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**FOR FURTHER INFORMATION CONTACT:** Contact the employee listed in the **ADDRESSES** section of this notice.

**SUPPLEMENTARY INFORMATION:**

### I. Background

Under section 103(c) of the Federal Mine Safety and Health Act of 1977, the Mine Safety and Health Administration (MSHA) is required to “ \* \* \* issue regulations required operators to maintain accurate records of employee exposures to potentially toxic materials or harmful physical agents which are required to be monitored or measured under any applicable mandatory health or safety standard promulgated under this Act.”

Gamma radiation occurs anywhere that radioactive materials are present, and has been associated with lung cancer and other debilitating occupational diseases. Gamma radiation hazards may be found near radiation sources at surface operations using X-ray machines, weightometers, nuclear and diffraction units.

### II. Desired Focus of Comments

MSHA is particularly interested in comments that:

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

A copy of the proposed information collection request can be obtained by contacting the employee listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice, or viewed on the Internet by accessing the MSHA home page (<http://www.msha.gov>) and then choosing Statutory and Regulatory Information and **Federal Register Documents**.

### III. Current Actions

Annual gamma radiation surveys are required to be conducted—in all underground mines where radioactive ores are mined. Where the average gamma radiation measurements are in excess of 2.0 milliroentgens per hour in the working place, all persons affected are to be provided with gamma radiation dosimeters and records of cumulative individual gamma radiation exposures are to be kept.

*Type of Review:* Extension.

*Agency:* Mine Safety and Health Administration.

*Title:* Gamma Radiation Exposure Records.

*OMB Number:* 1219-0039.

*Recordkeeping:* Records of cumulative occupational radiation exposures aid in the protection of workers, in the control of subsequent radiation exposure, and are used by MSHA in evaluation of the effectiveness of the protection program in demonstrating compliance with regulatory requirements.

*Frequency:* Annually.

*Affected Public:* Business or other for-profit.

*Respondents:* 4.

*Total Burden Hours:* 8 hours.

*Total Burden Cost (capital/startup):* \$0.

*Total Burden Cost (operating/maintaining):* \$0.

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

Dated at Arlington, Virginia, this 17th day of September 2009.

**John Rowlett,**

*Director, Management Services Division.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Special Transfers for Unemployment Compensation Modernization and Administration and Relief From Interest on Advances

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** The Employment and Training Administration has provided guidance to State workforce agencies to assist them in qualifying for the incentive payments to modernize their State unemployment compensation (UC)

law as well as to clarify the special transfer of funds, the suspension of interest on Federal loan advances and Federal tax on UC authorized by Public Law 111-5. The original guidance was issued as Unemployment Insurance Program Letter (UIPL) No. 14-09 on February 26, 2009 (available at: <http://wdr.doleta.gov/directives/attach/UIPL/UIPL14-09.pdf>). Additional guidance was issued on March 19, 2009 as UIPL 14-09, Change 1 (available at: <http://wdr.doleta.gov/directives/attach/UIPL/UIPL14-09c1.pdf>). Both UIPLs are published below to inform the public. There are no rescissions on this continuing guidance.

**SUPPLEMENTARY INFORMATION:**

#### UIPL No. 14-09—Special Transfers for Unemployment Compensation Modernization and Administration and Relief From Interest on Advances

1. *Purpose.* To advise States of amendments to Federal law providing for unemployment compensation (UC) modernization incentive payments to States, a special administrative transfer to States, relief from interest on advances to State unemployment funds, and the partial suspension of Federal income tax on UC.

2. *References.* The Assistance for Unemployed Workers and Struggling Families Act, Title II of Division B of Public Law No. 111-5, enacted February 17, 2009; Section 1007 of Public Law 111-5; the Social Security Act (SSA); the Federal Unemployment Tax Act (FUTA); Unemployment Insurance Program Letter (UIPL) No. 39-97; and Training and Employment Guidance Letter (TEGL) No. 18-01.

3. *Background.* Public Law 111-5 made the following changes affecting the UC program:

- Extended the Emergency UC program, commonly known as EUC08.
- Created a new federally-funded program which temporarily increases UC benefits by \$25 a week.
- Temporarily modified provisions in the permanent Federal-State extended benefits program.
- Provided for two special distributions from the Unemployment Trust Fund (UTF) to the States.
- For States receiving advances to pay benefits under Title XII, SSA, waived interest due on these advances for a specified period.
- Suspended the Federal income tax on the first \$2,400 paid in UC for tax year 2009.

The first three items are addressed in separate UIPLs. This UIPL addresses the special distributions, the provisions affecting Title XII loans, and the taxation of UC benefits.

