extended benefit period may begin before the 14th week after the close of a prior extended benefit period, the earliest date a second extended benefit period could begin would be March 6, 2011, provided a state indicator were "on" for the week ending February 19, 2011. The ETA 539 report for the week ending February 26, 2011, which represents insured unemployment for the week ending February 19, 2011, is due in the ETA National Office by the opening of business on Thursday, March 3, 2011, and this report would read "Status change - B" and "Change Date - 03/06/2011", that is March 6, 2011.

- b. Ending an EB Period. A state would report the ending of a state extended benefit period as the last week payable in the period using the Saturday date (or the last day of the week as defined in state UI law) to designate the close of the 3rd week following the end of the insured week (the 13th week of a 12-week period for which an "off" determination is made) and 2 weeks from the end of the report week in which the claims were filed provided item (1) below and either item (2) or (3) are met.
- (1) State extended benefit payments have been paid for at least 12 weeks including the current week so that there will have been at least 13 weeks of benefit payments before the period ends.
 - (2) R as described in F.17 is less than 5.00 percent or
 - (3) P as described in F.19 is less than 120 percent.

Alternately, when a state, by law, has modified its "on" trigger conditions to include the optional IUR trigger as described in 10.a. above, the "off" trigger conditions ending a state extended benefit period must meet both items (1) and (2) and either item (3) or (4) below.

- (1) State extended benefit payments have been paid for at least 12 weeks including the current week so that there will have been at least 13 weeks of benefits before the period ends.
- (2) R as described in F.17 is less than 6.00

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(3) R as described in F.17 is less than 5.00 percent.

(4) P as described in F.19 is less than 120 percent.

Report the ending of a state extended benefit period as the last week payable in the period using the Saturday date to designate the close of the 3rd week following the end of the insured week (the 13th week of a 12-week period for which an "off" determination is made) and 2 weeks from the end of the report week in which the claims were filed.

Example: Assume that a state indicator was "on" for the 13-week period ending April 9, 2011, and the extended benefit period began on April 24, 2011. Assume further that a state indicator was "off" for the week ending August 27, 2011, which represents insured unemployment for the week ending August 20, 2011. This would be due in the National Office by the opening of business on Thursday, September 1, 2011, and would read "Status Change - E" and "Date Change - 08/27/2011."

- c. No Change of Status. When there is no change of status for the week being reported, Status and Change Date may be "returned through" because the system will default the values to the values of the prior week.

Status and Change Date will be the same for at least 11 weeks--for the week immediately preceding an extended benefit period and for each of the first 10 consecutive weeks of an extended benefit period. This minimum period of 11 weeks contains the number of weeks which lapse between the weekly report showing a Beginning date and the weekly report reflecting an Ending date. Note that a Status and Change Date may continue to be unchanged for a period of time which exceeds this minimum.

F. Item by Item Instructions

Items to be reported are listed below. More detailed information can be found in section E. above. The letter or letters used to identify each item on the weekly report are given in parentheses before the title of the item. Each state must report the weekly numbers associated with the items listed below, identified by the underlined code. These data refer to claims activity under the state UI and Federal UCFE and UCX programs (refer to Introduction, section K for program classification). When applicable, data pertaining to Federal/State extended benefit (EB) activity should be reported as identified in items 11 and 12. When appropriate, data pertaining to state additional benefits programs should be reported as identified in items 13 and 14. States which have an STC or workshare program should report appropriate data in items 4, 5, 9, and 10. If a particular program does not apply to your state, those items should be zero filled.

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1. IC. State UI Initial Claims, less intrastate transitionals.
2. FIC. UCFE-no UI Initial Claims.
3. XIC. UCX only Initial Claims
4. WSIC. STC or workshare total initial claims
5. WSEIC. STC or workshare equivalent initial claims
6. CW. State UI adjusted continued weeks claimed
7. FCW. UCFE-no UI adjusted continued weeks claimed
8. XCW. UCX only adjusted continued weeks claimed
9. WSCW. STC or workshare total continued weeks claimed
10. WSECW. STC or workshare equivalent continued weeks claimed
11. EBT. Total continued weeks claimed under the Federal/State Extended Benefit Program--includes all intrastate and interstate continued weeks claimed filed from an agent state under the state UI, UCFE and UCX programs.
12. EBUI. That part of EBT which represents only state UI weeks claimed under the Federal/State EB program.
13. ABT. Total continued weeks claimed under a state additional benefit program for those states which have such a program. (Includes UCFE and UCX.)
14. ABUI. That part of ABT which represents only state UI additional continued weeks claimed for those states which have such a program.
15. AT. Average adjusted Total Continued Weeks Claimed. Report the average of the sum of the CW and WSECW figures for the most recent calendar week of unemployment experience and the immediately previous 12 calendar weeks of unemployment experience (CW+WSECW) divided by 13; i.e.,
$$AT = \frac{\sum (CW_i + WSECW_i)}{13} \quad \text{where } i = 1 \text{ to } 13$$

AT should have no decimals and should be rounded up for .5 or more.
16. CE. Covered Employment. Report the 12-month average monthly covered employment for the first 4 of the last 6 completed calendar quarters prior to

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the end of the last week of the current 13-week period to which the insured unemployment data relate. This figure will change only once each quarter, as specified in section F.9. above.

