

**EXTRACTS OF SECTIONS 410 AND 423 OF THE ROBERT T. STAFFORD DISASTER RELIEF
AND EMERGENCY ASSISTANCE ACT:****SECTION 410. [UNEMPLOYMENT ASSISTANCE]**

A(a) The President is authorized to provide to any individual unemployed as a result of a major disaster such benefit assistance as he deems appropriate while such individual is unemployed for the weeks of such unemployment with respect to which the individual is not entitled to any other unemployment compensation (as that term is defined in section 85(b) of the Internal Revenue Code of 1986) or waiting period credit. Such assistance as the President shall provide shall be available to an individual as long as the individual's unemployment caused by the major disaster continues or until the individual is reemployed in a suitable position, but no longer than 26 weeks after the major disaster is declared. Such assistance for a week of unemployment shall not exceed the maximum weekly amount authorized under the unemployment compensation law of the State in which the disaster occurred. The President is directed to provide such assistance through agreements with States which, in his judgment, have an adequate system for administering such assistance through existing State agencies.

(b) Reemployment Assistance.

(1) State Assistance. A State shall provide, without reimbursement from any funds provided under this Act, reemployment assistance services under any other law administered by the State to individuals receiving benefits under this section.

(2) Federal Assistance. The President may provide reemployment assistance services under other laws to individuals who are unemployed as a result of a major disaster and who reside in a State which does not provide such services.

SECTION 423. [APPEALS OF ASSISTANCE DECISIONS]

A(a) Right of Appeal. Any decision regarding eligibility for, from, or amount of assistance under this title may be appealed within 60 days after the date on which the applicant for such assistance is notified of the award or denial of award of such assistance.

(b) Period for Decisions. A decision regarding an appeal under subsection (a) shall be rendered within 90 days after the date on which the Federal official designated to administer such appeals receives notice of such appeal.

(c) Rules. The President shall issue rules which provide for the fair and impartial consideration of appeals under this section.

20 CFR PART 625--DISASTER
UNEMPLOYMENT ASSISTANCE
Sec.

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APPENDIX A to Part 625--STANDARD FOR
CLAIM FILING, CLAIMANT REPORTING, JOB
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APPENDIX B to Part 625--STANDARD FOR
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APPENDIX C to Part 625--STANDARD FOR FRAUD
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Authority: 42 U.S.C. 1302; 42 U.S.C. 5164; 42 U.S.C. 5189a(c); 42 U.S.C. 5201(a); Executive Order 12673 of March 23, 1989 (54 FR 12571); delegation of authority from the Director of the Federal Emergency Management Agency to the Secretary of Labor, effective December 1, 1985 (51 FR 4988); Secretary's Order No. 4- 75 (40 FR 18515).

§ 625.1 Purpose, rules of construction.

(a) Purpose. Section 410 of "The Robert T. Stafford Disaster Relief and Emergency Assistance Act" amended the program for the payment of unemployment assistance to unemployed individuals whose unemployment is caused by a major disaster, and to provide reemployment assistance services to those individuals. The unemployment assistance provided for in section 410 of the Act is hereinafter referred to as Disaster Unemployment Assistance, or DUA. The

regulations in this part are issued to implement sections 410 and 423 of the Act.

(b) First rule of construction. Sections 410 and 423 of the Act and the implementing regulations in this part shall be construed liberally so as to carry out the purposes of the Act.

(c) Second rule of construction. Sections 410 and 423 of the Act and the implementing regulations in this part shall be construed so as to assure insofar as possible the uniform interpretation and application of the Act throughout the United States.

(d) Effectuating purpose and rules of construction.
(1) In order to effectuate the provisions of this section, each State agency shall forward to the United States Department of Labor, on receipt of a request from the Department, a copy of any determination or redetermination ruling on an individual's entitlement to DUA.

(2) If the Department believes a determination or redetermination is inconsistent with the Secretary's interpretation of the Act, the Department may at any time notify the State agency of the [D]epartment's view. Thereafter, the State agency shall appeal if possible, and shall not follow such determination or redetermination as a precedent; and in any subsequent proceedings which involve such determination, or redetermination, or wherein such determination or redetermination is cited as precedent or otherwise relied upon, the State agency shall inform the hearing officer of the Department's view and shall make all reasonable efforts to obtain modification, limitation, or overruling of the determination or redetermination.

(3) A State agency may request reconsideration of a notice that a determination or redetermination is inconsistent with the Act, and shall be given an opportunity to present views and arguments if desired. If a determination or redetermination setting a precedent becomes final, which the Department believes to be inconsistent with the Act, the Secretary will decide whether the Agreement with the State shall be terminated.

(4) Concurrence of the Department in a determination or redetermination shall not be presumed from the absence of a notice issued pursuant to this paragraph.

§ 625.2 Definitions.

(a) "Act" means sections 410 and 423 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (formerly section 407 of the "Disaster Relief Act of 1974", Pub. L. 93-288, 88 Stat. 143, 156, approved May 22, 1974), 42 U.S.C. 5177, 5189a, as amended by The Disaster Relief and Emergency Assistance Amendments of 1988, Pub. L. 100-707, 102 Stat. 4689, 4704, 4705, approved November 23, 1988.

(b) "Agreement" means the Agreement entered into pursuant to the Act, between a State and the Secretary of Labor of the United States, under which the State agency of the State agrees to make payments of Disaster Unemployment Assistance in accordance with the Act and the regulations and procedures thereunder prescribed by the Secretary.

(c) "Announcement date" means the first day on which the State agency publicly announces the availability of Disaster Unemployment Assistance in the State, pursuant to § 625.17.

(d) "Compensation" means unemployment compensation as defined in section 85(b) of the Internal Revenue Code of 1986, and shall include any assistance or allowance payable to an individual with respect to such individual's unemployment under any State law or Federal unemployment compensation law unless such governmental unemployment compensation program payments are not considered "compensation" by ruling of the Internal Revenue Service or specific provision of Federal and/or State law because such payments are based on employee contributions which are not deductible from Federal income tax liability until the total nondeductible contributions paid by the employee to such program has been paid or are not "compensation" as defined under paragraph (d)(5) of this section. Governmental unemployment compensation programs include (but are not limited to) programs established under: a State law approved by the Secretary of Labor pursuant to section 3304 of the Internal Revenue Code, chapter 85 at title 5 of the United States Code, the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.), any Federal supplementary compensation law, and trade readjustment allowances payable under chapter 2 of title II of the Trade Act of 1974(19 U.S.C. 2271 et seq.). "Compensation" also includes "regular compensation", "Federal supplementary compensation", and "disability payments" defined as follows:

(1) "Regular compensation" means compensation payable to an individual under any State law or the unemployment compensation plan of a political subdivision of a State and, when so payable, includes compensation payable pursuant to 5 U.S.C. Chapter 85 (Parts 609 and 614 of this chapter), but not including extended compensation or additional compensation.

(2) "Additional compensation" means compensation totally financed by a State and payable under a State law by reason of conditions of high unemployment or by reason of other special factors, and, when so payable, includes compensation payable pursuant to 5 U.S.C. Chapter 85.

(3) "Extended compensation" means compensation payable to an individual for weeks of unemployment in an extended benefit period, under those provisions of a State law which satisfy the requirements of the Federal-State Extended

Unemployment Compensation Act of 1970 (title II, Pub. L. 91-373; 84 Stat. 695, 708; Part 615 of this chapter), as amended with respect to the payment of extended compensation, and, when so payable, includes additional compensation and compensation payable pursuant to 5 U.S.C. Chapter 85.

(4) "Federal supplementary compensation" means supplemental compensation payable under a temporary Federal law after exhaustion of regular and extended compensation.

(5) "Disability payments" means cash disability payments made pursuant to a governmental program as a substitute for cash unemployment payments to an individual who is ineligible for such payments solely because of the disability, except for payments made under workmen's compensation acts for personal injuries or sickness.

(e) "Date the major disaster began" means the date a major disaster first occurred, as specified in the understanding between the Federal Emergency Management Agency and the Governor of the State in which the major disaster occurred.

(f) "Disaster Assistance Period" means the period beginning with the first week following the date the major disaster began, and ending with the 26th week subsequent to the date the major disaster was declared.

(g) "Disaster Unemployment Assistance" means the assistance payable to an individual eligible for the assistance under the Act and this part, and which is referred to as DUA.

(h) "Federal Coordinating Officer" means the official appointed pursuant to section 302 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act, to operate in the affected major disaster area. (i) "Governor" means the chief executive of a State. (j) "Initial application" means the first application for DUA filed by an individual, on the basis of which the individual's eligibility for DUA is determined. (k) "Major disaster" means a major disaster as declared by the President pursuant to section 401 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act.

(l) "Major disaster area" means the area identified as eligible for Federal assistance by the Federal Emergency Management Agency, pursuant to a Presidential declaration of a major disaster.

(m) "Secretary" means the Secretary of Labor of the United States.

(n) "Self-employed individual" means an individual

whose primary reliance for income is on the performance of services in the individual's own business, or on the individual's own farm.

(o) "Self-employment" means services performed as a self-employed individual.

(p) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, the Territory of Guam, American Samoa, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia, Republic of the Marshall Islands, and the Trust Territory of the Pacific Islands.

(q) "State agency" means—

(1) In all States except the Territory of Guam, American Samoa, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia, Republic of the Marshall Islands, and the Trust Territory of the Pacific Islands, the agency administering the State law; and

(2) In the Territory of Guam, American Samoa, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia, Republic of the Marshall Islands, and the Trust Territory of the Pacific Islands, the agency designated in the Agreement entered into by the State.

(r)(1) "State law" means, with respect to—

(i) The States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands, the unemployment compensation law of the State which has been approved under section 3304(a) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(a)); and

(ii) The Territory of Guam, American Samoa, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia, Republic of the Marshall Islands, and the Trust Territory of the Pacific Islands, the Hawaii Employment Security Law.

(2) "Applicable State law" means, for an individual, the State law of the applicable State for an individual as provided in § 625.12.

(s) "Unemployed worker" means an individual who was employed in or was to commence employment in the major disaster area at the time the major disaster began, and whose principal source of income and livelihood is dependent upon the individual's employment for wages, and whose unemployment is caused by a major disaster as provided in § 625.5(a).

(t) "Unemployed self-employed individual" means an individual who was self-employed in or was to commence self-employment in the major disaster area at the time the major disaster began, and whose principal source of income and livelihood is dependent upon the individual's performance

of service in self-employment, and whose unemployment is caused by a major disaster as provided in § 625.5(b).

(u) "Wages" means remuneration for services performed for another, and, with respect to a self-employed individual, net income from services performed in self-employment.

(v) "Week" means a week as defined in the applicable State law.

(w) "Week of unemployment" means—

(1) For an unemployed worker, any week during which the individual is totally, part-totally, or partially unemployed. A week of total unemployment is a week during which the individual performs no work and earns no wages, or has less than full-time work and earns wages not exceeding the minimum earnings allowance prescribed in the applicable State law. A week of parttotal unemployment is a week of otherwise total unemployment during which the individual has odd jobs or subsidiary work and earns wages not exceeding the maximum earnings allowance prescribed in the applicable State law. A week of partial unemployment is a week during which the individual works less than regular, fulltime hours for the individual's regular employer, as a direct result of the major disaster, and earns wages not exceeding the maximum earnings allowance prescribed by the applicable State law.

(2) For an unemployed self-employed individual, any week during which the individual is totally, parttotally, or partially unemployed. A week of total unemployment is a week during which the individual performs no services in self-employment or in an employer-employee relationship, or performs services less than full-time and earns wages not exceeding the minimum earnings allowance prescribed in the applicable State law. A week of part-total unemployment is a week of otherwise total unemployment during which the individual has odd jobs or subsidiary work and earns wages not exceeding the maximum earnings allowance prescribed in the applicable State law. A week of partial unemployment is a week during which the individual performs less than the customary full-time services in self-employment, as a direct result of the major disaster, and earns wages not exceeding the maximum earnings allowance prescribed by the applicable State law, or during which the only activities or services performed are for the sole purpose of enabling the individual to resume self-employment.

(3) If the week of unemployment for which an individual claims DUA is a week with respect to which the individual is reemployed in a suitable position or has commenced services in self-employment, that week shall be treated as a week of partial unemployment if the week qualifies as a week of partial unemployment as defined in this paragraph.

§ 625.3 Reemployment assistance.

(a) State assistance. Except as provided in paragraph (b) of this section, the applicable State shall provide, without reimbursement from any funds provided under the Act, reemployment assistance services under any other law administered by the State to individuals applying for DUA and all other individuals who are unemployed because of a major disaster. Such services shall include, but are not limited to, counseling, referrals to suitable work opportunities, and suitable training, to assist the individuals in obtaining reemployment in suitable positions as soon as possible.

(b) Federal assistance. In the case of American Samoa, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia, Republic of the Marshall Islands, and the Trust Territory of the Pacific Islands, the Department of Labor, in consultation with the Federal Emergency Management Agency, will determine what reemployment services are needed by DUA applicants, and if any available Federal programs of reemployment assistance services can be implemented in that jurisdiction.

§ 625.4 Eligibility requirements for Disaster Unemployment Assistance.

An individual shall be eligible to receive a payment of DUA with respect to a week of unemployment, in accordance with the provisions of the Act and this part if

- (a) That week begins during a Disaster Assistance Period;
- (b) The applicable State for the individual has entered into an Agreement which is in effect with respect to that week;
- (c) The individual is an unemployed worker or an unemployed self-employed individual;
- (d) The individual's unemployment with respect to that week is caused by a major disaster, as provided in § 625.5;
- (e) The individual has filed a timely initial application for DUA and, as appropriate, a timely application for a payment of DUA with respect to that week;
- (f) That week is a week of unemployment for the individual;

(g) The individual is able to work and available for work within the meaning of the applicable State law: Provided, That an individual shall be deemed to meet this requirement if any injury caused by the major disaster is the reason for inability to work or engage in self-employment; or, in the case of an unemployed self-employed individual, the individual performs service or activities which are solely for the purpose of enabling the individual to resume self-employment;

(h) The individual has not refused a bona fide offer of employment in a suitable position, or refused without good cause to resume or commence suitable self-employment, if the employment or self-employment, could have been undertaken in that week or in any prior week in the Disaster Assistance Period; and

(i) The individual is not eligible for compensation (as defined in § 625.2(d)) or for waiting period credit for such week under any other Federal or State law, except that an individual determined ineligible because of the receipt of disqualifying income shall be considered eligible for such compensation or waiting period credit. An individual shall be considered ineligible for compensation or waiting period credit (and thus potentially eligible for DUA) if the individual is under a disqualification for a cause that occurred prior to the individual's unemployment due to the disaster, or for any other reason is ineligible for compensation or waiting period credit as a direct result of the major disaster.

§ 625.5 Unemployment caused by a major disaster.

(a) Unemployed worker. The unemployment of an unemployed worker is caused by a major disaster if—

- (1) The individual has a "week of unemployment" as defined in § 625.2(w)(1) following the "date the major disaster began" as defined in § 625.2(e), and such unemployment is a direct result of the major disaster; or
- (2) The individual is unable to reach the place of employment as a direct result of the major disaster; or
- (3) The individual was to commence employment and does not have a job or is unable to reach the job as a direct result of the major disaster; or
- (4) The individual has become the breadwinner or major support for a household because the head of the household has died as a direct result of the major disaster; or
- (5) The individual cannot work because of an injury caused as a direct result of the major disaster.

(b) Unemployed self-employed individual. The unemployment of an unemployed self-employed individual is caused by a major disaster if—

- (1) The individual has a "week of unemployment" as defined in § 625.2(w)(2) following the "date the major disaster began" as defined in § 625.2(e), and such unemployment is a direct result of the major disaster; or
- (2) The individual is unable to reach the place where services as a self-employed individual are performed, as a direct result of the major disaster; or
- (3) The individual was to commence regular services as a self-employed individual, but does not have a place or is unable to reach the place where the services as a self-employed individual were to be performed, as a direct result of the major disaster; or

(4) The individual cannot perform services as a self-employed individual because of an injury caused as a direct result of the major disaster.

(c) Unemployment is a direct result of the major disaster. For the purposes of paragraphs (a)(1) and (b)(1) of this section, a worker's or self-employed individual's unemployment is a direct result of the major disaster where the unemployment is an immediate result of the major disaster itself, and not the result of a longer chain of events precipitated or exacerbated by the disaster. Such an individual's unemployment is a direct result of the major disaster if the unemployment resulted from: (1) the physical damage or destruction of the place of employment;

(2) the physical inaccessibility of the place of employment in the major disaster area due to its closure by or at the request of the federal, state, or local government, in immediate response to the disaster; or

(3) lack of work, or loss of revenues, provided that, prior to the disaster, the employer, or the business in the case of a self-employed individual, received at least a majority of its revenue or income from an entity in the major disaster area that was either damaged or destroyed in the disaster, or an entity closed by the federal, state, or local government in immediate response to the disaster.

§ 625.6 Weekly Amount; Jurisdictions; Reductions.

(a) In all States, except as provided in paragraphs (c) and (d) of this section, the amount of DUA payable to an unemployed worker or unemployed self-employed individual for a week of total unemployment shall be the weekly amount of compensation the individual would have been paid as regular compensation, as computed under the provisions of the applicable State law for a week of total unemployment. In no event shall such amount be in excess of the maximum amount of regular compensation authorized under the applicable State law for that week.

(1) Except as provided in paragraphs (a)(2) or (b) of this section, in computing an individual's weekly amount of DUA, qualifying employment and wage requirements and benefit formula of the applicable State law shall be applied; and for purposes of this section, employment, wages, and self-employment which are not covered by the applicable State law shall be treated in the same manner and with the same effect as covered employment and wages, but shall not include employment or self-employment, or wages earned or paid for employment or self-employment, which is contrary to or prohibited by any Federal law, such as, but not limited to, section 3304(a)(14)(A) of the Federal Unemployment Tax Act (26 U.S.C. 3304(a)(14)(A)).

