

for renewal of his DEA registration, and his persistent attempts to blame others for his predicament, Respondent's request to modify his DEA registration must be denied and his DEA Certificate of Registration must be revoked.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 C.F.R. 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AW8019033, issued to Richard S. Wagner, M.D., be and it hereby is, revoked. The Acting Deputy Administrator further orders that Dr. Wagner's request to modify his registration, and any pending applications for renewal of such registration, be, and they hereby are, denied. This order is effective March 12, 1998.

Dated: February 2, 1998.

**Peter F. Gruden,**

*Acting Deputy Administrator.*

[FR Doc. 98-3217 Filed 2-9-98; 8:45 am]

BILLING CODE 4410-09-M

**DEPARTMENT OF LABOR**

**Employment and Training Administration**

**Proposed Information Collection Request Submitted for Public Comment and Recommendations; Procedures for Classifying Labor Surplus Areas**

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension of the information collection for Procedures Classifying Labor Surplus Areas.

A copy of the proposed information collection request can be obtained by

contacting the employee listed below in the contact section of this notice.

**DATE:** Written comments must be submitted on or before April 13, 1998.

Written comments should evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**ADDRESSES:** William McGarrity, U.S. Employment Service, Employment and Training Administration, Department of Labor Room N-4470, 200 Constitution Avenue., N.W., Washington, D.C. 20210, 202-219-5185, ext. 129. (This is not a toll-free number)

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Under Executive Orders 12073 and 10582, the Secretary of Labor is required to classify labor surplus areas (LSAs) and disseminate this information for the use of Federal agencies. Federal agencies utilize LSA classifications for various purposes including procurement decisions, food stamp waiver decisions, certain Small Business loan decisions, as well as other purposes determined by the agencies. The LSA listings are issued annually, effective October 1 of each year, utilizing data from the Bureau of Labor Statistics. Areas meeting the criteria are classified as Labor Surplus Areas.

The Department's regulations specify that the Department can add other areas to the annual LSA listing under the exceptional circumstance criteria. Such additions are based upon information contained in petitions submitted by the State employment security agencies (SESAs) to the national office of the Employment and Training Administration. These petitions contain specific economic information about an area in order to provide ample justification for adding the area to the LSA listing under the exceptional circumstance criteria. An area is eligible for classification as an LSA if it meets all of the criteria, and if the exceptional

circumstance event is not temporary or seasonal. This data collection pertains only to data submitted voluntarily by States in exceptional circumstance petitions.

**II. Current Actions**

This is a request for OMB approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)) of an extension to an existing collection of information previously approved and assigned OMB Control No. 1205-0207. There is no change in burden.

*Type of Review:* Extension.

*Agency:* Employment and Training Administration, Labor.

*Titles:* Procedures for Classifying Labor Surplus Areas.

*OMB Number:* 1205-0207.

*Frequency:* On occasion.

*Affected Public:* States.

*Number of Respondents:* 52.

*Estimated Time Per Respondent:*

Item	States	Annual hours	Total hour
Petitions .....	52	4	208

*Estimated Burden Hours:* 208.

*Total Estimated Cost:* \$5,000.00.

Comments submitted in response to this will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: February 3, 1998.

**John R. Beverly, III,**

*Director, U.S. Employment Service.*

[FR Doc. 98-3342 Filed 2-9-98; 8:45 am]

BILLING CODE 4510-30-M

**DEPARTMENT OF LABOR**

**Employment and Training Administration**

**Federal-State Unemployment Compensation Program: Unemployment Insurance Program Letters Interpreting Federal Unemployment Insurance Law**

The Employment and Training Administration interprets Federal law requirements pertaining to unemployment compensation (UC) as part of its role in the administration of the Federal-State UC program. These interpretations are issued in Unemployment Insurance Program Letters (UIPLs) to the State Employment Security Agencies. The UIPs described below are published in the **Federal Register** in order to inform the public.

**UIPL 08-98**

Federal law authorizes withdrawals from a State's unemployment fund only with respect to an individual's unemployment. This means that payment of UC from the State's unemployment fund is limited to periods in which an individual has experienced unemployment. UIPL 08-98 is issued to remind the States that their UC laws must contain this limitation. Whether an individual is unemployed depends on whether the individual has suffered a loss of work—an actual reduction in hours worked. It is not sufficient that the individual merely have reduced earnings. If just wages, and not also hours worked, are

used as a measure for unemployment, then it is possible that an individual moving from a high- to low-paying job could be eligible for UC without having experienced unemployment. Thus, each State's law must contain language to prevent payment of UC to individuals who have experienced no unemployment for the period being compensated.