17. R. Rate of Insured Unemployment. Report the rate of insured unemployment for the current 13-week period. The insured unemployment rate for a 13-week period is the result of dividing the average adjusted total continued weeks claimed (AT) by the covered employment (CE); i.e.,

$$R = \frac{AT}{CE}$$

This quotient or decimal fraction is to be computed to four decimal places, is not to be otherwise rounded, and is to be expressed as a percent by multiplying the resultant decimal fraction by 100. Examples: $0.0439 \times 100 = 4.39\%$ and $0.0246 \times 100 = 2.46\%$

18. AR. Average Rate of Insured Unemployment in Prior Years. Report the average of the rates of insured unemployment for the corresponding 13-week periods in the number of prior years allowed for in state law (See E.6. above). The average rates in each of the prior years is computed as the sum of the rates divided by the number of years; i.e.,

$$AR = \frac{R_1 + R_2 + \dots + R_N}{N}$$

where $R_1 + R_2 + \dots + R_N$ refer to the rates for the corresponding 13-week period in prior years and N is the number of prior years specified in state law. The quotient AR is to be computed to three decimal places, is not to be otherwise rounded, and is to be expressed as a percent.

Example using two prior years : If $R_1=4.39\%$ and $R_2=2.46\%$ then:

$$AR = \frac{(4.39\% + 2.46\%)}{2} = \frac{6.85}{2} = 3.425\%$$

Example using three prior years: If $R_1=5.12\%$ and $R_2=4.86\%$ and $R_3=4.25\%$ then:

$$AR = \frac{(5.12\% + 4.86\% + 4.25\%)}{3} = \frac{14.23}{3} = 4.743\%$$

These detailed illustrations are provided to clarify the intent of the Secretary's Regulations. Since all three statistics--P, R, and AR--are defined in terms of

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rates, the quotient of AR is to be computed in a manner identical to and consistent with the computations of statistics P and R.

19. P. Current Rate as Percent of Average Rate in Prior Years. This percent is defined as:

$$P = \frac{R}{AR}$$

P is to be computed to four decimal places, is not to be otherwise rounded, and is to be expressed as a percent by multiplying the resultant decimal fraction by 100. Example: $1.2515 \times 100 = 125.15\%$, and $.8753 \times 100 = 87.53\%$.

20. Status (B or E). Indicate the beginning (B) or ending (E) of a state extended benefit period.
21. Change Date. If Status has changed since the prior week, enter the date the change is effective.
22. Comments. Each weekly ETA 539 report should contain adequate information to support and explain the nature of the claims data. The material used for such information should be readily available in local offices without additional data gathering procedures.

Information should include both economic and administrative factors which affect significantly the data reported weekly on the ETA 539. The comments are of interest to Federal agencies monitoring economic activity. They are particularly important when there are significant rises or declines in either initial claims or continued weeks claimed counts. The importance of the comments from each state can not be overstated.

The following describes the types of information needed to support weekly fluctuations for both initial claims and continued weeks claimed:

- Primary cause of significant increase or decrease in activity such as temporary mass layoff, plant closing, or cutback in military procurement.
- Approximate number or percent of total initial claims and/or continued weeks claimed involved.
- Industry involved.
- Administrative factors such as the beginning of a new benefit year (excluding those filing transitional claims), delayed claims for partial unemployment, etc. that significantly affect the volume of weekly claims.

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Also, when weekly claims exhaustions are numerous enough to affect claims data, an estimate of the number of exhaustions, if available, should be included.

Using meaningful abbreviations, these comments can usually be kept to the four lines supplied on the input screen. An example of a comment might be:

"IC up 5% due to seasonal layoffs in Ag., Const. and layoffs at Alpha Corp., NAICS 278,. CW down 8% due to call back at Beta Co., NAICS 349." (SIC codes may be used if they are labeled as such.)

In addition, anytime a state law is changed with regard to the number of years used in the look-back related to the triggering of EB, or other federal programs dependent on rates calculated and reported on the ETA 539, a comment should be provided indicating the effective date of the state law change and the number of years used in calculating the look-back.

Note: When claims filing is effected by holidays or other noneconomic events such as computer failure or natural disaster, the data should be adjusted as in section D.4.

G. Standby Emergency Reporting

When national, state, or local emergencies occur, special standby reporting procedures are required. Emergency reporting could include energy-related fuel shortages, major labor disputes, and such local or regional emergencies as floods, windstorms, droughts, fires or other disasters. Emergency reporting is required in addition to the weekly ETA 539 report and, depending on the emergency, the request may be by telephone, letter or facsimile as an addendum to the ETA 539, or under separate cover, on a daily, weekly, or monthly basis.

In the event of an emergency, special reporting instructions will be sent to the concerned Regional Office. Such instructions will vary according to the particular emergency and data needed. For most emergencies, reporting will be activated by facsimile and will cover: The method of submittal (electronic, facsimile, letter, telephone, etc.); when and where to submit the report; and the items to be reported.

H. Recommended Worksheet

It is recommended that the state maintain a worksheet which contains all the information used in the calculation of the weekly trigger rate. If the data is kept on a computer and the trigger rate is computer generated, it is recommended that one of the outputs for the trigger system be a worksheet which would show all the data used in the computation. This worksheet should be submitted when a state experiences a change in trigger status.