(2) For purposes of paragraph (a)(1) of this section, the base period to be utilized in computing the DUA weekly amount shall be the most recent tax year that has ended for the individual (whether an employee or self-employed) prior to the individual's unemployment that was a direct result of the

major disaster. The self-employment income to be treated as wages for purposes of computing the weekly amount under this paragraph (a) shall be the net income reported on the tax return of the individual as income from all self-employment that was dependent upon the performance of services by the individual. If an individual has not filed a tax return for the most recent tax year that has ended at the time of such individual's initial application for DUA, such individual shall have a weekly amount determined in accordance with paragraph (e)(3) of this section.

(3) As of the date of filing an initial application for DUA, family members over the age of majority, as defined under the statutes of the applicable State, who were customarily or routinely employed or self-employed as a family unit or in the same self-employment business prior to the individuals' unemployment that was a direct result of the major disaster, shall have the wages from such employment or net income from the self-employment allocated equally among such adult family members for purposes of computing a weekly amount under this paragraph (a), unless the documentation to substantiate employment or self-employment and wages earned or paid for such employment or self-employment submitted as required by paragraph (e) of this section supports a different allocation. Family members under the age of majority as of the date of filing an initial application for DUA shall have a weekly amount computed under this paragraph (a) based on the actual wages earned or paid for employment or self-employment rather than an equal allocation.

(b) If the weekly amount computed under paragraph (a) of this section is less than 50 percent of the average weekly payment of regular compensation in the State, as provided quarterly by the Department, or, if the individual has insufficient wages from employment or insufficient or no net income from self-employment (which includes individuals falling within paragraphs (a)(3) and (b)(3) of § 625.5) in the applicable base period to compute a weekly amount under paragraph (a) of this section, the individual shall be determined entitled to a weekly amount equal to 50 percent of the average weekly payment of regular compensation in the State.

(1) If an individual was customarily or routinely employed or self-employed less than full-time prior to the individual's unemployment as a direct result of the major disaster, such individual's weekly amount under this paragraph (b)(1) shall be determined by calculating the percent of time the individual was employed or self-employed compared to the customary and usual hours per week that would constitute the average per week hours for year-round full-time employment or self-employment for the occupation, then applying the percentage to the determined 50 percent of the average weekly amount of regular compensation paid in the State. The State agency shall utilize information furnished by the applicant at the time of filing an initial application for DUA and any labor market or occupational information available within the

State agency to determine the average per week hours for full-time employment or self-employment for the occupation. If the weekly amount computed for an individual under this paragraph (b)(1) is less than the weekly amount computed under paragraph (a) of this section for the individual, the individual shall be entitled to the higher weekly amount.

(2) The weekly amount so determined under paragraph (b)(1) of this section, if not an even dollar amount, shall be rounded in accordance with the applicable State law.

(c) In the Territory of Guam and the Commonwealth of the Northern Mariana Islands, the amount of DUA payable to an unemployed worker or unemployed self-employed individual for a week of total unemployment shall be the average of the payments of regular compensation made under all State laws referred to in § 625.2(r)(1)(i) for weeks of total unemployment in the first four of the last five completed calendar quarters immediately preceding the quarter in which the major disaster began. The weekly amount so determined, if not an even dollar amount, shall be rounded to the next higher dollar.

(d) In American Samoa, Federated States of Micronesia, Republic of the Marshall Islands and the Trust Territory of the Pacific Islands, the amount of DUA payable to an unemployed worker or unemployed self-employed individual for a week of total unemployment shall be the amount agreed upon by the Regional Administrator, Employment and Training Administration, for Region IX (San Francisco), and the Federal Coordinating Officer, which shall approximate 50 percent of the area-wide average of the weekly wages paid to individuals in the major disaster area in the quarter immediately preceding the quarter in which the major disaster began. The weekly amount so determined, if not an even dollar amount, shall be rounded to the next higher dollar.

(e) The State agency shall immediately determine, upon the filing of an initial application for DUA, a weekly amount under the provisions of paragraphs (a) through (d) of this section, as the case may be, based on the individual's statement of employment or self-employment preceding the individual's unemployment that was a direct result of the major disaster, and wages earned or paid for such employment or self-employment. An immediate determination of a weekly amount shall also be made where, in conjunction with the filing of an initial application for DUA, the individual submits documentation substantiating employment or self-employment and wages earned or paid for such employment or self-employment, or, in the absence of documentation, where any State agency records of employment or self-employment and wages earned or paid for such employment or self-employment, justify the determination of a weekly amount. An immediate determination shall also be made based on the

individual's statement or in conjunction with the submittal of documentation in those cases where the individual was to commence employment or self-employment on or after the date the major disaster began but was prevented from doing so as a direct result of the disaster.

(1) In the case of a weekly amount determined in accordance with paragraph (e) of this section, based only on the individual's statement of earnings, the individual shall furnish documentation to substantiate the employment or self-employment or wages earned from or paid for such employment or self-employment or documentation to support that the individual was to commence employment or self-employment on or after the date the major disaster began. In either case, documentation shall be submitted within 21 calendar days of the filing of the initial application for DUA.

(2) Any individual who fails to submit documentation to substantiate employment or self-employment or the planned commencement of employment or self-employment in accordance with paragraph (e)(1) of this section, shall be determined ineligible for the payment of DUA for any week of unemployment due to the disaster. Any weeks for which DUA was already paid on the application prior to the date of the determination of ineligibility under this paragraph (e)(2) are overpaid and a determination shall be issued in accordance with § 625.14(a). In addition, the State agency shall consider whether the individual is subject to a disqualification for fraud in accordance with the provisions set forth in § 625.14(i).

(3) For purposes of a computation of a weekly amount under paragraph (a) of this section, if an individual submits documentation to substantiate employment or self-employment in accordance with paragraph (e)(1), but not documentation of wages earned or paid during the base period set forth in paragraph (a)(2) of this section, including those cases where the individual has not filed a tax return for the most recent tax year that has ended, the State agency shall immediately redetermine the weekly amount of DUA payable to the individual in accordance with paragraph (b) of this section.

(4) Any individual determined eligible for a weekly amount of DUA under the provisions of paragraph (e)(3) of this section may submit necessary documentation to substantiate wages earned or paid during the base period set forth in paragraph (a)(2) of this section, including those cases where the individual had not filed a tax return for the most recent tax year that has ended, at any time prior to the end of the disaster assistance period. A redetermination of the weekly amount payable, as previously determined under paragraph (b) of this section, shall immediately be made if the wages earned or paid for services performed in employment or self-employment reflected in such documentation is sufficient to permit a computation under paragraph (a) of this section of a weekly amount higher than was determined under paragraph (b) of this section. Any higher amount so

determined shall be applicable to all weeks during the disaster assistance period for which the individual was eligible for the payment of DUA.

(f)(1) The weekly amount of DUA payable to an unemployed worker or unemployed self-employed individual for a week of partial or part-total unemployment shall be the weekly amount determined under paragraph (a), (b), (c) or (d) of this section, as the case may be, reduced (but not below zero) by the amount of wages that the individual earned in that week as determined by applying to such wages the earnings allowance for partial or part-total employment prescribed by the applicable State law.

(2) The weekly amount of DUA payable to an unemployed self-employed individual for a week of unemployment shall be the weekly amount determined under paragraph (a), (b), (c) or (d) of this section, as the case may be, reduced (but not below zero) by the full amount of any income received during the week for the performance of services in self-employment, regardless of whether or not any services were performed during the week, by applying the earnings allowance as set forth in paragraph (f)(1) of this section. Notwithstanding the definition of "wages" for a self-employed individual under § 625.2(u), the term "any income" for purposes of this paragraph (f)(2) means gross income.

§ 625.7 Disaster Unemployment Assistance: Duration.

DUA shall be payable to an eligible unemployed worker or eligible unemployed self-employed individual for all weeks of unemployment which begin during a Disaster Assistance Period.

§ 625.8 Applications for Disaster Unemployment Assistance.

(a) Initial application. An initial application for DUA shall be filed by an individual with the State agency of the applicable State within 30 days after the announcement date of the major disaster as the result of which the individual became unemployed, and on a form prescribed by the Secretary which shall be furnished to the individual by the State agency. An initial application filed later than 30 days after the announcement date of the major disaster shall be accepted as timely by the State agency if the applicant had good cause for the late filing, but in no event shall an initial application be accepted by the State agency if it is filed after the expiration of the Disaster Assistance Period. If the 30th day falls on a Saturday, Sunday, or a legal holiday in the major disaster area, the 30-day time limit shall be extended to the next business day.

(b) Weekly applications. Applications for DUA for weeks of unemployment shall be filed with respect to the individual's applicable State at the times and in the manner as claims for regular compensation are filed under the applicable State law,

and on forms prescribed by the Secretary which shall be furnished to the individual by the State agency.

(c) Filing in person. (1) Except as provided in paragraph (c)(2) of this section, all applications for DUA, including initial applications, shall be filed in person.

(2) Whenever an individual has good cause for not filing any application for DUA in person, the application shall be filed at such time, in such place, and in such a manner as directed by the State agency and in accordance with part and procedures prescribed by the Secretary.

(d) IBPP. The "Interstate Benefit Payment Plan" shall apply, where appropriate, to an individual filing applications for DUA.

(e) Wage combining. The "Interstate Arrangement for Combining Employment and Wages" (part 616 of this chapter) shall apply, where appropriate, to an individual filing applications for DUA: Provided, That the "Paying State" shall be the applicable State for the individual as prescribed in § 625.12.

(f) Procedural requirements. (1) The procedures for reporting and filing applications for DUA shall be consistent with this part, and with the Secretary's "Standard for Claim Filing, Claimant Reporting, Job Finding and Employment Services," Employment Security Manual, Part V, sections 5000 et seq. (Appendix A of this part), insofar as such standard is not inconsistent with this part.

(2) The provisions of the applicable State law which apply hereunder to applications for and the payment of DUA shall be applied consistent with the requirements of Title III of the Social Security Act and the Federal Unemployment Tax Act which are pertinent in the case of regular compensation, including but not limited to those standards and requirements specifically referred to in the provisions of this part.

§ 625.9 Determinations of entitlement; notices to individual.

(a) Determination of initial application. (1) The State agency shall promptly, upon the filing of an initial application for DUA, determine whether the individual is eligible, and if the individual is found to be eligible, the weekly amount of DUA payable to the individual and the period during which DUA is payable.

(2) An individual's eligibility for DUA shall be determined, where a reliable record of employment, self-employment and wages is not obtainable, on the basis of an affidavit submitted to the State agency by the individual, and on a form prescribed by the Secretary which shall be furnished to the individual by the State agency.

(b) Determinations of weekly applications. The

State agency shall promptly, upon the filing of an application for a payment of DUA with respect to a week of unemployment, determine whether the individual is entitled to a payment of DUA with respect to that week, and, if entitled, the amount of DUA to which the individual is entitled.

(c) Redetermination. The provisions of the applicable State law concerning the right to request, or authority to undertake, reconsideration of a determination pertaining to regular compensation under the applicable State law shall apply to determinations pertaining to DUA.

(d) Notices to individual. The State agency shall give notice in writing to the individual, by the most expeditious method, of any determination or redetermination of an initial application, and of any determination of an application for DUA with respect to a week of unemployment which denies DUA or reduces the weekly amount initially determined to be payable, and of any redetermination of an application for DUA with respect to a week of unemployment. Each notice of determination or redetermination shall include such information regarding the determination or redetermination and notice of right to reconsideration or appeal, or both, as is furnished with written notices of determination and written notices of redeterminations with respect to claims for regular compensation.

(e) Promptness. Full payment of DUA when due shall be made with the greatest promptness that is administratively feasible.

(f) Secretary's Standard. The procedures for making determinations and redeterminations, and furnishing written notices of determinations, redeterminations, and rights of appeal to individuals applying for DUA, shall be consistent with this part and with the Secretary's "Standard for Claim Determinations-Separation Information," Employment Security Manual, Part V, sections 6010 et seq. (Appendix B of this part).

§ 625.10 Appeal and review.

(a) States of the United States. (1) Any determination or redetermination made pursuant to § 625.9 by the State agency of a State (other than the State agency of the Territory of Guam, American Samoa, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia, Republic of the Marshall Islands, or the Trust Territory of the Pacific Islands) may be appealed by the applicant in accordance with the applicable State law to the first-stage administrative appellate authority in the same manner and to the same extent as a determination or redetermination of a right to regular compensation may be appealed, except that the period for appealing shall be 60 days from the date the determination or redetermination is issued or mailed instead of the appeal

period provided for in the applicable State law. Any decision on a DUA first-stage appeal must be made and issued within 30 days after receipt of the appeal by the State.

(2) Notice of the decision on appeal and the reasons therefore, shall be given to the individual by delivering the notice to such individual personally or by mailing it to the individual's last known address, whichever is most expeditious. The decision shall contain information as to the individual's right to review of the decision by the appropriate Regional Administrator, Employment and Training Administration, if requested within 15 days after the decision was mailed or delivered in person to the individual. The notice will include the manner of requesting such review, and the complete address of the Regional Administrator. Notice of the decision on appeal shall be given also to the State agency (with the same notice of right to review) and to the appropriate Regional Administrator.

(b) Guam, American Samoa, and the Trust Territory of the Pacific Islands. (1) In the case of an appeal by an individual from a determination or redetermination by the State agency of the Territory of Guam, American Samoa, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia, Republic of the Marshall Islands, or the Trust Territory of the Pacific Islands, the individual shall be entitled to a hearing and decision in accordance with § 625.30 of this part.

(2) Notice of the referee's decision and the reasons therefor, shall be given to the individual by delivering the notice to the individual personally or by mailing it to the individual's last known address, whichever is most expeditious. The notice of decision shall contain information as to the individual's right to review of the decision by the Regional Administrator, Employment and Training Administration, for Region IX (San Francisco), and the manner of obtaining such review, including the address of the Regional Administrator. Notice of the decision on appeal shall be given also to the State agency and to the Regional Administrator.

(c) Review by Regional by Regional Administrator. (1) The appropriate Regional Administrator, Employment and Training Administration, upon request for review by an applicant or the State agency shall, or upon the Regional Administrator's own motion may, review a decision on appeal issued pursuant to paragraph (a) or (b) of this section.

(2) Any request for review by an applicant or a State agency shall be filed, and any review on the Regional Administrator's own motion shall be undertaken, within 15 days after notice of the decision on appeal was delivered or mailed to the individual.

(3)(i) A request for review by an individual may be filed with the appropriate State agency, which shall forward the request to the appropriate Regional Administrator, Employment and Training Administration,

or may be filed directly with the appropriate Regional Administrator.

(ii) A request for review by a State agency shall be filed with the appropriate Regional Administrator, and a copy shall be served on the individual by delivery to the individual personally or by mail to the individual's last known address.

(iii) When a Regional Administrator undertakes a review of a decision on the Regional Administrator's own motion, notice thereof shall be served promptly on the individual and the State agency.

(iv) Whenever review by a Regional Administrator is undertaken pursuant to an appeal or on the Regional Administrator's own motion, the State agency shall promptly forward to the Regional Administrator the entire record of the case.

(v) Where service on the individual is required by paragraph (c)(3)(ii) of this section, adequate proof of service shall be furnished for the record before the Regional Administrator, and be a condition of the Regional Administrator undertaking review pursuant to this paragraph.

(4) The decision of the Regional Administrator on review shall be rendered promptly, and not later than the earlier of -
(i) 45 days after the appeal is received or is undertaken by the Regional Administrator, or

(ii) 90 days from the date the individual's appeal from the determination was received by the State agency.

(5) Notice of the Regional Administrator's decision shall be mailed promptly to the last known address of the applicable State, and to the Director, Unemployment Insurance Service. The decision of the Regional Administrator shall be the final decision under the Act and this part, unless there is further review by the Assistant Secretary as provided in paragraph (d) of this section.

(d) Further review by the Assistant Secretary. (1) The Assistant Secretary for Employment and Training on his own motion may review any decision by a Regional Administrator issued pursuant to paragraph (c) of this section.

(2) Notice of a motion for review by the Assistant Secretary shall be given to the applicant, the State agency of the applicable State, the appropriate Regional Administrator, and the Director, Unemployment Insurance Service.

(3) When the Regional Administrator and the State agency are notified of the Assistant Secretary's motion for review, they shall forward all records in the case to the Assistant Secretary.

(4) Review by the Assistant Secretary shall be solely on the record in the case, any other written contentions or evidence requested by the Assistant Secretary, any further evidence or arguments offered by the individual, the State agency, the Regional Administrator, or the Director, Unemployment Insurance Service, which are mailed to the

Assistant Secretary within 15 days after mailing the notice of motion for review.

(5) Upon review of a case under this paragraph, the Assistant Secretary may affirm, modify, or reverse the decision of the Regional Administrator, and may remand the case for further proceedings and decision in accordance with Assistant Secretary's decision.

(6) The decision of the Assistant Secretary shall be made promptly, and notice thereof shall be sent to the applicant, the State agency, the Regional Administrator, and the Director, Unemployment Insurance Service.

(7) The decision of the Assistant Secretary shall be final and conclusive, and binding on all interested parties, and shall be a precedent applicable throughout the States.

(e) Procedural requirements. (1) All decisions on first-stage appeals from determinations or redeterminations by the State agencies must be made within 30 days of the appeal; therefore, the Secretary's "Standard for Appeals Promptness-Unemployment Compensation" in Part 650 of this chapter shall not apply to the DUA program.

(2) The provisions on right of appeal and opportunity for hearing and review with respect to applications for DUA shall be consistent with this part and with sections 303(a)(1) and 303(a)(3) of the Social Security Act, 42 U.S.C. 503(a)(1) and 503(a)(3).

(3) Any petition or other matter required to be filed within a time limit under this section shall be deemed to be filed at the time it is delivered to an appropriate office, or at the time of the postmark if it is mailed via the United States Postal Service to an appropriate office.

(4) If any limited time period specific in this section ends on a Saturday, Sunday, or a legal holiday in the major disaster area, the time limit shall be extended to the next business day.