**UIPL 09-98**

UIPL 09-98 advises States of the Department's position concerning State-wide personnel actions such as hiring freezes, shutdowns and furloughs. The service delivery needs of the UC program must first be taken into account. When a State subjects its UC

program to State-wide personnel actions, the State will be required to address how its workload will be handled without a decline in performance and demonstrate it has adequately addressed those activities funded by Federal dollars. This position is consistent with one of the basic purposes of the "methods of administration" requirement of section 303(a)(1) of the Social Security Act—to assure the proper and prompt delivery of UC services to claimants and employers.

Dated: January 29, 1998.

**Raymond J. Uhalde,**  
*Acting Assistant Secretary of Labor.*

BILLING CODE 4510-30-P

<b>U. S. Department of Labor</b> Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL TEUL
	DATE January 12, 1998.

**DIRECTIVE :** UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 08-98

**TO :** ALL STATE EMPLOYMENT SECURITY AGENCIES

**FROM :** GRACE A. KILBANE  
 Director  
 Unemployment Insurance Service

**SUBJECT :** Unemployment Compensation (UC) - Payment Only for  
 Periods of Unemployment

1. Purpose. To remind States that Federal law limits the payment of UC to periods when an individual has experienced unemployment.

2. References. Section 303(a)(5) of the Social Security Act (SSA) and Sections 3304(a)(4) and 3306(h) of the Federal Unemployment Tax Act (FUTA); Employment and Training Administration Glossary of Program Terms and Definitions, ET Handbook No. 373 (Glossary).

3. Background. Since the inception of the UC program, Federal law has authorized withdrawals from a State's unemployment fund only with respect to an individual's unemployment. Put another way, Federal law limits the payment of UC to periods in which an individual has experienced unemployment, that is, an actual reduction in hours worked. As the result of questions arising from a review of a State's law, this UIPL is being issued to remind all States that their laws must contain this limitation.

This UIPL addresses only whether an individual has experienced unemployment. It does not address other eligibility conditions related to the term "unemployment" such as able and available requirements.

4. Discussion. Section 3304(a)(4), FUTA, requires, as a condition for employers in a State to receive credit against the

<b>RESCISSIONS</b> None	<b>EXPIRATION DATE</b> Continuing
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Federal tax, that State law provide that:

all money withdrawn from the unemployment fund of the State shall be used solely in the payment of unemployment compensation, exclusive of expenses of administration, and for refunds of sums erroneously paid into such fund. . . .

Section 303(a)(5), SSA, contains the same requirement as a condition for receiving administrative grants. Section 3306(h), FUTA, defines compensation as "cash benefits payable to individuals with respect to their unemployment." Thus, Federal law permits withdrawals from a State's unemployment fund only with respect to an individual's "unemployment."

The 1935 Senate Report on the original Social Security Act also emphasized that UC may be paid only with respect to an individual's unemployment:

Unemployment compensation differs from relief in that payments are made as a matter of right not on a needs basis, but only while the worker is involuntarily unemployed. . . . Payment of compensation is conditioned upon continued involuntary unemployment. [S. Rep. No. 628, 74th Cong., 1st Sess. 11 (1935).]

On January 31, 1939, the Social Security Board, which at that time had Federal jurisdiction for the UC program, also concluded that unemployment must exist for UC to be payable:

[S]ince . . . any benefits paid under a State law must be paid with respect to unemployment, a State's plan for the payment of partial benefits must safeguard against the payment for reduced earnings without accompanying unemployment.

Thus, whether an individual is unemployed within the meaning of Federal law depends on whether the individual has suffered a loss of work. It is not sufficient that the individual merely have reduced earnings.

The Department uses the phrase partial benefits to describe "UC of less than the full weekly benefit amount payable to a claimant."<sup>1</sup> Partial benefits may be paid for a period of "part-total unemployment" when an individual has odd jobs or subsidiary work with other than the individual's regular employer, or

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<sup>1</sup>This and the definitions of "partial" and "part-total" unemployment and "full-time week" are taken from the Glossary.