In general, the first special distribution relates to UC “modernization incentive payments.” The total amount available for all States is \$7 billion. To obtain its share, the State must make an application to the Department of Labor demonstrating that its UC law contains certain benefit eligibility provisions. Attachment I discusses eligibility for these incentive payments and the application and approval process. Attachments II and III discuss these matters in greater detail. The last date on which an incentive distribution may be made is September 30, 2011, so applications must be received no later than August 22, 2011.

The second distribution is a “special transfer” of \$500 million to the States’ accounts in the UTF to be used for certain administrative purposes. This administrative transfer is made regardless of whether the State qualifies for a modernization incentive payment. States do not need to apply to receive these amounts. Attachment IV discusses this administrative transfer and the permissible uses of the amounts transferred. Attachment VII contains the amounts distributed under this administrative transfer and each State’s potential share under the modernization incentive payments.

Attachment V discusses the provisions related to suspension of interest on advances and the partial suspension of Federal income tax on UC. Attachment VI sets forth the text of the amendments discussed in this UIPL.

4. *Action.* State administrators should distribute this advisory to appropriate staff.

5. *Inquiries.* Questions should be addressed to your Regional Office.

6. *Attachments.*

Attachment I—Modernization Incentive Payments—Overview

Attachment II—Modernization Incentive Payments—Base Period Provision—Questions and Answers

Attachment III—Modernization Incentive Payments—Other Eligibility Provisions—Questions and Answers

Attachment IV—Special Administrative Transfers—Questions and Answers

Attachment V—Suspensions—Interest on Advances and Federal Taxation of UC

Attachment VI—Text of Sections 2003 and 2004 of Public Law 111–5

Attachment VII—UC Modernization Distributions—Amount

## Attachment I

### Modernization Incentive Payments—Overview

#### In General

Section 2003(a) of Public Law 111–5 added new subsection (f) to Section 903,

SSA, to provide for incentive payments to States.

These incentive payments are calculated in the same manner as a “Reed Act” distribution. This means each State’s share is based on its proportionate share of FUTA taxable wages multiplied by the \$7 billion authorized by the amendments. For purposes of computing each State’s proportionate share, the Secretary of Labor will use the taxable wages that would have been used for calculating any Reed Act distribution occurring on October 1, 2008. As provided by Section 903(f)(1)(B), SSA, tax year 2007 data is used for determining each State’s share.

A State’s share will be reserved in the Federal Unemployment Account (FUA) in the UTF for purposes of making incentive payments. As of the close of Federal fiscal year 2011 (that is, September 30, 2011), this limitation expires, and any unused amounts again become available for any FUA use.

A State’s eligibility for its maximum incentive payment is conditioned on its law containing specific provisions:

- To obtain the first one-third of its share, the State law must provide for either a base period that uses recent wages or an alternative base period (ABP) using recent wages. This “base period provision” is discussed in Attachment II.

- If a State qualifies under this base period provision, it may obtain the remaining two-thirds if its State law contains two of four options related to benefit eligibility. These options are discussed in Attachment III.

#### State Applications

*In General.* The State must apply to the Department of Labor to receive any incentive payment. A complete application must document which provisions of State law meet the requirements for obtaining an incentive payment as interpreted by this UIPL. The application must also describe how the State intends to use any incentive payment to improve or strengthen the State’s UC program. Attachment II discusses what constitutes a complete application for purposes of the base period provision and Attachment III discusses what constitutes a complete application for purposes of the other benefit eligibility provisions.

Applications are to be signed by the State agency administrator and addressed to: Cheryl Atkinson, Administrator, Office of Workforce Security, 200 Constitution Avenue, NW., Room S–4231, Washington, DC 20210.

States may submit applications by mail, fax, or e-mail. States may fax

applications to 202–693–2874 to the attention of the Division of UC Legislation. E-mail submissions should be sent to [Atkinson.Cheryl@dol.gov](mailto:Atkinson.Cheryl@dol.gov) with a cc to [Hildebrand.Gerard@dol.gov](mailto:Hildebrand.Gerard@dol.gov). Copies should be provided to the appropriate Regional Office. For purposes of determining the date of receipt (as described immediately below), the date of receipt in the National Office will be used.

*Review Process.* Within 30 days of receipt by the Department of a State’s complete application, the State will be notified whether it qualifies for an incentive payment. If it does, the Secretary of Treasury will transfer the amount of the incentive payment within seven days of receipt of the Department’s certification. Since all incentive payments must be made before October 1, 2011, and since the Department must have adequate time to review any application, all applications must be received by the Department no later than August 22, 2011.

To expedite processing of applications and distribution of incentive payments to the States, the Department is providing for a two-tiered application process under which a State may make one application regarding the base period provisions and a separate application regarding the other benefit eligibility provisions. Nothing prohibits States from making a single application. However, since the Department anticipates relatively swift action on base period applications, it may be advantageous for States to make two applications.