§ 625.11 Provisions of State law applicable. The terms and conditions of the State law of the applicable State for an individual, which apply to claims for, and the payment of regular compensation, shall apply to applications for, and the payment of, DUA to each such individual, only as specifically set forth in the provisions of this part.

§ 625.12 The applicable State for an individual.

(a) Applicable State. The applicable State for an individual shall be that State in which the individual's unemployment is the result of a major disaster.

(b) Limitation. DUA is payable to an individual only by an applicable State as determined pursuant to paragraph (a) of this section, and-- (1) Only pursuant to an Agreement entered into pursuant to the Act and this part, and with respect to weeks in which the Agreement is in effect; and

(2) Only with respect to weeks of unemployment that begin during a Disaster Assistance Period.

§ 625.13 Restrictions on entitlement; disqualification.

(a) Income reductions. The amount of DUA payable to an individual for a week of unemployment, as computed pursuant to § 625.6 shall be reduced by the amount of any of the following that an individual has received for the week or would receive for the week if the individual filed a claim or application therefore and took all procedural steps necessary under the appropriate law, contract, or policy to receive such payment:

(1) Any benefits or insurance proceed from any source not defined as "compensation" under § 625.2(d) for loss of wages due to illness or disability;

(2) A supplemental unemployment benefit pursuant to a collective bargaining agreement.

(3) Private income protection insurance;

(4) Any workers' compensation by virtue of the death of the head of the household as the result of the major disaster in the major disaster area, prorated by weeks, if the individual has become the head of the household and is seeking suitable work because the head of household died as the result of the major disaster in the major disaster area; and

(5) The prorated amount of a retirement pension or annuity under a public or private retirement plan or system, prorated, where necessary, by weeks, but only if, and to the extent that, such amount would be deducted from regular compensation payable under the applicable State law.

(6) The prorated amount of primary benefits under Title II of the Social Security Act, but only to the extent that such benefits would be deducted from regular compensation if payable to the individual under the applicable State law.

(b) Disqualification. (1) An individual shall not be entitled to DUA for any week after the week in which the individual is reemployed in a suitable position.

(2) An individual who refuses without good cause to accept a bona fide offer of reemployment in a position suitable to the individual, or to investigate or accept a referral to a position which is suitable to an available to the individual, shall not be entitled to DUA with respect to the week in which such refusal occurs or in any subsequent week in the Disaster Assistance Period. For the purposes of this paragraph, a position shall not be deemed to be suitable to and available to the individual, shall not be entitled to DUA with respect to the week in which such refusal occurs or in any subsequent week in the Disaster Assistance Period. For the purposes of this paragraph, a position shall not be deemed to be suitable for an individual if the circumstances present any unusual risk to the health, safety, or morals of the individual, if it is impracticable for the individual to accept the position, or if acceptance for the position would, as to the individual, be inconsistent with any labor standard in section 3304(a)(5) of the Federal

Unemployment Tax Act, 26 U.S.C. 3304(a)(5), or the comparable provisions of the applicable State law.

§ 625.14 Overpayments; disqualification for fraud.

(a) Finding and repayment. If the State agency of the applicable State finds that an individual has received a payment of DUA to which the individual was not entitled under the Act and this part, whether or not the payment was due to the individual's fault or misrepresentation, the individual shall be liable to repay to the applicable State the total sum of the payment to which the individual was not entitled, and the State agency shall take all reasonable measures authorized under any State law or Federal law to recover for the account of the United States the total sum of the payment to which the individual was not entitled.

(b) Recovery by offset. (1) The State agency shall recover, insofar as is possible, the amount of any outstanding overpayment of DUA made to the individual by the State, by deductions from any DUA payable to the individual under the Act and this part, or from any compensation payable to the individual under any Federal unemployment compensation law administered by the State agency, or from any assistance or allowance payable to the individual under any Federal unemployment compensation law administered by the State agency, or from any assistance or allowance payable to the individual with respect to unemployment under any other Federal law administered by the State agency.

(2) The State agency shall also recover, insofar as possible, the amount of any outstanding overpayment of DUA made to the individual by another State by deductions from any DUA payable by the State agency to the individual under the Act and this part, or from any compensation payable to the individual under any Federal unemployment compensation law administered by the State agency, or from an assistance or allowance payable to the individual with respect to unemployment under any other Federal law administered by the State agency.

(3) If the State has in effect any agreement to implement the cross-program offset provisions of section 303(g)(2) of the Social Security Act (42 U.S.C. 503(g)(2)), the State shall apply the provisions of such agreement to the recovery of outstanding DUA overpayments.

(c) Debts due the United States. DUA payable to an individual shall be applied by the State agency for the recovery by offset of any debt due to the United States from the individual, but shall not be applied or used by the State agency in any manner for the payment of any debt of the individual to any State or any other entity or person.

(d) Recovered overpayments. Overpayments recovered in any manner shall be credited or returned, as

the case may be, to the appropriate account of the United States.

(e) Application of State law. Any provision of State law authorizing waiver of recovery of overpayments of compensation shall not be applicable to DUA.

(f) Final decision. Recovery of any overpayment of DUA shall not be enforced by the State agency until the determination establishing the overpayment has become final, or if appeal is taken from the determination, until the decision after opportunity for a fair hearing has become final.

(g) Procedural requirements. (1) The provisions of paragraphs (c), (d), and (f) of § 625.9 shall apply to determinations and redeterminations made pursuant to this section.

(2) The provisions of § 625.10 shall apply to determinations and redeterminations made pursuant to this section.

(h) Fraud detection and prevention. Provisions in the procedures of each State with respect to detection and prevention of fraudulent overpayments of DUA shall be, as a minimum, commensurate with the procedures adopted by the State with respect to regular compensation and consistent with the Secretary's "Standard for Fraud and Overpayment Detection," Employment Security Manual, Part V sections 7510 et seq. (Appendix C of this part).

(i) Disqualification for fraud. Any individual who, with respect to a major disaster, makes or causes another to make false statement or misrepresentation of a material fact, knowing it to be false, or knowingly fails or causes another to fail to disclose a material fact, in order to obtain for the individual or any other person a payment of DUA to which the individual or any other person is not entitled, shall be disqualified as follows:

(1) If the false statement, misrepresentation, or nondisclosure pertains to all initial application for DUA—

(i) The individual making the false statement, misrepresentation, or non-disclosure shall be disqualified from the receipt of any DUA with respect to that major disaster; and

(ii) If the false statement, misrepresentation, or nondisclosure was made on behalf of another individual, and was known to such other individual to be a false statement, misrepresentation, or nondisclosure, such other individual shall be disqualified from the receipt of any DUA with respect to that major disaster; and

(2) If the false statement, misrepresentation, or nondisclosure pertains to a week for which application for a payment of DUA is made—

(i) The individual making the false statement, misrepresentation, or nondisclosure shall be disqualified from the receipt of DUA for that week and the first two compensable weeks in the Disaster Assistance Period that

immediately follow that week, with respect to which the individual is otherwise entitled to a payment of DUA; and

(ii) If the false statement, misrepresentation, or nondisclosure was made on behalf of another individual, and was known to such other individual to be a false statement, misrepresentation, or nondisclosure, such other individual shall be disqualified from the receipt of DUA for that week and the first two compensable weeks in the Disaster Assistance Period that immediately follow that week, with respect to which the individual is otherwise entitled to a payment of DUA.

(j) Criminal penalties. The provisions of this section on recovery of overpayments and disqualification for fraudulently claiming or receiving any DUA to which an individual was not entitled under the Act and this part shall be in addition to and shall not preclude any applicable criminal prosecution and penalties under State or Federal law.

§ 625.15 Inviolate rights to DUA.

Except as specifically provided in this part, the right of individuals to DUA shall be protected in the same manner and to the same extent as the rights of persons to regular unemployment compensation are protected under the applicable State law. Such measures shall include protection of applicants for DUA from waiver, release, assignment, pledge, encumbrance, levy, execution, attachment, and garnishment, of their rights to DUA. In the same manner and to the same extent, individuals shall be protected from discrimination and obstruction in regard to seeking, applying for and receiving any right to DUA.

§ 625.16 Record keeping; disclosure of information.

(a) Record keeping. Each State agency will make and maintain records pertaining to the administration of the Act as the Secretary requires, and will make all such records available for inspection, examination, and audit by such Federal officials or employees as the Secretary may designate or as may be required by law.

(b) Disclosure of information. Information in records made and maintained by a State agency in administering the Act shall be kept confidential, and information in such records may be disclosed only in the same manner and to the same extent as information with respect to regular compensation and the entitlement of individuals thereto may be disclosed under the applicable State law, and consistently with section 303(a)(1) of the Social Security Act, 42 U.S.C. 503(a)(1). This provision on the confidentiality of information obtained in the administration of the Act shall not apply, however, to the United States Department of Labor, or in the case of information, reports and studies requested pursuant to § 625.19, or where the result would be inconsistent with the Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 552a), or regulations of the United

States Department of Labor promulgated thereunder.

§ 625.17 Announcement of the beginning of a Disaster Assistance Period.

Whenever a major disaster is declared in a State, the State agency shall promptly announce throughout the major disaster area by all appropriate news media that individuals who are unemployed as the result of the major disaster may be entitled to DUA; that they should file initial applications for DUA as soon as possible, but not later than the 30th day after the announcement date; the beginning date of the Disaster Assistance Period; and where individuals may obtain further information and file applications for DUA.

§ 625.18 Public access to Agreements.

The State agency of a State will make available to any individual or organization of a true copy of the Agreement with the State for inspection and copying. Copies of an Agreement may be furnished on request to any individual or organization upon payment of the same charges, if any, as apply to the furnishing of copies of other records of the State agency.

§ 625.19 Information, reports and studies.

(a) Routine responses. State agencies shall furnish to the Secretary such information and reports and make such studies as the Secretary decides are necessary or appropriate for carrying out the purposes of the Act and this part.

(b) Final Report. In addition to such other reports as may be required by the Secretary, within 60 days after all payments of Disaster Unemployment Assistance as the result of a major disaster in the State have been made, the State agency shall submit a final report to the Secretary. A final report shall contain a narrative summary, a chronological list of significant events, pertinent statistics about the Disaster Unemployment Assistance provided to disaster victims, brief statements of major problems encountered, discussion of lessons learned, and suggestions for improvement of the program during future major disasters.

§ 625.20 Saving clause.

The regulations in this part do not apply to applications, determinations, hearings, or other administrative or judicial proceedings, with respect to any major disaster declared prior to November 23, 1988, and such applications, determinations, hearings, or other administrative or judicial proceeding shall remain subject to the Act and the Regulations in this part issued thereunder which were in effect prior to that date.

§ 625.30 Appeal Procedures for Guam, American Samoa, Commonwealth of the Northern Mariana Islands, Federated

States of Micronesia, Republic of the Marshall Islands, and the Trust Territory of the Pacific Islands.

(a) Designation of referee. The Director of the Unemployment Insurance Service shall designate a referee of a State agency to hear and decide appeals under this section from determinations and redeterminations by the State agencies of the Territory of Guam, American Samoa, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia, Republic of the Marshall Islands, and the Trust Territory of the Pacific Islands.

(b) Appeals to referee. (1) A DUA applicant may appeal from a determination or redetermination issued by the State agency of the Territory of Guam, American Samoa, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia, Republic of the Marshall Islands, or the Trust Territory of the Pacific Islands within 60 days after the mailing of notice and a copy of such determination or redetermination to such applicant's last known address, or in the absence of mailing within 60 days after delivery in person thereof to such applicant. The appeal shall be in writing and may be filed with any office of the State agency.

(2) Notice that an appeal has been filed may be given or mailed, in the discretion of the referee, to any person who has offered or is believed to have evidence with respect to the claim.

(3) An appeal shall be promptly scheduled and heard, in order that a decision on the appeal can be issued within 30 days after receipt of the appeal by the State agency. Written notice of hearing, specifying the time and place thereof and those questions known to be in dispute, shall be given or mailed to the applicant, the State agency, and any person who has offered or is believed to have evidence with respect to the claim seven days or more before the hearing, except that a shorter notice period may be used with the consent of the applicant.

(c) Conduct of hearings. Hearings before the referee shall be informal, fair, and impartial, and shall be conducted in such manner as may be best suited to determine the DUA applicants' right to compensation. Hearings shall be open to the public unless sufficient cause for a closed hearing is shown. The referee shall open a hearing by ascertaining and summarizing the issue or issues involved in the appeal. The applicant may examine and cross-examine witnesses, inspect documents, and explain or rebut any evidence. An opportunity to present argument shall be afforded such applicant, and such argument shall be made part of the record. The referee shall give such applicant, if not represented by counsel or other representative, every assistance that does not interfere with the impartial discharge of the referee's duties. The referee may examine such applicant and other witnesses to such extent as the referee deems necessary. Any issue involved in the claim shall be considered and passed upon even though such issue was not set forth as a ground of appeal.

(d) Evidence. Oral or written evidence of any nature, whether or not conforming to the legal rules of evidence, may be accepted. Any official record of the State agency, including reports submitted in connection with administration of the DUA program, may be included in the record if the applicant is given an opportunity to examine and rebut the same. A written statement under oath or affirmation may be accepted when it appears impossible or unduly burdensome to require the attendance of a witness, but a DUA applicant adversely affected by such a statement must be given the opportunity to examine such statement, to comment on or rebut any or all portions thereof, and whenever possible to cross-examine a witness whose testimony has been introduced in written form by submitting written questions to be answered in writing.

(e) Record. All oral testimony before the referee shall be taken under oath or affirmation and a transcript thereof shall be made and kept. Such transcript together with all exhibits, papers, and requests filed in the proceeding shall constitute the record for decision.

(f) Withdrawal of appeal. A DUA applicant who has filed an appeal may withdraw such appeal with the approval of the referee.

(g) Nonappearance of DUA applicant. Failure of a DUA applicant to appear at a hearing shall not result in a decision being automatically rendered against such applicant. The referee shall render a decision on the basis of whatever evidence is properly before him/her unless there appears to be a good reason for continuing the hearing. An applicant who fails to appear at a hearing with respect to his/her appeal may within seven days thereafter petition for a reopening of the hearing. Such petition shall be granted if it appears to the referee that such applicant has shown good cause for his/her failure to attend.

(h) Notice of referee's decision and further review.

(1) Decision. A copy of the referee's decision, which shall include findings and conclusions, shall promptly be given or mailed to the applicant, the State agency, and to the Regional Administrator, Employment and Training Administration, for Region IX (San Francisco). The decision of the referee shall be accompanied by an explanation of the right of such applicant or State agency to request review by the Regional Administrator and the time and manner in which such review may be instituted, as provided in paragraph (a)(2) of § 625.10.

(2) Time limit for decision. A decision on an appeal to a referee under this section shall be made and issued by the referee not later than 30 days after receipt of the appeal by the State agency.

(3) Further review. Further review by the Regional Administrator or the Assistant Secretary with respect to an

appeal under this section shall be in accordance with paragraphs (c) and (d) of § 625.10.

(i) Consolidation of appeals. The referee may consolidate appeals and conduct joint hearings thereon where the same or substantially similar evidence is relevant and material to the matters in issue. Reasonable notice of consolidation and the time and place of hearing shall be given or mailed to the applicants or their representatives, the State agency, and to persons who have offered or are believed to have evidence with respect to the DUA claims.

(j) Representation. A DUA applicant may be represented by counsel or other representative in any proceedings before the referee or the Regional Administrator. Any such representative may appear at any hearing or take any other action which such applicant may take under this part. The referee, for cause, may bar any person from representing an applicant, in which event such action shall be set forth in the record. No representative shall charge an applicant more than an amount fixed by the referee for representing the applicant in any proceeding under this section.

(k) Postponement, continuance, and adjournment of hearings. A hearing before the referee shall be postponed, continued, or adjourned when such action is necessary to afford a DUA applicant reasonable opportunity for a fair hearing. In such case notice of the subsequent hearing shall be given to any person who received notice of the prior hearing.

(l) Information from agency records. Information shall be available to a DUA applicant, either from the records of the State agency or as obtained in any proceeding herein provided for, to the extent necessary for proper presentation of his/her case. All requests for information shall state the nature of the information desired as clearly as possible and shall be in writing unless made at a hearing.

(m) Filing of decisions. Copies of all decisions of the referee shall be kept on file at his/her office or agency for at least 3 years.

APPENDIX A TO PART 625 - STANDARD FOR CLAIM FILING, CLAIMANT REPORTING, JOB FINDING, AND EMPLOYMENT SERVICES

*Employment Security Manual (Part V, Sections 5000 5004)
5000 Standard for Claim Filing, Claimant Reporting, Job Finding, and Employment Services*

A. *Federal law requirements*. Section 3304(a)(1) of the Federal Unemployment Tax Act and section 303(a)(2) of the Social Security Act require that a State law provide for: "Payment of unemployment compensation solely

through public employment offices or such other agencies as the Secretary may approve."

Section 3304(a)(4) of the Federal Unemployment Tax Act and section 303(a)(5) of the Social Security Act require that a State law provide for: "Expenditure of all money with drawn from an unemployment fund of such State, in the payment of unemployment compensation * * *"

Section 303(a)(1) of the Social Security Act requires that the State law provide for: "Such methods of administration . . . as are found by the Secretary to be reasonably calculated to insure full payment of unemployment compensation when due."

B. Secretary's interpretation of federal law requirements:

1. The Secretary interprets section 3304(a)(1) of the Federal Unemployment Tax Act and section 303(a)(2) of the Social Security Act to require that a State law provide for payment of unemployment compensation solely through public employment offices or claims offices administered by the State employment security agency if such agency provides for such coordination in the operations of its public employment offices and claims offices as will insure (a) the payment of benefits only to individuals who are unemployed and who are able to work and available for work, and (b) that individuals claiming unemployment compensation (claimants) are afforded such placement and other employment services as are necessary and appropriate to return them to suitable work as soon as possible.

