

Unemployed Workers and Struggling Families Act, Public Law (Pub. L.) 111–5; Section 502 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Public Law 111–312; 26 U.S.C. 3304(a)(11) note; 20 CFR 615.12; Unemployment Insurance Program Letter (UIPL) No. 45–92; UIPL No. 4–10, Change 6.

3. *Background.* EB is payable in a state only during an EB period in the state, that is, a period of unusually high unemployment. Section 203, EUCA, provides methods for determining whether a state's current unemployment situation qualifies as an EB period. EB periods are determined by "on" and "off" indicators (commonly referred to as triggers) in the state. Section 203(d), EUCA, provides for an "on" indicator based on the insured unemployment rate (IUR). The IUR is calculated weekly by the states using administrative data on state unemployment compensation claims filed and the total population of employed individuals covered by unemployment insurance. States trigger "on" EB if the IUR for the most recent 13-week period equals or exceeds 5 percent and equals or exceeds 120 percent of the average of such rates for the corresponding 13-week period ending in each of the preceding two calendar years. The calculation of the relationship between the current rate and prior year's rates is commonly referred to as the "look-back."

The Unemployment Compensation Amendments of 1992, Pub. L. 102–318, added Section 203(f), EUCA, to provide for an optional alternative indicator that states may use to trigger "on" EB based on the TUR. That indicator requires that, for the most recent three months for which data for all states is published, the average TUR in the state (seasonally adjusted) for the most recent three-month period equals or exceeds 6.5 percent and the average TUR in the state (seasonally adjusted) equals or exceeds 110 percent of the average TUR for either or both of the corresponding three-month periods in the two preceding calendar years (look-back). The 1992 amendments also provided for a calculation of a "high unemployment period" when the TUR in a state equals or exceeds 8 percent and meets the 110 percent look-back described above, permitting the payment of additional weeks of EB. Section 203(f)(3), EUCA, provides that "determinations of the rate of total unemployment in any state for any period \* \* \* shall be made by the Secretary." An EB period ends when the state no longer meets any of the "on" triggers provided for in state law.

Regulations at 20 CFR 615 implement the provisions of EUCA relating to the IUR indicators, including how they will be calculated. The regulation, at 20 CFR 615.12, explains the IUR triggers and how the rates are calculated. The regulation does not address the TUR indicator. The Department is issuing this guidance to describe how the TUR indicators are calculated for purposes of determining whether a state meets the 110 percent look-back requirement. The Department plans to promulgate regulations about this methodology in the near future.

In the absence of explicit guidance and regulation, the Department previously adapted a portion of the existing guidance for the IUR look-back indicator as a basis for calculating the TUR look-back indicator as well. Specifically, in computing the look-back percentage for the TUR trigger the procedure for determining the number of significant digits from the resulting fraction followed 20 CFR 615.12(c)(3).

The TUR trigger is calculated using unemployment rates determined by the Bureau of Labor Statistics. These rates are determined using sampled data and therefore have error around them. In contrast, IUR triggers are calculated from administrative data and thus represent the full universe. Because of these differences in the calculation of the insured and total unemployment rates, the Department has determined that an appropriate methodology for calculating the look-back on the TUR indicator is to switch from truncation at the fourth decimal place as used for the IUR to rounding at the second decimal place.

The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 permitted states to amend state law in order to make determinations of whether there is an "on" or "off" indicator by comparing current unemployment rates to the unemployment rates for the corresponding period in the three preceding years. Authority to use this three-year look-back applies only for weeks of unemployment beginning after December 17, 2010, and ending on or before December 31, 2011. The Department will also use the methodology described below in determining whether a state meets the three-year TUR look-back criteria for those states that chose to amend their law to take advantage of this temporary authority.

4. *Methodology.* The Department will now use the following method of computing the current rate as a percentage of the comparable rate in prior years (look-back) for the TUR

indicator: On a monthly basis, the three month average, seasonally adjusted rate of total unemployment is divided by the same measure for the corresponding three months in each of the applicable prior years, that is, either a two- or three-year look-back, as specified in state law. The resultant decimal fraction is then rounded to the hundredths place (the second digit to the right of the decimal place). The resulting number is then multiplied by 100 and reported as an integer and compared to the statutory threshold to determine the state's trigger status.

5. *Effective date of implementation.* In order to give full effect to this methodology, and to ensure that all unemployed individuals who are eligible to receive EB are paid in a timely manner, the Department is implementing the methodology described in Section 4 of this guidance retroactive to April 16, 2011.