"partial unemployment" in which an individual works less than regular full-time hours for his/her regular employer. (Short-time compensation is a form of "partial unemployment.")

5. Effect on State laws. State laws must be fashioned so as to prevent payment of UC to individuals who have experienced no unemployment for the period being compensated. Whether a payment of partial benefits may be made is determined by whether the individual has actually experienced unemployment. If wages are used as the only surrogate for unemployment, it may be possible that an individual, who moves from a high-paying job to a low-paying job, could experience no unemployment, or even see hours worked increased, and still be eligible for benefits. To avoid this, State law must contain a test which ensures that the individual has, in fact, experienced unemployment.

Generally, States provide for partial UC benefits through provisions of State law which specify the individual must be "unemployed." Usually States determine if the individual has worked less than a full-time week where "full-time week" means the number of hours or days per week currently established by schedule, custom, or otherwise, as constituting a week of full-time work for the kind of service an individual performs for an employing unit.

6. Action Required. Each State should take appropriate action to ensure that its law is consistent with the above requirements.

7. Inquiries. Inquiries should be directed to the appropriate Regional Office.

U. S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL TEUL
	DATE January 12, 1998

**DIRECTIVE** : UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 09-98

**TO** : ALL STATE EMPLOYMENT, SECURITY AGENCIES

**FROM** : GRACE A. KILBANE *Grace A. Kilbane*  
 Director  
 Unemployment Insurance Service

**SUBJECT** : Application of State-Wide Personnel Actions,  
 including Hiring Freezes, to the Unemployment  
 Insurance (UI) Program

1. Purpose. To advise States of the Department's position concerning the application of State-wide personnel actions such as hiring freezes, shutdowns and furloughs to the UI program.

2. References. Section 303(a)(1) of the Social Security Act (SSA).

3. Background. Due to State budget constraints, some States have, in the past, imposed hiring freezes, furloughs and other actions on a State-wide basis. These actions are usually taken during economic downturns when State revenues decline while the demand for UI services increases.

State UI agencies have objected to being subjected to these State fiscal actions on the basis that, because Federal UI grants may only be used for UI purposes, there are no savings to the State budget. The Department has supported the UI agencies in articulating this argument. The Department has noted that these actions will likely have a detrimental effect on unemployed workers and businesses and result in decreased performance against Federal standards. Finally, the Department has noted that, since the amount of

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Federal funds provided to a State takes into account the State's workload, Federal funding for UI increases during downturns. In spite of these objections, the UI program has been subjected to these fiscal restrictions.

As a result, the Department has re-examined this matter to determine whether a more proactive stance may be taken to assure the continued delivery of UI services during downturns. This UIPL is issued to advise States of the Department's determination and its basis in Federal law.

4. Department's Position. Section 303(a)(1), SSA, requires, as a condition of a State receiving grants for the administration of its UI law, that State law provide for--

Such methods of administration . . . as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due;

One of the basic purposes of this "methods of administration" requirement is to assure the proper and prompt delivery of UI services to claimants and employers. Therefore, any action that does not take into account the service delivery needs of the UI program, is not a "method of administration" consistent with Section 303(a)(1), SSA. This position applies to all State-wide personnel actions, including hiring freezes, shutdowns, furloughs, across-the-board staff reductions, and any process that serves to delay the hiring of UI staff when additional staff is needed.

When a State subjects the UI program to State-wide personnel actions, the State will be required to demonstrate to the Department that it has adequately addressed the UI program's needs. These needs include all activities funded by Federal dollars - payments, determinations, appeals, integrity and tax functions, etc. The State will be required to address how its workload will be handled without a decline in performance. If a State fails to show that its actions adequately take into account the needs of its UI program, then the action is not an acceptable "method of administration" under the SSA and the State's entire UI grant could be at risk. Similarly, if State performance declines despite the State's "showing" that program needs have been considered, then the action may not be an acceptable "method of administration."

The Department recognizes that there may be situations where hiring freezes, staff reductions or other personnel actions taken by the UI agency are necessary. For example, when workload decreases, the need for staff decreases and the UI agency will need to take appropriate action to assure that only amounts necessary for the proper and efficient administration of the UI program are expended from grant funds. Since these actions take into account the needs of the UI program, they raise no issue under Federal law.

5. Action Required. State agency administrators are requested to provide this UIPL to appropriate staff.

6. Inquiries. Direct questions to your Regional Office.