2. The Secretary interprets all the above sections to require that a State law provide for a: Such contact by claimants with public employment offices or claims offices or both, (1) as will reasonably insure the payment of unemployment compensation only to individuals who are unemployed and who are able to work and available for work, and (2) that claimants are afforded such placement and other employment services as are necessary and appropriate to facilitate their return to suitable work as soon as possible; and b. Methods of administration which do not unreasonably limit the opportunity of individuals to establish their right to unemployment compensation due under such State law.

5001 Claim Filing and Claimant Reporting Requirements Designed to Satisfy Secretary's Interpretation

A. Claim filing—total or part-total unemployment: 1. Individuals claiming unemployment compensation for total or part-total unemployment are required to file a claim weekly or biweekly, in person or by mail, at a public employment office or a claims office (these terms include offices at itinerant points) as set forth below.

2. Except as provided in paragraph 3, a claimant is required to file in person: a. His new claim with respect to a benefit year, or his continued claim for a waiting week or for his first compensable week of unemployment in such year and b. Any other claim, when requested to do so by the claims personnel at the office at which he files his claim(s) because questions about his right to benefits are raised by circumstances such as the following:

(1) The conditions or circumstances of his separation from employment;

(2) The claimant's answers to questions on mail claim(s) indicate that he may be unable to work or that there may be

undue restrictions on his availability for work or that his search for work may be inadequate or that he may be disqualified;

(3) The claimant's answers to questions on mail claims create uncertainty about his credibility or indicate a lack of understanding of the applicable requirements; or

(4) The claimant's record shows that he has previously filed a fraudulent claim.

In such circumstances, the claimant is required to continue to file claims in person each week (or biweekly) until the State agency determines that filing claims in person is no longer required for the resolution of such questions.

3. A claimant must be permitted to file a claim by mail in any of the following circumstances: a. He is located in an area requiring the expenditure of an unreasonable amount of time or money in traveling to the nearest facility established by the State agency for filing claims in person; b. Conditions make it impracticable for the agency to take claims in person; c. He has returned to full-time work on or before the scheduled date for his filing a claim, unless the agency makes provision for in-person filing at a time and place that does not interfere with his employment; d. The agency finds that he has good cause for failing to file a claim in person.

4. A claimant who has been receiving benefits for partial unemployment may continue to file claims as if he were a partially unemployed worker for the first four consecutive weeks of total or part-total unemployment immediately following his period of partial unemployment so long as he remains attached to his regular employer.

B. Claim Filing—partial unemployment. Each individual claiming unemployment compensation for a week (or other claim period) during which, because of lack of work, he is working less than his normal customary fulltime hours for his regular employer and is earning less than the earnings limit provided in the State law, shall not be required to file a claim for such week or other claim period earlier than 2 weeks from the date that wages are paid for such claim period or, if a low earnings report is required by the State law, from the date the employer furnished such report to the individual. State agencies may permit claims for partial unemployment to be filed either in person or by mail, except that in the circumstances set forth in section A 3, filing by mail must be permitted, and in the circumstances set forth in section A 2 b, filing in person may be required.

5002 Requirement For Job Finding, Placement, and other Employment Services Designed to Satisfy Secretary's Interpretation

A. Claims personnel are required to assure that each claimant is doing what a reasonable individual in his circumstances would do to obtain suitable work.

B. In the discretion of the State agency: 1. The claims personnel are required to give each claimant such necessary and appropriate assistance as they reasonably can in finding suitable work and at their discretion determine when more complete placement and employment services are necessary and appropriate for a claimant; and if they determine more complete services are necessary and appropriate, the claims personnel are to refer him to employment service personnel in the public employment office in which he has been filing claim(s), or, if he has been filing in a claims office, in the public

employment office most accessible to him; or

2. All placement and employment services are required to be afforded to each claimant by employment service personnel in the public employment office most accessible to him in which case the claims personnel in the office in which the claimant files his claim are to refer him to the employment service personnel when placement or other employment services are necessary and appropriate for him.

C. The personnel to whom the State agency assigns the responsibilities outlined in paragraph B above are required to give claimants such job-finding assistance, placement, and other employment services as are necessary and appropriate to facilitate their return to suitable work as soon as possible.

In some circumstances, no such services or only limited services may be required. For example, if a claimant is on a short-term temporary layoff with a fixed return date, the only service necessary and appropriate to be given to him during the period of the layoff is a referral to suitable temporary work if such work is being performed in the labor market area.

Similarly, claimants whose unemployment is caused by a labor dispute presumably will return to work with their employer as soon as the labor dispute is settled. They generally do not need services, nor do individuals in occupations where placement customarily is made by other nonfee charging placement facilities such as unions and professional associations.

Claimants who fall within the classes which ordinarily would require limited services or no services shall, if they request placement and employment services, be afforded such services as are necessary and appropriate for them to obtain suitable work or to achieve their reasonable employment goals.

On the other hand, a claimant who is permanently separated from his job is likely to require some services. He may need only some direction in how to get a job; he may need placement services if he is in an occupation for which there is some demand in the labor market area, if his occupation is outdated, he may require counseling and referral to a suitable training course. The extent and character of the services to be given any particular claimant may change with the length of his unemployment and depend not only on his own circumstances and conditions, but also on the condition of the labor market in the area.

D. Claimants are required to report to employment service personnel, as directed, but such personnel and the claims personnel are required to so arrange and coordinate the contracts required of a claimant as not to place an unreasonable burden on him or unreasonably limit his opportunity to establish his rights to compensation. As a general rule, a claimant is not required to contact in person claims personnel or employment service personnel more frequently than once a week, unless he is directed to report more frequently for a specific service such as referral to a job or a training course or counseling which cannot be completed in one visit.

E. Employment service personnel are required to report promptly to claims personnel in the office in which the claimant files his claim(s): (1) his failure to apply for or accept work to which he was referred by such personnel or when known, by any other nonfee charging placement facility such as a union or a professional association; and (2) any information which

becomes available to it that may have a bearing on the claimant's ability to work or availability for work, or on the suitability of work to which he was referred or which was offered to him.

5004 *Evaluation of Alternative State Provisions*

If the State law provisions do not conform to the "suggested State law requirements" set forth in sections 5001 and 5002, but the State law contains alternative provisions, the Manpower Administrator, in collaboration with the State agency, will study the actual or anticipated affect of the alternative provisions. If the Manpower Administrator concludes that the alternative provisions satisfy the requirements of the Federal law as construed by the Secretary (see section 5000 B) he will so notify the State agency. If he does not so conclude, he will submit the matter to the Secretary. If the Secretary concludes that the alternative provisions satisfy such requirements, the State agency will be so notified. If the secretary concludes that there is a question as to whether the alternative provisions satisfy such requirements, the State agency will be advised that unless the State law provisions are appropriately revised, a notice of hearing will be issued as required by the Code of Federal Regulations, title 20, section 601.5.

[56 FR 558, Jan. 5, 1990]

APPENDIX B TO PART 625--STANDARD FOR CLAIM DETERMINATIONS--SEPARATION INFORMATION

Employment Security Manual (Part V, Sections 6010-6015)

6010--6019 *Standard for Claim Determinations--Separation Information*

6010 *Federal Law Requirements*. Section 303(a)(1) of the Social Security Act requires that a State law include provision for: "Such methods of administration . . . as are found by the Secretary to be reasonably calculated to insure full payment of unemployment compensation when due."

Section 303(a)(3) of the Social Security Act requires that a State law include provision for: "Opportunity for a fair hearing before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied."

Section 3304(a)(4) of the Federal Unemployment Tax Act and section 303(a)(5) of the Social Security Act require that a State law include provision for: "Expenditure of all money withdrawn from an unemployment fund of such State, in the payment of unemployment compensation"

Section 3306(h) of the Federal Unemployment Tax Act defines "compensation" as "cash benefits payable to individuals with respect to their unemployment."

6011 *Secretary's Interpretation of Federal Law Requirements*. The secretary interprets the above sections to require that a State law include provisions which will insure that:

A. Individuals who may be entitled to unemployment compensation are furnished such information as will reasonably afford them an opportunity to know, establish, and protect their rights under the unemployment compensation law of such State, and

B. The State agency obtains and records in time for the prompt determination and review of benefit claims such information as will reasonably insure the payment of benefits to individuals to whom benefits are due.

6012 Criteria for Review of State Law Conformity with Federal Requirements. In determining the conformity of a State law with the above requirements of the Federal Unemployment Tax Act and the Social Security Act as interpreted by the Secretary, the following criteria will be applied:

A. Is it required that individuals who may be entitled to unemployment compensation be furnished such information of their potential rights to benefits, including the manner and places of filing claims, the reasons for determinations, and their rights of appeal, as will insure them a reasonable opportunity to know, establish, and protect their rights under the law of the State?

B. Is the State agency required to obtain, in time for prompt determination of rights to benefits such information as will reasonably insure the payment of benefits to individual to whom benefits are due?

C. Is the State agency required to keep records of the facts considered in reaching determinations of rights to benefits?

6013 Claim Determinations Requirements Designed To Meet Department of Labor Criteria.

A. Investigation of claims. The State agency is required to obtain promptly and prior to a determination of an individual's right to benefits, such facts pertaining thereto as will be sufficient reasonably to insure the payment of benefits when due.

This requirement embraces five separate elements:

1. It is the responsibility of the agency to take the initiative in the discovery of information. This responsibility may not be passed on to the claimant or the employer. In addition to the agency's own records, this information may be obtained from the worker, the employer, or other sources. If the information obtained in the first instance discloses no essential disagreement and provides a sufficient basis for a fair determination, no further investigation is necessary. If the information obtained from other sources differs essentially from that furnished by the claimant, the agency, in order to meet its responsibility, is required to inform the claimant of such information from other sources and to afford the claimant an opportunity to furnish any further facts he may have.

2. Evidentiary facts must be obtained as distinguished from ultimate facts or conclusions. That a worker was discharged for misconduct is an ultimate fact or conclusion; that he destroyed a machine upon which he was working is a primary or evidentiary fact, and the sort of fact that the requirement refers to.

3. The information obtained must be sufficient reasonably to insure the payment of benefits when due. In general, the

investigation made by the agency must be complete enough to provide information upon which the agency may act with reasonable assurance that its decision is consistent with the unemployment compensation law. On the other hand, the investigation should not be so exhaustive and time-consuming as unduly to delay the payment of benefits and to result in excessive costs.

4. Information must be obtained promptly so that the payment of benefits is not unduly delayed.

5. If the State agency requires any particular evidence from the worker, it must give him a reasonable opportunity to obtain such evidence.

B. Recording of facts. The agency must keep a written record of the facts considered in reaching its determinations.

C. Determination notices

1. The agency must give each claimant a written notice of:

a. Any monetary determination with respect to his benefit year;

b. Any determination with respect to purging a disqualification if, under the State law, a condition or qualification must be satisfied with respect to each week of disqualification; but in lieu of giving written notice of each determination for each week in which it is determined that the claimant has met the requirements for purging, the agency may inform the claimant that he has purged the disqualification for a week by notation on his application identification card or otherwise in writing.

c. Any other determination which adversely affects¹ his rights to benefits, except that written notice of determination need not be given with respect to:

(1) A week in for which the claimant's weekly benefit amount is reduced in whole or in part by earnings if, the first time in the benefit year that there is such a reduction, he is required to be furnished a booklet or leaflet containing the information set forth below in paragraph 2 f (1). However, a written notice of determination is required if: (a) there is a dispute concerning the reduction with respect to any week (e.g., as to the amount computed as the appropriate reduction, etc.); or (b) there is a change in the State law (or in the application thereof) affecting the reduction; or

(2) Any week in a benefit year subsequent to the first week in such benefit year in which benefits were denied, or reduced in whole or in part for reasons other than earnings, if denial or reduction for such subsequent

¹A determination "adversely affects" claimant's right to benefits if it (1) results in a denial to him of benefits (including a cancellation of benefits or wage credits or any reduction in whole or in part below the weekly or maximum amount established by his monetary determination) for any week or other period; or (2) denies credit for a waiting week; or (3) applies any disqualification or penalty; or (4) determines that he has not satisfied a condition of eligibility, requalification for benefits, or purging a disqualification; or (5) determines that an overpayment has been made or orders repayment or recoupment of any sum paid to him; or (6) applies a previously determined overpayment, penalty, or order for repayment or recoupment; or (7) in any other way denies claimant a right to benefits under the State law.

week is based on the same reason and the same facts as for the first week, and if written notice of determination is required to be given to the claimant with respect to such first week, and with such notice of determination, he is required to be given a booklet or pamphlet containing the information set forth below in paragraphs 2 f (2) and 2 h. However, a written notice of determination is required if: (a) there is a dispute concerning the denial or reduction of benefits with respect to such week; or (b) there is a change in the State law (or in the application thereof) affecting the denial or reduction; or (c) there is a change in the amount of the reduction except as to the balance covered by the last reduction in a series of reductions.

Note: This procedure may be applied to determinations made with respect to any subsequent weeks for the same reason and on the basis of the same facts: (a) that claimant is unable to work, unavailable for work, or is disqualified under the labor dispute provision; and (b) reducing claimants weekly benefit amount because of income other than earnings or offset by reason of overpayment.

2. The agency must include in written notices of determinations furnished to claimants sufficient information to enable them to understand the determinations, the reasons therefor, and their rights to protest, request reconsideration, or appeal.

The written notice of monetary determination must contain the information specified in the following items (except h) unless an item is specifically not applicable. A written notice of any other determination must contain the information specified in as many of the following items as are necessary to enable the claimant to understand the determination and to inform him of his appeal rights. Information specifically applicable to the individual claimant must be contained in the written notice of determination. Information of general application such as (but not limited to) the explanation of benefits for partial unemployment, information as to deductions, seasonality factors, and information as to the manner and place of taking an appeal, extension of the appeal period, and where to obtain information and assistance may be contained in a booklet or leaflet which is given the claimant with his monetary determination.

a. Base period wages. The statement concerning base-period wages must be in sufficient detail to show the basis of computation of eligibility and weekly and maximum benefit amounts. (If maximum benefits are allowed, it may not be necessary to show details of earnings.)

b. Employer name. The name of the employer who reported the wages is necessary so that the worker may check the wage transcript and know whether it is correct. If the worker is given only the employer number, he may not be able to check the accuracy of the wage transcript.

c. Explanation of benefit formula--weekly and maximum benefit amounts. Sufficient information must be given the worker so that he will understand how his weekly benefit amount, including allowances for dependents, and his maximum benefit amount were figured. If benefits are computed by means of a table contained in the law, the table must be furnished with the notice of determination whether benefits are granted or denied.

The written notice of determination must show clearly the weekly benefit amount and the maximum potential benefits to

which the claimant is entitled. The notice to a claimant found ineligible by reason of insufficient earnings in the base period must inform him clearly of the reason for ineligibility. An explanation of the benefit formula contained in a booklet or pamphlet should be given to each claimant at or prior to the time he receives written notice of a monetary determination.

d. Benefit year. An explanation of what is meant by the benefit year and identification of the claimant's benefit year must be included in the notice of determination.

e. Information as to benefits for partial unemployment. There must be included either in the written notice of determination or in a booklet or pamphlet accompanying the notice an explanation of the claimants to partial benefits for any week with respect to which he is working less than his normal customary full-time workweek because of lack of work and for which he earns less than his weekly benefit amount or weekly benefit amount plus earnings, whichever is provided by the State law. If the explanation is contained in the notice of determination, reference to the item in the notice in which his weekly benefit amount is entered should be made.

f. Deductions from weekly benefits

(1) Earnings. Although written notice of determinations deducting earnings from a claimant's weekly benefit amount is generally not required (see paragraph 1 c(1) above), where written notice of determination is required (or given) it shall set forth the amount of earnings, the method of computing the deduction in sufficient detail to enable the claimant to verify the accuracy of the deduction, and his right to protest, request redetermination, and appeal. Where a written notice of determination is given to the claimant because there has been a change in the State law or in the application of the law, an explanation of the change shall be included.

Where claimant is not required to receive a written notice of determination, he must be given a booklet or pamphlet the first time in his benefit year that there is a deduction for earnings which shall include the following information:

(a) The method of computing deductions for earnings in sufficient detail to enable the claimant to verify the accuracy of the deduction;

(b) That he will not automatically be given a written notice of determination for a week with respect to which there is a deduction for earnings (unless there is a dispute concerning the reduction with respect to a week or there has been a change in the State law or in the application of the law affecting the deduction) but that he may obtain such a written notice upon request; and

(c) A clear statement of his right to protest, request a redetermination, and appeal from any determination deducting earnings from his weekly benefit amount even though he does not automatically receive a written notice of determination; and if the State law requires written notice of determination in order to effectuate a protest, redetermination, or appeal, he must be so advised and advised also that he must request a written notice of determination before he takes any such action.

(2) Other deductions

(a) A written notice of determination is required with respect to the first week in claimant's benefit year in which there is a reduction from his benefits for a reason other than earnings. This notice must describe the deduction made from claimant's weekly benefit amount, the reason

for the deduction, the method of computing it in sufficient detail to enable him to verify accuracy of such deduction, and his right to protest, request redetermination, or appeal.