6. *Action requested.* Administrators are to provide this information to the appropriate staff.

7. *Inquiries.* Please direct inquiries to the appropriate Regional Office.

Dated: June 6, 2011.

**Jane Oates,**

*Assistant Secretary, Employment and Training Administration.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA–W–74,671]

#### **Hewlett Packard, Global Parts Supply Chain, Global Product Life Cycles Management Unit, Including Teleworkers Reporting to Houston, TX; Notice of Intent To Terminate Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on November 8, 2010, applicable to workers and former workers of Hewlett Packard, Global Parts Supply Chain, Global Product Life Cycles Management Unit, including teleworkers reporting to Houston, Texas (subject firm). The Department's Notice of certification was published in the **Federal Register** on November 23, 2010 (75 FR 71460).

At the request of the State of Texas, the Department reviewed the

certification applicable to workers and former workers of the subject firm. The State alleged that the subject worker group is concurrently eligible to apply for Trade Adjustment Assistance (TAA) benefits under a previously issued certification.

The review of information supplied by the State shows that the same worker group was covered under an existing certification for all workers of Hewlett Packard Company, Enterprise Business Division, Technical Services America, Global Parts Supply Chain Group, including leased workers from QFlex, North America Logistics and UPS teleworkers across Texas and on-site, Houston, Texas (TA-W-74,466I; issued September 10, 2010). The Department's Notice of certification was published in the **Federal Register** on September 10, 2010 (75 FR 57982).

Since eligible workers covered under TA-W-74,671 who have not yet received TAA benefits will be eligible to apply for these benefits under TA-W-74,466I (a certification issued two months before TA-W-74,671), the Department is terminating the later certification. It is the Department's intent to terminate the latter certification to correct the duplicate coverage of eligible workers and the possibility of unintended duplication of benefits.

Pursuant to 29 CFR 90.17(b), the group of workers or any persons showing a substantial interest in the termination of this certification are invited to submit written comments to the Director, Office of Trade Adjustment

Assistance, U.S. Department of Labor, Room N-5428, 200 Constitution Avenue, NW., Washington, DC 20210, no later than ten (10) days from the date of the publication of this Notice in the **Federal Register**.

Pursuant to 29 CFR 90.17(d), any termination shall apply only to those workers who are totally or partially separated after the termination date specified in the determination.

Signed in Washington, DC, this 6th day of June, 2011

**Del Min Amy Chen,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

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**DEPARTMENT OF LABOR**

**Employment and Training Administration**

**Investigations Regarding Certifications of Eligibility to Apply For Worker Adjustment Assistance**

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether

the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than June 23, 2011.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than June 23, 2011.

Copies of these petitions may be requested under the Freedom of Information Act. Requests may be submitted by fax, courier services, or mail, to FOIA Disclosure Officer, Office of Trade Adjustment Assistance (ETA), U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 or to [foiarequest@dol.gov](mailto:foiarequest@dol.gov).

Signed at Washington, DC, this 2nd day of June 2011.

**Del Min Amy Chen,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

**Appendix**

**TAA PETITIONS INSTITUTED BETWEEN 5/23/11 AND 5/27/11**

TA-W	Subject firm (petitioners)	Location	Date of institution	Date of petition
80192	Sykes Enterprises (Workers)	Tampa, FL	05/24/11	05/20/11
80193	Vicount Industries (State/One-Stop)	Farmington Hills, MI	05/24/11	05/23/11
80194	Kingston Technology Company Inc. (Workers)	Fountain Valley, CA	05/24/11	05/23/11
80195	Preferred Dental Labs (Company)	Rosland, NJ	05/24/11	05/23/11
80196	T-Shirt International Inc. (State/One-Stop)	Franklin, WI	05/24/11	05/23/11
80197	EMH Amherst Hospital (Company)	Amherst, OH	05/25/11	05/20/11
80198	Coviden (Company)	San Jose, CA	05/25/11	05/20/11
80199	Stimson Lumber Company (Workers)	Gaston, OR	05/25/11	05/24/11
80200	Accentia Physicians Services Inc. (Workers)	Lauderhill, FL	05/25/11	05/24/11
80201	Bradington-Young, LLC (Company)	Hickory, NC	05/27/11	05/25/11
80202	J. Kinderman & Sons, Inc. (Workers)	Philadelphia, PA	05/27/11	05/26/11