EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION DFAS
	CORRESPONDENCE SYMBOL OUI
	DATE May 20, 2011

ADVISORY: **UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 16-11**

TO: STATE WORKFORCE AGENCIES

FROM: JANE OATES /s/
Assistant Secretary

SUBJECT: Federal-State Extended Benefits Program – Methodology for Calculating "on" or "off" Total Unemployment Rate Indicators for Purposes of Determining When a State Begins and Ends an Extended Benefit Period.

1. Purpose. To inform states of the new methodology used to calculate the "on" or "off" total unemployment rate (TUR) indicators to determine when extended benefit (EB) periods begin and end in a state.

2. References. The Federal-State Extended Unemployment Compensation Act of 1970 (EUCA); Section 2005 of Division B, Title II, the Assistance for Unemployed Workers and Struggling Families Act, Public Law (P.L.) No. 111-5; Section 502 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 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, P.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

RESCISSIONS None	EXPIRATION DATE Continuing

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. <u>Methodology</u>. 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. **<u>Effective date of implementation</u>.** 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. **<u>Action Requested</u>.** Administrators are to provide this information to the appropriate staff.

7. **<u>Inquiries</u>.** Please direct inquiries to the appropriate Regional Office.