(b) A written notice of determination is not required for subsequent weeks that a deduction is made for the same reason and on the basis of the same facts, if the notice of determination pursuant to (2)(a), or a booklet or pamphlet given him with such notice explains (i) the several kinds of deductions which may be made under the State law (e.g., retirement pensions, vacation pay, and overpayments); (ii) the method of computing each kind of deduction in sufficient detail that claimant will be able to verify the accuracy of deductions made from his weekly benefit payments; (iii) any limitation on the amount of any deduction or the time in which any deduction may be made, (iv) that he will not automatically be given a written notice of determination for subsequent weeks with respect to which there is a deduction for the same reason and on the basis of the same facts, but that he may obtain a written notice of determination upon request; (v) his right to protest, request redetermination, or appeal with respect to subsequent weeks for which there is a reduction from his benefits for the same reason, and on the basis of the same facts even though he does not automatically receive a written notice of determination; and (vi) that if the State law requires written notice of determination in order to effectuate a protest, redetermination, or appeal, he must be so advised and advised also that he may request a written notice of determination before he takes any such action.

g. Seasonality factors. If the individual's determination is affected by seasonality factors under the State law, an adequate explanation must be made. General explanations of seasonality factors which may affect determinations for subsequent weeks may be included in a booklet or pamphlet given claimant with his notice of monetary determination.

h. Disqualification or ineligibility. If a disqualification is imposed, or if the claimant is declared ineligible for one or more weeks, he must be given not only a statement of the period of disqualification or ineligibility and the amount of wage-credit reductions, if any but also an explanation of the reason for the ineligibility or disqualification. This explanation must be sufficiently detailed so that he will understand why he is ineligible or why he has been disqualified, and what he must do in order to requalify for benefits or purge the disqualification. The statement must be individualized to indicate the facts upon which the determination was based e.g., state, "It is found that you left your work with Blank Company because you were tired of working; the separation was voluntary, and the reason does not constitute good cause," rather than merely the phrase "voluntary quit." Checking a box as to the reason for the disqualification is not a sufficiently detailed explanation. However, this statement of the reason for the disqualification need not be a restatement of all facts considered in arriving at the determination.

i. Appeal rights. The claimant must be given information with respect to his appeal rights.

(1) The following information shall be included in the notice of determination:

(a) A statement that he may appeal or, if the State law requires or permits a protest or redetermination before an appeal, that he may protest or request redetermination.

(b) The period within which an appeal, protest, or request for redetermination must be filed. The number of days provided by statute must be shown as well as either the beginning date or ending date of the period. (It is recommended that the ending date of the appeal period be shown, as this is the more understandable of the alternatives.)

(2) The following information must be included either in the notice of determination or in separate informational material referred to in the notice:

(a) The manner in which the appeal, protest, or request for redetermination must be filed, e.g., by signed letter, written statement, or on a prescribed form, and the place or places to which the appeal, protest, or request for redetermination may be mailed or hand-delivered.

(b) An explanation of any circumstances (such as nonworkdays, good cause, etc.) which will extend the period for the appeal, protest, or request for redetermination beyond the date stated or identified in the notice of determination.

(c) That any further information claimant may need or desire can be obtained together with assistance in filing his appeal, protest, or request for redetermination from the local office.

If the information is given in separate material, the notice of determination would adequately refer to such material if it said, for-example, "For other information about your (appeal), (protest), (redetermination) rights, see pages ____ to ____ of the _____ (name of pamphlet or booklet) heretofore furnished to you."

6014 Separation Information Requirements Designed To Meet Department of Labor Criteria

A. Information to agency. Where workers are separated, employers are required to furnish the agency promptly, either upon agency request or upon such separation, a notice describing the reasons for and the circumstances of the separation and any additional information which might affect a claimant's right to benefits. Where workers are working less than full time, employers are required to furnish the agency promptly, upon agency request, information concerning a claimant's hours of work and his wages during the claim periods involved, and other facts which might affect a claimant's eligibility for benefits during such periods.

When workers are separated and the notices are obtained on a request basis, or when workers are working less than full time and the agency requests information, it is essential to the prompt processing of claims that the request be sent out promptly after the claim is filed and the employer be given a specific period within which to return the notice, preferably within 2 working days.

When workers are separated and notices are obtained upon separation, it is essential that the employer be required to send the notice to the agency with sufficient promptness to insure that, if a claim is filed, it may be processed promptly. Normally, it is desirable that such a notice be sent to the central office of the agency, since the employer may not know in which local office the worker will file his claim. The usual procedure is for the employer to give the worker a copy of the notice sent by the employer to the agency.

B. Information of worker. 1. Information required to

be given. Employers are required to give their employees information and instructions concerning the employees' potential rights to benefits and concerning registration for work and filing claims for benefits.

The information furnished to employees under such a requirement need not be elaborate; it need only be adequate to insure that the worker who is separated or who is working less than full time knows he is potentially eligible for benefits and is informed as to what he is to do or where he is to go to file his claim and register for work. When he files his claim, he can obtain more detailed information.

In States that do not require employers to furnish periodically to the State agency detailed reports of the wages paid to their employees, each employer is required to furnish to his employees information as to (a) the name under which he is registered by the State agency, (b) the address where he maintains his payroll records, and (c) the workers' need for this information if and when they file claims for benefits.

2. Methods for giving information. The information and instructions required above may be given in any of the following ways:

a. Posters prominently displayed in the employer's establishment. The State agency should supply employers with a sufficient number of posters for distribution throughout their places of business and should see that the posters are conspicuously displayed at all times.

b. Leaflets. Leaflets distributed either periodically or at the time of separation or reduction of hours. The State agency should supply employers with a sufficient number of leaflets.

c. Individual notices. Individual notices given to each employee at the time of separation or reduction in hours.

It is recommended that the State agency's publicity program be used to supplement the employer-information requirements. Such a program should stress the availability and location of claim-filing offices and the importance of visiting those offices whenever the worker is unemployed, wishes to apply for benefits, and to seek a job.

6015 Evaluation of Alternative State Provisions with Respect to Claim Determinations and Separation Information. If the State law provisions do not conform to the suggested requirements set forth in sections 6013 and 6014, but the State law contains alternative provisions, the Bureau of Employment Security, in collaboration with the State agency, will study the actual or anticipated effects of the alternative provisions. If the Administrator of the Bureau concludes that the alternative provisions satisfy the criteria in section 6012, he will so notify the State agency. If the Administrator of the Bureau does not so conclude he will submit the matter to the Secretary. If the Secretary concludes that the alternative provisions satisfy the criteria in section 6012, the State agency will be so notified. If the Secretary concludes that there is a question as to whether the alternative provisions satisfy the criteria, the State agency will be advised that unless the State law provisions are appropriately revised, a notice of hearing will be issued as required by the Code of Federal Regulations, title 20, section 601.5.

[55 FR 559, Jan. 5, 1990]

APPENDIX C TO PART 625--STANDARD FOR FRAUD AND OVERPAYMENT DETECTION

Employment Security Manual (Part V, Sections 7510--7515)

7510--7519 *Standard for Fraud and Overpayment Detection*

7510 Federal Law Requirements. Section 303(a)(1) of the Social Security Act requires that a State law include provision for:

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

Section 1603(a)(4) of the Internal Revenue Code and section 3030(a)(5) of the Social Security Act require that a State law include provision for: "Expenditure of all money withdrawn from an unemployment fund of such State, in the payment of unemployment compensation * * *"

Section 1607(h) of the Internal Revenue Code defines "compensation" as "cash benefits payable to individuals with respect to their unemployment."

7511 The Secretary's Interpretation of Federal Law Requirements. The Secretary of Labor interprets the above sections to require that a State law include provision for such methods of administration as are, within reason, calculated (1) to detect benefits paid through error by the agency or through willful misrepresentation or error by the claimant or others, and (2) to deter claimants from obtaining benefits through willful misrepresentation.

7513 Criteria for Review of State Conformity With Federal Requirements. In determining State conformity with the above requirements of the Internal Revenue Code and the Social Security Act, as interpreted by the Secretary of Labor, the following criteria will be applied:

A. *Are investigations required to be made after the payment of benefits, (or, in the case of interstate claims, are investigations made by the agent State after the processing of claims) as to claimants' entitlement to benefits paid to them in a sufficient proportion of cases to test the effectiveness of the agency's procedures for the prevention of payments which are not due? To carry out investigations, has the agency assigned to some individual or unit, as a basic function, the responsibility of making or functionally directing such investigations?*

Explanation: It is not feasible to prescribe the extent to which the above activities are required; however, they should always be carried on to such an extent that they will show whether or not error or willful misrepresentation is increasing or decreasing and will reveal problem areas. The extent and nature of the above activities should be varied according to the seriousness of the problem in the State. The responsible individual or unit should:

1. Check paid claims for overpayment and investigate for willful misrepresentation or alternatively, advise and assist the operating units in the performance of such functions or both;
2. Perform consultative services with respect to

methods and procedures for the prevention and detection of fraud, and

3. Perform other services which are closely related to the above. Although a State agency is expected to make a fulltime assignment of responsibility to a unit or individual to carry on the functions described above, a small State agency might make these functions a part-time responsibility of one individual. In connection with the detection of overpayments, such a unit or individual might, for example:

(a) Investigate information on suspected benefit fraud received from any agency personnel, and from sources outside the agency, including anonymous complaints

(b) Investigate information secured from comparisons of benefit payments with employment records to detect cases of concurrent working (whether in covered or noncovered work) and claiming of benefits (including benefit payments in which the agency acted as agency for another State).

The benefit fraud referred to herein may involve employers, agency employees, and witnesses, as well as claimants.

Comparisons of benefit payments with employment records are commonly made either by post-audit or by industry surveys. The so called "post-audit" is a matching of central office wage-record files against benefit payments for the same period. "Industry surveys" or "mass audits" are done in some States by going directly to employers for payroll information to be checked against concurrent benefit lists. A plan

A. of investigation based on a sample postaudit will be considered as partial fulfillment of the investigation program; it would need to be supplemented by other methods capable of detecting overpayments to persons who have moved into noncovered occupations or are claiming interstate benefits.

B. *Are adequate records maintained by which the results of investigations may be evaluated?*

Explanation: To meet this criterion, the State agency will be expected to maintain records of all its activities in the detection of overpayments, showing whether attributable to error or willful misrepresentation, measuring the results obtained through various methods, and noting the remedial action taken in each case. The adequacy and effectiveness of various methods of checking for willful misrepresentation can be evaluated only if records are kept of the results obtained. Internal reports on fraudulent and erroneous overpayments are needed by State agencies for self-evaluation. Detailed records should be maintained in order that the State agency may determine, for example, which of several methods of checking currently used are the most productive. Such records also will provide the basis for drawing a clear distinction between fraud and error.

C. *Does the agency take adequate action with respect to publicity concerning willful misrepresentation and its legal consequences to deter fraud by claimants?*

Explanation: To meet this criterion, the State agency must issue adequate material on claimant eligibility requirements and must take necessary action to obtain publicity on the legal consequences of willful misrepresentation or willful nondisclosure of facts.

Public announcements on convictions and resulting penalties for fraud are generally considered necessary as a deterrent to other persons, and to inform the public that the agency is carrying on an effective program to prevent fraud. This alone is not considered adequate publicity. It is important that information be circulated which will explain clearly and

understandably the claimant's rights, and the obligations which he must fulfill to be eligible for benefits. Leaflets for distribution and posters placed in local offices are appropriate media for such information.

7615 Evaluation of Alternative State Provisions with Respect to Erroneous and Illegal Payments. If the methods of administration provided for by the State law do not conform to the suggested methods of meeting the requirements set forth in section 7511, but a State law does provide for alternative methods of administration designed to accomplish the same results, the Bureau of Employment Security, in collaboration with the State agency, will study the actual or anticipated effect of the alternative methods of administration. If the Bureau concludes that the alternative methods satisfy the criteria in section 7513, it will so notify the State agency. If the Bureau does not so conclude, it will submit to the Secretary the results of the study for his determination of whether the State's alternative methods of administration meet the criteria.

[55 FR 562, Jan. 5, 1990]

[NOTE: This Glossary only contains terms which are not already defined in 20 CFR Part 625.2, "Definitions", of the Disaster Unemployment Assistance (DUA) program regulations.]

"Date of the Disaster or Date of Unemployment" means the first day that the claimant is unable to work as a direct result of the major disaster (UIPL 43-91, 20 CFR 625.6).

"Department" means the U.S. Department of Labor and the Employment and Training Administration (ETA) within the Department. Under Secretary's Order No. 4-75 (40 FR 18515), ETA has authority to administer the DUA Program. This usage is commonly understood by customers, such as State agencies, in making reference to the Department in various documents issued to implement the DUA Program, and is a common practice in all Departmental issuances.

"Disqualification" means an applicant's continued eligibility for DUA. When it no longer exists, the applicant is no longer unemployed due to the major disaster. Furthermore, an individual who refuses without good cause to accept a bona fide offer of reemployment in a position suitable to the individual, or to investigate or accept a referral to a position which is suitable to and available to the individual shall not be entitled to DUA with respect to the week in which such refusal occurs or in any subsequent week in disaster assistance period. An individual who is entitled or has not exhausted a UI regular claim is not entitled to DUA (20 CFR 625.4).

"Eligibility requirements" means the individual is a worker or an unemployed self-employed individual (20 CFR 625.4(c)). The individual's unemployment with respect to that week is caused by a major disaster, as provided in 20 CFR 625.5. The individual has filed a timely initial application for DUA and, as appropriate, a timely application for a payment of DUA with respect to that week (20 CFR 625.4(e)). That week is a week of unemployment for that individual (20 CFR 625.4(f)). The individual is able to work and available for work within the meaning of the applicable State law (aliens must be legally authorized to work in the U.S. to meet this requirement). Provided that an individual shall be deemed to meet this requirement if any injury caused by the major disaster is the reason for inability to work or engage in self-employment; or in the case of an unemployed self-employed individual, the individual performs service or activities which are solely for the purpose of enabling the individual to resume self-employment (20 CFR 625.4(g)). The individual has not refused a bona fide offer of employment in a suitable position, or refused without good cause to resume or commence suitable self-employment, if that employment or self-employment could have been undertaken in that week or in any prior week in the disaster assistance period (20 CFR 625.4(h)). The individual must be actively seeking work unless the State Administrator waives work search requirements.

"FEMA" means the Federal Emergency Management Agency, the federal agency that coordinates activities and assistance programs when major disasters are declared.

"Head of household and major support interpretation" means the deceased wage-earning or self-employed member of a household who shared a common home with the applicant and who legally provided, through employment for wages or self-employment, the major support for the household. Major support means the deceased's employment for wages or self-employment provided more than half of the household income or means of livelihood, or would have but for unemployment.

"Incident period" means the time interval during which the disaster-causing incident occurs. The incident period will be established by FEMA in the FEMA-State agreement and published in the Federal Register (44 CFR 206.32(f)).

"Incidental income" means "casual" wages earned by services performed for another or in self-employment. This "casual" employment would not represent the individual's principal source of income and means of livelihood because it is not equivalent to those occupational activities by which other individuals in the area earn their livelihood. Accordingly, earnings of full time students who work part time or assist in the operation of the business or farm would represent only incidental income rather than the means of their livelihood.

"Marketable product" means any product produced in the agricultural industry and/or by a farming employer that is legally available for sale by the farming employer or industry.

"Migrant and seasonal worker" means, in general, a migrant worker unemployed as a result of a major disaster: an individual who worked (or was scheduled to work) for another as an employee in the major disaster area at the time of such major disaster and, due directly to the major disaster, no longer has a job, or cannot reach the place of work, or cannot perform the job because of damage to the place of work.

"Partial Unemployment" means applicant works less than full-time hours and has earnings less than maximum allowed under State law for his/her regular employer (20 CFR 625.2(w)).

"Part-total unemployment" means a week of otherwise total unemployment during which the individual has odd jobs or subsidiary work and works less than full-time hours and has earnings less than maximum allowed under State law (20 CFR 625.2(w)).

"Stafford Act" means "The Robert T. Stafford Disaster Relief and Emergency Assistance Act (formerly the Disaster Relief Act of 1974)" (42 U.S.C. 5121 note).

Date:

RE: DUA Disaster No. 1410-DR Final Report

Dear _____:

In compliance with Part 625.19(b) of Chapter V of Title 20, Code of Federal Regulations, Disaster Unemployment Assistance, I am enclosing our "Report to the Secretary" covering WV Disaster FEMA-1410-DR.

Sincerely,

Commissioner

Enclosure

FINAL REPORT
DISASTER NO. FEMA 1410-DR-WV

WEST VIRGINIA
BUREAU OF EMPLOYMENT PROGRAMS
Robert J. Smith, Commissioner
112 California Avenue
Charleston, WV 25305-0112

NARRATIVE SUMMARY

On May 2, 2002, severe rains and storms began in the southern part of our state. Damage was sufficient to warrant Governor Bob Wise's request for Disaster Assistance.

On May 5, 2002, President Bush declared the four (4) counties of McDowell, Mercer, Mingo, and Wyoming to be major disaster areas for the purpose of paying Disaster Unemployment Assistance. Four amendments followed, adding the two (2) counties of Kanawha and Raleigh.

The President's declarations made Disaster Unemployment Assistance (DUA) available to all eligible affected workers. The Federal Emergency Management Agency set the incident period between May 2 and May 20, 2002. The Disaster Assistance Period began May 5, 2002, and ran for twenty-six weeks through November 2, 2002.

Individuals in two (2) counties filed for assistance; McDowell and Mercer. All but one claim was filed through our Welch local office.

There were a total of 96 weeks paid. The average weekly West Virginia DUA payment was \$121. The average total amount paid to the 19 individuals with approved claims was \$579. The average claim payment length was 5 weeks.

The predominant group that receive DUA were those who did not have sufficient wages credits to qualify for regular benefits.

There were no major problems encountered during this disaster, although the Welch local office had to be relocated due to flood damage.

Administrative cost were \$2,166.00 as of October 31, 2002, which is 19.8% of benefits paid. Due to administrative cost incurred exceeding 15%, we have requested transfer funds as suggested in RFM No. 5-01. This request was made via email to our regional office dated November 14, 2002.

We anticipate some additional cost will occur in the quarter ending December 31, 2002, for reports, close out activities, etc. Time charges will stop on December 31, 2002, and final accounting reports will be issued on the month of December 31, 2002.

BREAKDOWN OF SIGNIFICANT EVENTS

May 2, 2002	Severe rains and storms began
May 3, 2002	Governor Bob Wise requested Disaster Assistance
May 5, 2002	President Bush signed disaster declaration
May 8, 2002	SESA announcement via press release. Press release also posted to Website.
May 29, 2002	SESA announcement via press release that the deadline for filing for DUA is approaching
June 7, 2002	Latest timely application for filing in four counties
June 13, 2002	SESA announcement via press release Two additional counties, Kanawha and Raleigh added for individual assistance.
July 6, 2002	SESA announcement via press release that the deadline for filing for DUA is approaching for two additional counties.
July 15, 2002	Latest timely application for Kanawha and Raleigh counties.
November 2, 2002	End of Disaster Assistance Period
November 12, 2002	Last payment made

STATISTICS**◆ Benefit Payment Statistics As Of November 30, 2002:**

Applications Received	27
Applications Approved	19
Applications Disapproved	8
Total Number of Weeks Paid	96
Total Benefits Paid	\$11,002.00
Total Average Amount Paid Per Approved Claimant	\$579
Total Average Number of Weeks Filed for Approved Claims	5

◆ Appeal Activities

Lower Appeals	3
Higher Appeals	0

◆ Administration Costs (as of October 31, 2002)

Administrative Expenses	\$2,166.77
Administrative Percentages	19.8%

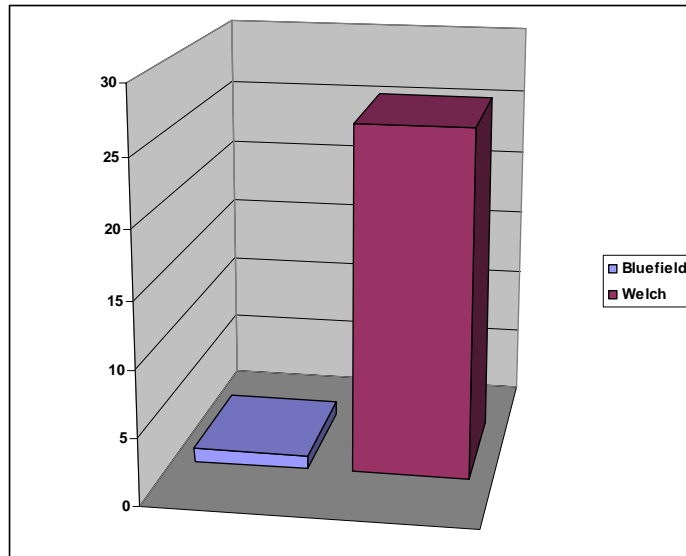
DISASTER ACTIVITY

FEMA#1410

INCIDENT: Flooding, severe storms and landslides
COUNTIES: Kanawha, McDowell, Mercer, Mingo, Raleigh, and Wyoming
INCIDENT PERIOD: May 2, through May 20, 2002
DECLARATION DATE: May 5, 2002
INITIAL ANNOUNCEMENT: May 8, 2002
INITIAL CLAIMS: 27
APPLICATIONS APPROVED: 19
APPLICATIONS DENIED: 8
WEEKS COMPENSATED: 96
APPEALS: 3
OVERPAYMENTS: 2

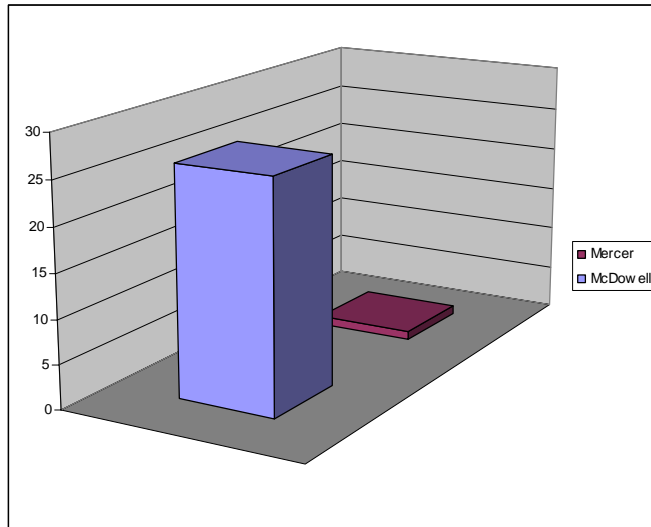
DUA CLAIMANT AND DUA BENEFITS BY LOCAL OFFICE

Office Number of Claimants Total Amount Paid		
Bluefield	1	\$0.00
Welch	26	\$11,002.00
Total	27	\$11,002.00



DUA CLAIMS BY COUNTY

COUNTY TOTAL CLAIMS FILED	
McDowell	26
Mercer	1
Total	27



FACT SHEET (R: 10/02)

DISASTER UNEMPLOYMENT ASSISTANCE (DUA)

I. Program or Activity Title

Disaster Unemployment Assistance (DUA) Program.

II. Purpose

The major objective is to provide assistance to individuals whose employment or self-employment has been lost or interrupted as a direct result of a major disaster and who are not eligible for regular state unemployment compensation.

III. Legislative or Other Authority

Public Law 100-707, Section 410, Robert T. Stafford Disaster Relief and Emergency Assistance Amendments of 1988; Executive Order 12673; and the delegation of authority from the Director of the Federal Emergency Management Agency to the Secretary of Labor. Title 20, Chapter V, Part 625, Code of Federal Regulations (20 CFR 625), as amended.

IV. Administrative Structure

The Office of Workforce Security (OWS), Employment and Training Administration, has responsibility for administration of the DUA program in states in which the Governor has entered into an agreement with the Secretary of Labor for purposes of Section 410 of the Act. States administer the DUA program as agents of the Federal government. OWS maintains oversight responsibility. Funds are provided by the Federal Management Agency (FEMA) for payment of DUA through the state workforce agency system.

V. Description of Program

DUA is a permanent program which provides assistance to those individuals suffering the loss or interruption of employment that has been their principal source of income and livelihood. Based upon the request of the Governor, the President may declare that a major disaster exists and define those areas in the state that are eligible for Federal assistance. Upon a Presidential declaration of a major disaster, the state agency will announce the availability of DUA and the places where disaster victims should apply for assistance. Benefits under DUA are wholly federally financed.

VI. Eligibility Requirements

Payment of DUA will be made to an unemployed worker or unemployed self-employed individual if, as a direct result of

the major disaster, individuals: (1) no longer have a job or cannot perform regular services; (2) are unable to reach the place of work or self-employment location; (3) were to commence work or self-employment and do not have a job or self-employment or are unable to reach the job or self-employment; or (4) cannot work or perform services because of a disaster incurred injury. In addition, an unemployed worker also includes any individual who has become the breadwinner or major support for the household because the head of household died as a direct result of the major disaster.

Unemployment is considered to be a direct result of the major disaster if it is an immediate result of the disaster itself, and not a result of a longer chain of events hastened by the disaster or having a ripple effect throughout the economy. Unemployment must have resulted from: (1) the physical damage or destruction of the place of employment; (2) the physical inaccessibility of the place of employment in the disaster area due to its closure by the federal, state or local government in immediate response to the disaster, or (3) lack of work or loss of revenues, by an employer or self-employed individual, of at least a majority of revenue or income from an entity in the disaster area that was damaged, destroyed, or an entity in the disaster area closed by the federal, state or government.

VII. Weekly Amount Payable

The DUA weekly amount is computed in accordance with the applicable state law formula used to compute weekly amounts under the state's regular unemployment insurance (UI) program, except that the minimum weekly DUA amount payable in most cases is 50 percent of the average weekly UI amount paid in the state. In making the computation, all covered and uncovered employment is included.

The weekly DUA amount, payable to an individual for a week is reduced by wages earned (or income received by self-employed) in such week in accordance with state law provisions. Reduction will also be made by the amount of supplemental unemployment benefits, private income protection insurance, or any other type of benefit for loss of wages due to illness or disability that the individual receives or would receive for such week by properly applying. Receipt of pension amounts is also treated in accordance with the provisions of state law.

DUA is available to an individual as long as the individual's unemployment caused by the major disaster continues but no longer than 26 weeks after the declaration of the major disaster.

(PENNSYLVANIA)					FOR OFFICE USE				
INITIAL APPLICATION FOR DISASTER UNEMPLOYMENT ASSISTANCE – DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT OF 1988 (Title I, P.L. 100-707)					PRIMARY DOT CODE		SIC CODE		DISASTER ANNOUNCEMENT DATE
					APPLICANT'S NAME (Last, First, Middle)				
ADDRESS (No. Street, City, County, State, ZIP Code)									
NAME AND ADDRESS OF LAST EMPLOYER (Include County)									
My Federal Tax Year Started: / / and Ended: / /									
A. APPLICANT REQUEST									
I hereby apply for DISASTER UNEMPLOYMENT ASSISTANCE (DUA). My unemployment was a result of this disaster as follows: (Explain in Complete Detail)									
IF YOU WERE SELF-EMPLOYED, YOU MUST ALSO COMPLETE FORM ETA H1A, SUPPLEMENT TO APPLICATION FOR DUASELF-EMPLOYED INDIVIDUALS									
B. RETROACTIVE FILING									
1. LIST BELOW ALL WEEKS FOLLOWING THE DATE OF THE DISASTER THAT YOU WERE TOTALLY OR PARTIALLY UNEMPLOYED DUE TO THE DISASTER AND FOR WHICH YOU ARE CLAIMING DUA. REPORT GROSS EARNINGS FROM EMPLOYMENT AND NET EARNINGS FROM SELF-EMPLOYMENT									
WEEK ENDING	HOURS WORKED	EARNINGS	WEEK ENDING	HOURS WORKED	EARNINGS	WEEK ENDING	HOURS WORKED	EARNINGS	
		\$			\$			\$	
		\$			\$			\$	
		\$			\$			\$	
		\$			\$			\$	
		\$			\$			\$	
		\$			\$			\$	
FOR THE WEEKS CLAIMED ABOVE, ANSWER THE FOLLOWING QUESTIONS BY CHECKING THE APPROPRIATE BOX(ES). IF YOUR ANSWER TO QUESTIONS 2a OR 2b IS "YES", COMPLETE THE INFORMATION REQUESTED IN THE SPACE TO THE RIGHT OF THE QUESTION									
2. a. Did you apply for or receive, or would you be eligible to receive if you had applied for: (1) Unemployment Compensation under any State or Federal Law? (2) Any amounts for loss of wages due to illness or disability? (3) Any type of private income protection insurance? (4) Any amount as a supplemental Unemployment benefit (SUB)? b. Were any amounts payable to you from any retirement, pension or annuity under a public or private plan or system (only if applicable under State UI law)?					YES	NO	TYPE OF EACH PAYMENT AMT.	PERIOD COVERED	
								FROM:	TO:
3. Were you able and available for work during each of the weeks claimed above? 4. Did you accept all work offered during each of the weeks claimed above? 5. Were you self-employed full-time prior to the disaster date? 6. Were you employed in a family business prior to the disaster date? 7. Were you employed part-time prior to the disaster date? 8. How many hours per week were you employed part time during the week? How many hours per week does an individual work per week if they consider themselves employed full-time in your occupation?									
FOR OFFICE USE									
Percentage of full-time work.....% FTWW..... (Check if applicable).....									

C. APPLICANT EMPLOYMENT				
In order to compute the amount of my weekly entitlement to Disaster Unemployment Assistance, I certify that....I....my deceased spouse had the following employment, earnings of \$50.00 or more during the weeks indicated and earnings during the calendar quarters listed below (Report gross earnings from employment, net earnings from self-employment)				
CALENDAR QUARTER ENDING DATE	WEEKS EARNED \$50 OR MORE	NAME AND ADDRESS OF EMPLOYERS:	EARNINGS	FOR OFFICE USE DOCUMENTATION OR OTHER PROOF OF EARNINGS
			\$	
			\$	
			\$	
			\$	
			\$	
			\$	
			\$	
			\$	
			\$	
			\$	
			\$	
			\$	
TOTAL WAGES		TOTAL BASE YEAR EARNINGS	\$	
Enter the deceased spouse's first, middle, and last name. Enter the deceased spouse's Social Security Account Number.				
D. APPLICANT CERTIFICATION				
I CERTIFY that the information I have given on this form is correct, and that I have supplied the information voluntarily, in order to obtain DISASTER UNEMPLOYMENT ASSISTANCE. I know that Federal funds are provided and that penalties are prescribed by law for willful misrepresentation or concealment of material facts in order to obtain assistance payments to which I am not entitled to receive under the Act				
I HAVE BEEN FURNISHED THE PAMPHLET DUA-5, DISASTER UNEMPLOYMENT ASSISTANCE, which contains a statement required by FEDERAL PRIVACY ACT OF 1974 for the use of my Social Security Account Number on forms listed in the DISASTER UNEMPLOYMENT ASSISTANCE program.				
SIGNATURE OF APPLICANT			DATE (Month, Day, Year)	
SIGNATURE OF LABOR AND INDUSTRY REPRESENTATIVE			DATE (Month, Day, Year)	
FOR OFFICE USE				

(PENNSYLVANIA) SUPPLEMENT TO APPLICATION FOR DUA SELF EMPLOYED INDIVIDUALS					
APPLICANT'S NAME (Last, First, Middle)		DISASTER NO. FEMA.....DR	LOCAL OFFICE NO.	SOC. SECURITY NO.	
BUSINESS NAME AND ADDRESS (No. Street, City, County, State & ZIP Code)		TYPE OF SELF-EMPLOYMENT (Check appropriate boxes)			
		ENGAGED IN:			
	 Farming BusinessProfession	
		AS A:			
A. FARMING ACTIVITY (if applicable)		SIZE OF FARM (In acres)			
In columns below, list all farm products raised and held primarily for sale and farm income.					
CROPS		LIVESTOCK		OTHER(Specify)	
Kind	Acres	Kind	Quantity	Kind	Quantity
B. SELF-EMPLOYMENT INFORMATION (Answer all questions in this part)					
1. Describe the nature of your self employment; indicate how long you have been performing it. 2. Did this self-employment require any part of your time in the performance of services? If "NO", explain. 3. Were you performing any services in connection with this self-employment at the time of the disaster? ? If "NO", explain why not. 4. Did the disaster prevent you from performing all services in connection with your self-employment? If "NO", identify services being performed. 5. Since becoming unemployed, have you been performing or able to perform any services in restoring or improving the value or profit-making capability of your self-employment? If "YES", explain. If "YES", identify services being performed. 6. Were you self employed part time prior to the disaster date? 7. How many hours per week were you self-employed part-time during the week? 8. How many hours do individuals work per week if they consider themselves employed full-time in your occupation? 9. At the time of the disaster, was this self-employment your primary source of earned income? If "NO", explain. 10. Do you have any occupation other than this self-employment? If "Yes", what is that occupation? Describe the effect the disaster has had on this occupation.				Yes	No
C. FAMILY BUSINESS INFORMATION					
1. Were you employed in a family business prior to the disaster date? 2. How many adults were employed in the family business prior to the disaster date? 3. How many minors (not adults) were employed in the family business prior to the disaster date? 4. Were you a minor employed in a family business prior to the disaster date? Indicate annual income received \$.....				Yes	No
ETA 81A	REV 1-96	COMMONWEALTH OF PENNSYLVANIA	DEPARTMENT OF LABOR AND INDUSTRY	EMPLOYMENT SECURITY	

**DISASTER UNEMPLOYMENT ASSISTANCE (DUA)
DUA CLAIM CONFIRMATION LETTER**

Date: _____ **Social Security Number** _____

Claimant
Name and Address

Scranton UC Service Center
P.O. Box 691
Scranton, PA 18101
1-888-234-5678

Dear Applicant:

This will confirm that on _____ you called the Scranton Unemployment Compensation Service Center (UCSC) and applied for a determination of entitlement under the Disaster Unemployment Assistance (DUA) Program. Our Department is currently processing your DUA application. After it is processed, you will be sent a determination to tell you if you qualify under this Federal program. NOTE: If you do not receive this information within the next two (2) weeks, call the Scranton UCSC at the telephone numbers listed above.

Enclosed with this letter is the Disaster Unemployment Assistance pamphlet (DUA-5), which explains your rights and responsibilities when filing for benefits under the Federal DUA Program. Read this pamphlet carefully. If you understand the information contained in this pamphlet, detach the DUA-5 Pamphlet Certification from Page 21 of the pamphlet; complete, sign and date the certification; and mail it immediately to the Scranton UCSC in the enclosed envelope. If you have any questions regarding the information contained in the pamphlet, telephone the Scranton UCSC before signing the certification.

If you qualify, your weekly DUA benefits may be payable to you only after you have exhausted all of your entitlement to regular or extended State or Federal unemployment compensation (UC) benefits. You will receive instructions on how to file for these benefits. Additionally, to help you return to work, you may report to your nearest Pennsylvania Job Center to receive assistance in conducting your work search and in obtaining suitable reemployment as quickly as possible.

IMPORTANT: IF YOU STARTED YOUR DUA CLAIM BASED ONLY ON YOUR CERTIFICATION THAT YOU HAD EARNINGS IN YOUR MOST RECENT FEDERAL TAX YEAR, WITHIN 21 CALENDAR DAYS AFTER THE DATE YOU FILED FOR DUA, YOU MUST MAIL DOCUMENTS TO THE SCRANTON UCSC THAT PROVIDE PROOF OF ALL YOUR EMPLOYMENT/SELF-EMPLOYMENT OR WAGES EARNED IN THAT PERIOD. FAILURE TO DO THIS MAY AFFECT YOUR ELIGIBILITY TO RECEIVE DUA.

DUA 7-01A

**DISASTER UNEMPLOYMENT ASSISTANCE (DUA)
INITIAL DUA CLAIM INFORMATION**

Date: _____ **Social Security Number** _____

Claimant
Name and Address

Scranton UC Service Center
P.O. Box 691
Scranton, PA 18101
1-888-234-5678

Dear Applicant:

You recently telephoned the Scranton Unemployment Compensation Service Center (UCSC) and applied for a determination of your entitlement to Federal Disaster Unemployment Assistance (DUA).

Your application has been processed based on your application, the following items are enclosed with this letter for your information or action:

1. FORM ETA 82, NOTICE OF DETERMINATION OF ENTITLEMENT

This is your determination regarding your eligibility to apply for the Federal benefits under the DUA program. If the Form ETA 82 indicates that you do not qualify for DUA at this time, the reason(s) for your ineligibility and your appeal rights are explained on this form.

2. ADDITIONAL FORMS YOU MUST COMPLETE AND RETURN:

Please complete the following form(s) and return by mail to the Scranton UCSC in the enclosed envelope within seven (7) calendar days.

- o Affirmation of Self-Employment (DUA-12)
- o Affirmation of Employment (DUA-13)
- o Affidavit of Minor Family Member's Income (DUA-14)
- o Affidavit of Scheduled Employment (DUA-15)
- o Initial Return to Self-Employment Plan (DUA-16)
- o Progress of Efforts to Return to Self-Employment (DUA-17)

IF YOU HAVE ANY QUESTIONS:

Telephone the Scranton UCSC if you have any questions regarding any information provided to you in this letter.

IMPORTANT: IF YOU ESTABLISHED YOUR DUA CLAIM BASED ONLY ON YOUR CERTIFICATION THAT YOU HAD EARNINGS IN YOUR MOST RECENT FEDERAL TAX YEAR, WITHIN 21 CALENDAR DAYS AFTER THE DATE YOU FILED FOR DUA, YOU MUST MAIL DOCUMENTS TO THE SCRANTON UCSC THAT PROVIDE PROOF OF ALL YOUR EMPLOYMENT/SELF-EMPLOYMENT OR WAGES EARNED IN THAT PERIOD. FAILURE TO DO THIS MAY AFFECT YOUR ELIGIBILITY TO RECEIVE DUA.

KEEP THIS LETTER FOR FUTURE REFERENCE!

AFFIRMATION OF SELF-EMPLOYMENT

Disaster Unemployment Assistance (DUA)

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF LABOR AND INDUSTRY
BUREAU OF UC BENEFITS AND ALLOWANCES

COUNTY OF _____

I, _____, Social Security Number _____, hereby personally affirm that I was **SELF-EMPLOYED** in the county stated above on _____.

My **Federal Income Tax** Year that ended prior to _____, the date that the Federally declared disaster occurred, **STARTED** on _____, and **ENDED** on _____.

SELF-EMPLOYMENT INCOME

FIRST QUARTER NET INCOME \$ _____	SECOND QUARTER NET INCOME \$ _____	THIRD QUARTER NET INCOME \$ _____	FOURTH QUARTER NET INCOME \$ _____
---	--	---	--

During my Federal Tax Year above, I worked and earned \$ 50.00 or more in NET INCOME in Self-Employment during _____ weeks.
(number)

To support my claim of **SELF-EMPLOYMENT**, I offer the following statement:

(Please include in your statement the names and address of your business; proof of self-employment, and any proof of net income you are providing today and the amount of that income.)

(I was not)(I was also) EMPLOYED as a WORKER during my Federal Tax Year

EMPLOYMENT INCOME

FIRST QUARTER NET INCOME \$ _____	SECOND QUARTER NET INCOME \$ _____	THIRD QUARTER NET INCOME \$ _____	FOURTH QUARTER NET INCOME \$ _____
---	--	---	--

During my Federal Tax Year above, I worked and earned \$50.00 or more in gross income from employment in _____ weeks.
(number)

To support my claim of additional EMPLOYMENT, I offer the following statement:

(Please include in your statement any proof income you are providing today and the amount of that income)

I further state that I understand that the Pennsylvania Unemployment Compensation (UC) Law, Disaster Unemployment Assistance (DUA) Law and the DUA Regulations provide penalties for knowingly making false statements for the purpose of obtaining UC and/or DUA benefits. I, therefore, declare that the statements I have made in connection with this claim are true and correct to the best of my knowledge and belief.

Signature _____ Date _____

NOTE: YOU WILL HAVE YOUR DUA WEEKLY BENEFIT AMOUNT (WBA) DETERMINED BASED ON THE WAGE INFORMATION YOU HAVE SUBMITTED AND YOUR SWORN STATEMENT OF EARNINGS. IF YOU DO NOT PROVIDE THE REQUIRED WAGE DOCUMENTATION AS REQUESTED WITHIN 21 CALENDAR DAYS OF YOUR APPLICATION FOR BENEFITS, _____, YOUR DUA FINANCIAL DETERMINATION WILL BE RECALCULATED BASED ON THE PROOF OF INCOME INFORMATION YOU HAVE PROVIDED OR THAT IS PART OF THE DEPARTMENT'S WAGE RECORDS. YOU MAY HAVE YOUR DUA WBA REDETERMINED UPON SUBMITTAL OF ACCEPTABLE DOCUMENTATION PRIOR TO THE END OF THE DISASTER ASSISTANCE PERIOD.

The documentation you provide must substantiate that the credit weeks, wages you earned or were paid during the base period to you or the deceased head of your household, would be sufficient to compute a DUA WBA higher than the determined amount. If you are claiming DUA benefits based on self-employment, you must submit documentation that substantiates that you were self-employed, and that the credit weeks, net income from self-employment earned or received during the base period by you or the deceased head of household, would be sufficient to compute a DUA WBA higher than the determined amount. This provision permits you up to 26 weeks from _____, the disaster declaration date, to submit a copy of your Federal tax return filed for the most recent tax year. Any higher weekly amount determined will be applied to all weeks that you filed for which you were eligible for the payment of DUA. If you intend to submit the required wage information and you continued to be unemployed as a direct result of the flood disaster, continue to submit your claim forms for DUA benefits.

AFFIDAVIT OF SCHEDULED EMPLOYMENT
Disaster Unemployment Assistance (DUA)

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF LABOR AND INDUSTRY
BUREAU OF UC BENEFITS AND ALLOWANCES

APPLICANT'S INSTRUCTIONS:

Complete Section A concerning employment which you are scheduled to begin, but are now unable to do so as a direct result of the disaster. Then take this form to the employer that you listed in Section A and have the employer complete Section B. Return the completed form to the Department within 21 calendar days.

A. APPLICANT'S CERTIFICATION

Name _____
Occupation _____ Soc. Sec. No. _____

In order to qualify for Disaster Unemployment Assistance, I certify that I had a contract to begin employment with the employer indicated below but was not employed due to the disaster.

Name of Employer _____
Address _____
Date Employment Would Have Begun _____

I know that Federal funds are provided and that penalties are prescribed by Law for willful misrepresentation or concealment of material facts in order to obtain Disaster Unemployment Assistance payments to which I am not entitled to receive under the Act.

Applicant's Signature _____ Date _____

B. EMPLOYER'S CERTIFICATION

I certify that the individual named above had a contract to begin employment for me on

DATE _____ as a _____ at a weekly/hourly rate of \$ _____ and work

OCCUPATION _____
_____ hours per day. I further certify that this contract was not fulfilled as a direct result of the disaster.

Employer Name _____

Address _____

Phone No. _____ State UC Acct. No. _____

I understand that Federal funds are provided and that penalties are prescribed by Law for willful misrepresentation or concealment of material facts in order to assist others in obtaining Disaster Unemployment Assistance payments to which they are not entitled to receive under this Act.

Employer's Signature _____ Date _____

Note: This form must be completed within 21 calendar days from the date you filed your claim. Failure to do so can result in a reduction of your DUA weekly benefit amount and an overpayment, or you may be disqualified from receiving Disaster Unemployment Assistance benefits. However, documentation submitted with a request for reconsideration anytime during the disaster assistance eligibility period may be accepted. This form must be completed for any minor (under age 18) not working at the time of the disaster, but scheduled to work.

DUA-1S 7-98

INITIAL RETURN TO SELF-EMPLOYMENT PLAN
Disaster Unemployment Assistance (DUA)

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF LABOR AND INDUSTRY
BUREAU OF UC BENEFITS AND ALLOWANCES

Describe the business activity that you were involved in before the disaster. For example, "I operated a 50-cow dairy farm and sold milk to XYZ Dairy. The barn and milking equipment were destroyed by a tornado" Or, "I operate ABC Home Improvements. The home I was remodeling was destroyed by the flooding."

Explanation:

What steps have you taken since the disaster was declared to return to a pre-disaster status in your business? Explain:

What additional steps must be taken before you will be able to return to a level of pre-disaster business activity? Explain:

Are you interested in obtaining employment through the Job Service? Yes No

Based on the information you provided above, when do you think you will be able to work a pre-disaster number of hours in your business? _____

When do you think you will stop filing for DUA benefits? _____.

I, _____, Social Security Number _____, on this day, _____, declare that the statements I have made in connection with my claim for DUA benefits are true and correct to the best of my knowledge and belief. I further understand that the Pennsylvania Unemployment Compensation (UC) Law, Disaster Unemployment Assistance (DUA) Law and the DUA Regulations provide penalties for knowingly making false statements for the purpose of obtaining UC and/or DUA benefits.

Signature _____ Date _____

(If you need additional space for any explanations, please use the back of this form.)

PROGRESS OF EFFORTS TO RETURN TO SELF-EMPLOYMENT

Disaster Unemployment Assistance (DUA)

COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF LABOR AND INDUSTRY BUREAU OF UC BENEFITS AND ALLOWANCES

What steps have you taken since the disaster was declared to return to a pre-disaster status in your business?

Explain: _____

What additional steps must be taken before you will be able to return to a level of pre-disaster business activity? Explain:

Are you interested in obtaining employment through the Job Service? _____ Yes ___ No

Based on the information you provided above, when do you think you will be able to work a pre-disaster

number of hours in your business? _____

When do you think you will stop filing for DUA benefits? ___ _____

I, _____, Social Security Number

_____, on this day,

_____, declare that the statements I have made in connection with my claim for DUA benefits are true and correct to the best of my knowledge and belief. I further understand that the Pennsylvania Unemployment Compensation (UC) Law, Disaster Unemployment Assistance (DUA) Law and the DUA Regulations provide penalties for knowingly making false statements for the purpose of obtaining UC and/or DUA benefits.

Signature _____

Date

(If you need additional space for any explanations, please use the back of this form.)

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF LAROR AND INDUSTRY EMPLOYMENT SECURITY HARRISBURG, PA 17121

AFFIDAVIT OF MINOR FAMILY MEMBER'S INCOME

COUNTY OF _____

I, _____, hereby personally affirm that I am an adult member of the family-owned business in which worked. I also affirm that he/she is currently unemployed as a direct result of the disaster that occurred on (DATE)_____

To support the claim I offer the following statement:

(Name or Minor) _____, (Social Security Number)_____, received \$_____ as an allowance, hourly wage or percentage of the proceeds of the business _____ a family operated business.

He/she worked during the proceeding tax year as follows:

___ QTR ___ WKS
___ QTR ___ WKS
___ QTR ___ WKS
___ QTR ___ WKS

WAGES: \$_____ \$_____ \$_____ \$_____

Explain income:

I understand that Title 20, CFR. Section 625.9(a)(2), Disaster Unemployment Assistance (DUA), requires that an individual's eligibility for DUA shall be determined, where a reliable record of employment, self-employment and wages is not obtainable, on the basis of an affidavit submitted to the State Agency by the individual.

Subscribed and sworn to before me this the _____ day of _____

(Affiant's Signature)

Notary Public for the Commonwealth of Pennsylvania

(Affiant's Security Number)

OR
Notary Public for the State of: _____

Address

My Commission Expires:

OR

(State Agency Representatives Signature)

(PENNSYLVANIA) NOTICE OF DETERMINATION OF ENTITLEMENT DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT OF 1988 (TITLE I, P.L. 100-707)	OFFICE STAMP FAX NO.
SOCIAL SECURITY ACCOUNT NUMBER	Disaster Number FEMA - DR
	Disaster Date
WORKER'S NAME AND ADDRESS	Disaster Declaration Date
	Disaster Announcement Date

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

You reside in _____ were employed or engaged in self-employment in _____ were to begin employment or self-employment in or _____ travel to your place of work through _____ County.
 You filed an initial application for Disaster Unemployment Assistance (DUA) on _____ and claimed benefits for the week(s) ending _____).

You were employed by _____ and ceased employment on _____.

You were engaged in self-employment activity which ceased on _____.

You were to begin _____ employment _____ self-employment on _____

You are eligible for regular Unemployment Compensation (UC) benefits or another UC program covered under State or Federal Law, with an application for benefits (AB) date of _____. (Sec. 625.4(i))

You are eligible for waiting week period credit under another UC program. (Sec. 625.4(i)).

Your initial DUA application was not filed within the DUA Application Period of _____ to _____, and you have not established good cause for filing after this application period. (Sec. 625.8(a))

As required under Sec. 625.4(c) of the DUA Regulations, you do not qualify as an "unemployed worker" or "unemployed self-employed individual" because you are found not to have been unemployed, or the major disaster did not directly cause your

Unemployment. (Sec. 625.5(a)(1))

Inability to reach your place of employment. (Sec. 625.5(a)H2H)

Inability to start or reach a new job. (Sec. 625.5(a)(2))

Becoming the breadwinner or major support of a household because the head of the household has died as a result of the disaster. (Sec. 625.5(a)(4))

Becoming unemployed as the result of an injury. (Sec. 625.5(a5))

Inability to perform services as a self-employed individual. (Sec. 625.5(b)(1))

Inability to reach the place where you perform services as a self-employed individual. (Sec. 625.5(b)(2))

Inability to Commence services as a self-employed Individual. (Sec. 625.5(b)(3))

Inability to perform services as a self-employed individual. (Sec. 625.5(b)(4))

You are claiming a week of unemployment that begins outside of the DUA period of _____ to _____. (Sec. 625.4(a))

You are receiving income or compensation other than DUA, in the amount of _____, from _____, which must be deducted from the amount of DUA payable to you. (Sec. 625.13(a)(1) through (6))

You are not able and available for work and your inability to work or engage in self-employment is not because of an injury caused as a direct result of the major disaster. (Sec. 625.4(g))

You became reemployed in a suitable position beginning on _____. (Sec. 625.13(b)(1))

You refused without good cause to apply for or to accept suitable reemployment. (Sec. 625.4(h); 625.13(b)(2))

Other;

DETERMINATION:

In accordance with Section(s): 625.4 625.5 625.8 625.13 of the DUA Regulations, you are ineligible for DUA with respect to the following:

All DUA applied for under this disaster declaration.

DUA claim week(s) ending _____.

APPEAL RIGHTS:

APPEAL RIGHTS:

If you disagree with this determination, you may appeal. If you wish to file an appeal, you must do so on or before _____. See reverse side for complete appeal instructions.

SIGNATURE OF OFFICE REPRESENTATIVE _____

Mailed on: _____

Delivered on: _____

DATE _____

SEE REVERSE SIDE FOR DUA REGULATION PROVISIONS

EAL INFORMATION

As provided by the Code of Federal Regulations at 625.10, end section 501 (e) of the Pennsylvania Unemployment Compensation Law, this determination becomes final unless an appeal is timely filed. If you disagree with this determination, you have the right to appeal. If you wish to file an appeal, you must do so within 60 days from the date this determination was mailed. If the sixtieth day of the appeal period falls on a day on which the UC service Center or Job Center is closed (Saturday, Sunday, or State Holiday, the appeal period is extended to the next working day. The last date to file an appeal is shown near the bottom on the face of this form.

You may file an appeal by mail or by FAX, by completing section 1 of the enclosed Petition for Appeal form and returning the form to the office at the address/FAX number shown on this determination, or by sending a letter of appeal to the office at the address/FAX number shown on this determination. Regardless of the method you choose, your request for appeal must include a statement specifically requesting an appeal of this determination, the reason you disagree with the determination, your Social Security Number, and your signature. If you file your appeal by mail, your appeal must be addressed to the office that issued the determination, and postmarked by the U.S. Postal Service on or before the last day to appeal indicated on the face of this form. If you file your appeal by FAX, your faxed appeal must be received by the office by the close of business on the last day to appeal. You may appeal in-person at the nearest Job Center/Team Pennsylvania CareerLink during normal business hours on or before the last day to appeal. Appeals cannot be filed in-person at UC Service Centers.

If you file an appeal, you must continue to file your claims as directed by the UC service Center or Job Center.

FEDERAL REGULATIONS OF THE DISASTER UNEMPLOYMENT ASSISTANCE PROGRAM

§ 625.2 Definitions

"Compensation" means any State or Federal assistance or allowance as defined in the Internal Revenue Code of 1986. Section 85. payable to an individual for a week of unemployment, unless otherwise excluded by an IRS ruling or a Federal and/or State provision.

§ 625.4 Eligibility requirements for Disaster Unemployment Assistance.

An individual shall be eligible to receive a payment of DUA with respect to a week of unemployment, in accordance with the provisions of the Act and this part if:

- (a) That week begins during a Disaster Assistance Period;
- (b) The applicable State for the individual has entered into an Agreement which is in effect with respect to that week;
- (c) The individual is an unemployed worker or an unemployed self-employed individual;
- (d) The individual's unemployment with respect to that week is caused by a major disaster, as provided in §625.5;
- (e) The individual has filed a timely initial application for DUA and, as appropriate, a timely application for a payment of DUA with respect to that week;
- (f) That week is a week of unemployment for the individual;
- (g) The individual is able to work and available for work within the meaning of the applicable State law: *Provided*, That an individual shall be deemed to meet this requirement if any injury caused by the major disaster is the reason for inability to work or engage in self-employment; or, in the case of an unemployed self-employed individual, the individual performs service or activities which are solely for the purpose of enabling the individual to resume self-employment;
- (h) The individual has not refused a bona fide offer of employment in a suitable position, or refused without good cause to resume or commence suitable self-employment, if the employment or self-employment could have been undertaken in that week or in any prior week in the Disaster Assistance Period; and
- (i) The individual is not eligible for compensation (as defined in §625.2(d)) or for waiting period credit for such week under any other Federal or State law, except that an individual determined ineligible because of the receipt of disqualifying income shall be considered eligible for such compensation or waiting period credit. An individual shall be considered ineligible for compensation or waiting period credit (and thus potentially eligible for DUA) if the individual is under a disqualification for a cause that occurred prior to the individual's unemployment due to the disaster, or for any other reason is ineligible for compensation or waiting period credit as a direct result of the major disaster.

§ 625.5 Unemployment caused by a major disaster.

(a) *Unemployed worker.* The unemployment of an unemployed worker is caused by a major disaster if—

- (1) The individual has a "week of unemployment" as defined in §625.2(w)(1) following the "date the major disaster began" as defined in §625.2(e), and such unemployment is a direct result of the major disaster; or
- (2) The individual is unable to reach the place of employment as a direct result of the major disaster; or
- (3) The individual was to commence employment and does not have a job or is unable to reach the job as a direct result of the major disaster; or
- (4) The individual has become the breadwinner or major support for a household because the head of the household has died as a direct result of the major disaster; or
- (5) The individual cannot work because of an injury caused as a direct result of the major disaster.

(b) *Unemployed self-employed individual.* The unemployment of an unemployed self-employed individual is caused by a major disaster if—

- (1) The individual has a "week of unemployment" as defined in §625.2(w)(2) following the "date the major disaster began" as defined in §625.2(e), and such unemployment is a direct result of the major disaster; or
- (2) The individual is unable to reach the place where services as a self-employed individual are performed, as a direct result of the major disaster; or
- (3) The individual was to commence regular services as a self-employed individual, but does not have a place or is unable to reach the place where the services as a self-employed individual were to be performed, as a direct result of the major disaster; or
- (4) The individual cannot perform services as a self-employed individual because of an injury caused as a direct result of the major disaster.

§ 625.13 Restrictions on entitlement; disqualification.

(a) *Income reductions.* The amount of DUA payable to an individual for a week of unemployment, as computed pursuant to §625.6, shall be reduced by the amount of any of the following that an individual has received for the week or would receive for the week if the individual filed a claim or application therefore and took all procedural steps necessary under the appropriate law, contract, or policy to receive such payment:

- (1) Any benefits or insurance proceed from any source not defined as "compensation" under §625.2(d) for loss of wages due to illness or disability;
 - (2) A supplemental unemployment benefit pursuant to a collective bargaining agreement.
 - (3) Private income protection insurance;
 - (4) Any workers' compensation by virtue of the death of the head of the household as the result of the major disaster in the major disaster area, prorated by weeks, if the individual has become the head of the household and is seeking suitable work because the head of the household died as the result of the major disaster in the major disaster area; and
 - (5) The prorated amount of a retirement pension or annuity under a public or private retirement plan or system, prorated, where necessary, by weeks, but only if, and to the extent that, such amount would be deducted from regular compensation payable under the applicable State law.
 - (6) The prorated amount of primary benefits under title II of the Social Security Act, but only to the extent that such benefits would be deducted from regular compensation if payable to the individual under the applicable State law.
- (b) *Disqualification.* (1) An individual shall not be entitled to DUA for any week after the week in which the individual is reemployed in a suitable position.
- (2) An individual who refuses without good cause to accept a bona fide offer of reemployment in a position suitable to the individual, or to investigate or accept a referral to a position which is suitable to and available to the individual, shall not be entitled to DUA with respect to the week in which such refusal occurs or in any subsequent week in the Disaster Assistance Period. For the purposes of this paragraph, a position shall not be deemed to be suitable for an individual if the circumstances present any unusual risk to the health, safety, or morals of the individual, if it is impracticable for the individual to accept the position, or if acceptance for the position would, as to the individual, be inconsistent with any labor standard in section 3304(a)(5) of the Federal Unemployment Tax Act, 26 U.S.C. 3304(a)(5), or the comparable provisions of the applicable State law

INFORMATION ON: Verification of Citizenship, Qualified Alien Status and Eligibility for Disaster Unemployment Assistance (DUA) applicable to all disasters declared on or after February 28, 1998.

DESCRIPTION: When Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, Title IV of the Act requires that federal public benefits only be provided to United States citizens, non-citizen nationals, and qualified aliens. Under the Act, specific sections of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93-288, as amended, are considered federal public benefits.

GUIDANCE: The following guidance is provided to comply with the requirements of Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (the “Act”), P.L. 104-193, as amended by the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (IIRAIRA), P.L. 104-208, which amended the Immigration and Nationality Act (INA).

The Act provides that, with certain exceptions, only United States citizens, United States noncitizen nationals and “qualified aliens” (and sometimes only particular categories of qualified aliens) are eligible for federal, state, and local public benefits. Additionally, the Act requires the Attorney General, by February of 1998, to promulgate final regulations requiring verification that an applicant is a qualified alien eligible to receive federal public benefits under the Act.

The DOL (and States acting as agents for the Department in administering Federal benefit programs) must adhere to new standards with this Act. With this Act, a State is **not** permitted to provide the DUA program, a federal public benefit, to persons who are not U.S. citizens, noncitizen nationals, or qualified aliens. A **federal public benefit** is defined as:

Any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; or

Any retirement, welfare, health disability, public or assisted housing, post-secondary education, food assistance, **unemployment benefits**, or any similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States.

The Act’s verification requirement **does apply**, as these programs meet the definition of a federal public benefit, to the following programs of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93-288, as amended:

Section 408, Temporary Housing Assistance

Section 410, Unemployment Assistance

Section 411, Individual and Family Grant Programs

Section 412, Food Coupons and Distribution

Title IV of the Act prohibits the Department (and agent State agencies) from providing a federal public benefit (DUA) to persons who are not U.S. citizens, U.S. non-citizen nationals, or qualified aliens. Therefore, all individuals indicating they are not U.S. citizens on an application for DUA must provide an identity document indicating they are either a U.S. non-citizen national or qualified alien. All aliens are subject to the verification requirements of the Systematic Alien Verification for Entitlements (SAVE) system that State agencies have with the Immigration and Naturalization Service (INS). Presentation of appropriate documentation, as discussed below, to indicate that an individual is a U.S. non-citizen national or qualified alien (pending verification) is sufficient for the purpose of providing DUA.

The following are definitions and documentary evidence for these categories.

UNITED STATES CITIZEN OR NON-CITIZEN NATIONAL DEFINITION

A person (other than the child of a foreign diplomat) born in one of the 50 States or in the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, or the Northern Mariana Islands who has not renounced or otherwise lost his or her citizenship;

A person born outside of the United States to at least one U.S. citizen parent (sometimes referred to as a “derivative citizen”);

A naturalized U.S. citizen; or

As a general matter, a United States non-citizen national is a person born in an outlying possession of the United States (American Samoa or Swain’s Island) on or after the date the U.S. acquired the possession, or a person whose parents are U.S. non-citizen nationals (subject to certain residency requirements).

UNITED STATES CITIZEN OR NON-CITIZEN NATIONAL

DOCUMENTARY EVIDENCE OF STATUS

NOTE: The document(s) listed below will, when combined with satisfactory proof of identity, (which will come from the document itself if it bears a photograph of the person to whom it relates), establish that an applicant is a U.S. citizen or non-citizen national for the purposes of the Act, as amended by the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (IIRAIRA).

PRIMARY EVIDENCE:

A birth certificate showing birth in one of the 50 States the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain’s Island or the Northern Mariana Islands, unless the person was born to foreign diplomats residing in such a jurisdiction. NOTE: If documents show that the individual was born in Puerto Rico, the U.S. Virgin Islands or the Northern Mariana Islands before these areas became part of the U.S., the individual may be a collectively naturalized citizen)

United States passport (except limited passports, which are issued for periods of less than five years);

Report of birth abroad of a U.S. citizen (FS-240) (issued by the Department of State to U.S. citizens);

Certificate of birth (FS-545) (issued by a Foreign Service post) or a Certification of Report of Birth (DS-1350) (issued by the Department of State), copies of which are available from the Department of State);

Certificate of Naturalization (N-550 or N-570) (issued by the Immigration and Naturalization Service (INS) through a Federal or State court, or through administrative naturalization after December 1990 to individuals who are individually naturalized; the N-570 is a replacement certificate issued when the N-550 has been lost or mutilated or the individual's name has changed);

Certificate of Citizenship (N-560 or N-561) (issued by the INS to individuals who derive U.S. citizenship through a parent; the N-561 is a replacement certificate issued when the N-560 has been lost or mutilated or the individual's name has changed);

United States Citizen Identification Card (I-197) (issued by the INS until April 7, 1983 to U.S. citizens living near the Canadian border or Mexican border who need it for frequent border crossings) (formerly Form I-179, last issued in February of 1974);

Northern Mariana Identification Card (issued by the INS to collectively naturalized citizens of the U.S. who was born in the Northern Mariana Islands before November 3, 1986);

Statement provided by a U.S. consular officer certifying that the individual is a U.S. citizen (this is given to an individual born outside the U.S. who derives citizenship through a parent but does not have an FS-240, FS-545 or DS-1350; or

American Indian Card with a classification code "KIC" and a statement on the back (identifying U.S. citizen members of the Texas Band of Kickapoos living near the U.S./Mexican border).

SECONDARY EVIDENCE:

NOTE: If the applicant cannot present one of the documents previously mentioned under PRIMARY EVIDENCE, the following may be relied upon to establish U.S. citizenship or nationality:

Religious record recorded in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain's Island or the Northern Mariana Islands (unless the person was born to foreign diplomats residing in such a jurisdiction) within three months after birth showing that the birth occurred in such jurisdiction and the date of birth or the individual's age at the time the record was made;

Evidence of civil service employment by the U.S. government before June 1, 1976;

Early school records (preferably from the first school) showing the date of admission to the school, the child's date and place of birth, and the name(s) and place(s) of birth of the parent(s);

Census record showing name, U.S. citizenship or U.S. place of birth, and date of birth or age of applicant;

Adoption Finalization Papers showing the child's name and place of birth in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain's Island or the Northern Mariana Islands (unless the person was born to foreign diplomats residing in such a jurisdiction) or, where an adoption is not finalized and the State or other jurisdiction listed above in which the child was born will not release a birth certificate prior to final adoption, a statement from a state approved adoption agency showing the child's name and place of birth in one of such jurisdictions (NOTE: the source of the information must be an original birth certificate and must be indicated in the statement); or

Any other document that establishes a U.S. place of birth or in some way indicates U.S. citizenship (e.g., a contemporaneous hospital record of birth in that hospital in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain's Island or the Northern Mariana Islands (unless the person was born to foreign diplomats residing in such a jurisdiction)).

COLLECTIVE NATURALIZATION:

NOTE: If the applicant cannot present one of the documents listed under PRIMARY or SECONDARY EVIDENCE, the following will establish U.S. citizenship for collectively naturalized individuals.

(PUERTO RICO)

Evidence of birth in Puerto Rico on or after April 11, 1899, and the applicant's statement that he or she was residing in the U.S., a U.S. possession or Puerto Rico on January 13, 1941; or

Evidence that the applicant was a Puerto Rican citizen and the applicant's statement that he or she was residing in Puerto Rico on March 1, 1917, and that he or she did not take an oath of allegiance to Spain.

(U.S. VIRGIN ISLANDS)

Evidence of birth in the U.S. Virgin Islands, and the applicant's statement of residence in the U.S., a U.S. possession or the U.S. Virgin Islands on February 25, 1927;

The applicant's statement indicating residence in the U.S. Virgin Islands as a Danish citizen on January 17, 1917, and residence in the U.S., a U.S. possession or the U.S. Virgin Islands on February 25, 1927, and that he or she did not make a declaration to maintain Danish citizenship;

or

Evidence of birth in the U.S. Virgin Islands and the applicant's statement indicating residence in the U.S., a U.S. possession or territory or the Canal Zone on June 28, 1932.

(NORTHERN MARIANA ISLANDS) (NMI) (formerly part of the Trust Territory of the Pacific Islands (TTPI):

Evidence of birth in the NMI, TTPI citizenship and residence in the NMI, the U.S., or a U.S. territory or possession on November 3, 1986, (NMI local time) and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986, (NMI local time);

Evidence of TTPI citizenship, continuous residence in the NMI since before November 3, 1981, (NMI local time), voter registration prior to January 1, 1975, and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986, (NMI local time); or

Evidence of continuous domicile in the NMI since before January 1, 1974, and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986, (NMI) local time).

NOTE: If a person entered the NMI as a nonimmigrant and lived in the NMI since January 1, 1974, this does not constitute continuous domicile and the individual is not a U.S. citizen.

DERIVATIVE CITIZENSHIP:

NOTE: If the applicant cannot present one of the documents previously mentioned under PRIMARY EVIDENCE, SECONDARY EVIDENCE, or COLLECTIVE NATURALIZATION, the following may be relied upon to determine derivative U.S. citizenship in the following situations:

Applicant born abroad to two U.S. citizen parents: Evidence of the U.S. citizenship of the parents and the relationship of the applicant to the parents, and evidence that at least one parent resided in the U.S. or an outlying possession prior to the applicant's birth.

Applicant born abroad to a U.S. citizen parent and a U.S. non-citizen national parent: Evidence that one parent is a U.S. citizen and that the other is a U.S. non-citizen national, evidence of relationship of the applicant to the U.S. citizen parent, and evidence that the U.S. citizen parent resided in the U.S., a U.S. possession, American Samoa or Swain's Island for a period of at least one year prior to the applicant's birth.

Applicant born out of wedlock abroad to a U. S. citizen mother: Evidence of the U.S. citizenship of the mother, evidence of the relationship to the applicant and, for births on or before December 24, 1952, evidence that the mother resided in the U.S. prior to the applicant's birth or, for births after December 24, 1952, evidence that the mother had resided, prior to the child's birth, in the U.S. or U.S. possession for a period of one year.

Applicant born in the Canal Zone or the Republic of Panama: A birth certificate showing birth in the Canal Zone on or after February 26, 1904 and before October 1, 1979 and evidence that one parent was a U.S. citizen at the time of the applicant's birth; or a birth certificate showing birth in the Republic of Panama on or after February 26, 1904 and before October 1, 1979 and evidence that at least one parent was a U.S. citizen and employed by the U.S. government or the Panama Railroad Company or its successor in title.

QUALIFIED ALIEN DEFINITION

- an alien admitted for permanent residence under the Immigration and Nationality Act (INA”);
- an alien granted asylum under § 208 of the INA;
- a refugee admitted to the U.S. under § 207 of the INA;
- an alien paroled into the U.S. under § 212 (d) (5) of the INA for at least one year;
- an alien whose deportation is being withheld under § 243 (h) of the INA as in effect prior to April 1, 1997, or whose removal is being withheld under § 241 (b) (3) of the INA;

- an alien granted conditional entry pursuant to § 203 (a) (7) of the INA as in effect prior to April 1, 1980;
- an alien who is a Cuban or Haitian entrant as defined in § 501 (e) of the Refugee Education Assistance Act of 1980; or
- an alien who (or whose child or parent) has been battered or subjected to extreme cruelty in the U.S. and otherwise satisfies the requirements of § 431 (c) of the Act.

QUALIFIED ALIEN DOCUMENTARY EVIDENCE OF STATUS

NOTE: The document(s) listed below will, when combined with satisfactory proof of identity, (which will come from the document itself if it bears a photograph of the person to whom it relates), establish that an applicant falls within one of the categories of qualified alien for the purposes of the Act, as amended by the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (IIRAIRA).

ALIEN ADMITTED FOR PERMANENT RESIDENCE:

INS Form I-551 (Alien Registration Receipt Card, commonly known as a Green Card”); or Unexpired Temporary I-551 stamp in foreign passport or on INS Form I-94.

ASYLEE:

INS Form I-94 annotated with stamp showing grant of asylum under § 208 of the INA;

INS Form I-688B (Employment Authorization Card) annotated “274a.12(a)(5)”;

INS Form I-766 (Employment Authorization Document) annotated “A5”;

Grant letter from the Asylum Office of INS; or

Order of an immigration judge granting asylum.

REFUGEE:

INS Form I-94 annotated with stamp showing admission under § 207 of the INA;

INS FORM I-688B (Employment Authorization Card) annotated “274a.12(a)(3)”;

INS Form I-766 (Employment Authorization Document) annotated “A3”;

INS Form I-571 (Refugee Travel Document).

ALIEN PAROLED INTO U.S. FOR AT LEAST ONE YEAR:

INS Form I-94 with stamp showing admission for at least one year under § 212(d)(5) of the INA.

(Applicant cannot aggregate periods of admission for less than one year to meet the one-year requirement.)

ALIEN WITH DEPORTATION OR REMOVAL WITHHELD:

INS Form I-688B (Employment Authorization Card) annotated “274a.12(a)(10)”;

INS Form I-766 (Employment Authorization Document) annotated “A10; or

Order from an immigration judge showing deportation withheld under § 243(h) of the INA as in effect prior to April 1, 1997, or removal withheld under § 241(b)(3) of the INA.

ALIEN GRANTED CONDITIONAL ENTRY:

INS Form I-94 with stamp showing admission under § 203(a)(7) of the INA;

INS Form I-688B (Employment Authorization Card) annotated “274a.12(a)(3)”;

INS Form I-766 (Employment Authorization Document) annotated “A3.”

CUBAN/HAITIAN ENTRANT:

INS Form I-551 (Alien Registration Receipt Card, commonly known as a “green card”) with the code CU6, CU7, CH6;

Unexpired temporary I-551 stamp in foreign passport or on INS Form I-94 with the code CU6 or CU7;
or

INS Form I-94 with stamp showing parole as “Cuban/Haitian Entrant” under Section 212(d)(5) of the INA.

ALIEN WHO HAS BEEN BATTERED OR SUBJECT TO EXTREME CRUELTY:

NOTE: Certain categories of aliens who have been subjected to battery or extreme cruelty in the United States by a family member with whom they resided are qualified aliens eligible for federal public benefits under this Act. An alien whose child or an alien child whose parent has been abused is also a qualified alien.

INS guidance, for this category of qualified alien, is very extensive and will be provided on a case by case basis when the alien seeking such federal public benefits identifies his or her documentary evidence of status to be within this category and of this nature.

If an applicant has a disability limiting his or her ability to provide the required evidence of citizenship, nationality, or immigration status (e.g., mental retardation, amnesia, or other cognitive, mental or physical impairment), every effort should be made to assist the applicant to obtain the required evidence.