*State Law Status.* Applications should only be made under provisions of State laws that are currently in effect as *permanent law* and not subject to discontinuation. This means that the provision is not subject to any condition—such as an expiration date, the balance in the State’s unemployment fund, or a legislative appropriation—that might prevent the provision from becoming effective, or that might suspend, discontinue, or nullify it.

There is one exception to this limitation. In some cases, a State might enact a new provision of law to qualify for the incentive payment, but delay its effective date due to implementation requirements. In these cases, if the State law provision takes effect within 12 months of the date of the Secretary of Labor’s certification, then the provision will be considered to be in effect as of the date of the Secretary’s certification to the Secretary of Treasury. In the case of a provision that is not effective until more than 12 months (which may be the case with ABP provisions) the State

should time its application so that the Secretary's certification will be made no more than 12 months prior to its law's effective date. Thus, for example, since the Secretary must rule on any application within 30 days, the application should be submitted no more than 13 months before the State law's effective date. Note, however, as discussed above, the Department will not consider applications received after August 22, 2011. As a result, the latest effective date of a provision must be on or before September 21, 2012.

#### *Receipt and Use of Incentive Payments*

Following the Secretary's certification for an incentive payment, the entire amount certified will be transferred to the State's account in the UTF. A State may use its incentive payment: (1) To pay UC (including dependents' allowances); or (2) upon appropriation of its State legislature, to pay UC and employment service administrative costs. The conditions for administrative use of the incentive payment are the same as those applicable to the \$8 billion Reed Act distribution made in 2002. Refer to Q&As 9 through 19 and Q&A 21 in Attachment I to TEGL 18-01 for guidance. Like the \$8 billion Reed Act distribution, there is no time limit on the use of the incentive payment for benefit or administrative purposes. Incentive payments available for the payment of UC must, however, be expended before the State may obtain an advance to pay UC under Title XII, SSA.

#### *Paperwork Reduction Act (PRA) Statement*

The public reporting burden for this collection of information is estimated to average approximately eight hours per response including time for gathering and maintaining the data needed to complete the required disclosure.

This UIPL contains a new collection of information in the form of an application for UC Modernization Incentive Payments. According to the Paperwork Reduction Act of 1995 (Pub. L. 104-13), no persons are required to respond to a collection of information unless such collection displays a valid Office of Management and Budget (OMB) control number. The Department is planning to submit an Information Collection Request (ICR) to OMB requesting a new OMB Control Number. The Department notes that a Federal agency cannot conduct or sponsor a collection of information unless it is approved by OMB under the PRA, and displays a currently valid OMB control number, and the public is not required to respond to a collection of information unless it displays a currently valid OMB

control number. See 44 U.S.C. 3507. Also, notwithstanding any other provisions of law, no person shall be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number. See 44 U.S.C. 3512. The Department will notify States of OMB's decision upon review of the Department's ICR, including any changes that may result from this review process.

#### **Attachment II**

##### *Modernization Incentive Payments*

##### *Base Period Provisions*

##### *Questions and Answers*

*II-1. Question.* What provisions must my law contain to qualify for an incentive payment under the base period provision?

*Answer.* There are two options:

- A regular base period that includes the most recently completed calendar quarter before the start of the benefit year, or
- An ABP that includes the most recently completed calendar quarter, when the claimant cannot meet monetary qualifying requirements using a "regular" base period that excludes this quarter.

*II-2. Question:* I believe my State law qualifies for the incentive payment. What should my application State?

*Answer:* The application must:

- Identify the State;
- Cite the specific base period provision of State law supporting the application;
- Certify that the provision of State law is either currently in effect or will become effective for claims filed on or after a specified date;
- Contain a certification that the provision is permanent (that is, not temporary) and is not subject to discontinuation under any circumstances other than repeal by the legislature;
- Address how the State intends to use the incentive payment to improve or strengthen its UC program; and
- Attach the relevant provision of State law.

*II-3. Question:* Is the Department aware of any existing ABP provisions that will not qualify for the incentive payment?

*Answer:* Yes. A provision providing that an ABP will be used only if the unemployment fund is above a certain "solvency" threshold would not qualify because the ABP is subject to discontinuation under a specified condition. Also, a State law that permits

use of an ABP only after a specified number of days have elapsed since the end of the last completed quarter in order for wage records to be received would not qualify because it does not permit use of the ABP during the days immediately following the end of the quarter.

#### **Attachment III**

##### *Modernization Incentive Payments*

##### *Other Eligibility Provision*

##### *Questions and Answers*

##### *In General*

*III-1. Question:* If my State qualifies for the one-third incentive payment related to its base period provision, what provisions must my law contain to qualify for certification for the remaining two-thirds of its incentive payment?

*Answer:* In brief, a State law must contain provisions carrying out at least two of the following:

- UC is payable to certain individuals seeking only part-time work.
- An individual is not disqualified from UC for separations due to certain compelling family reasons.
- An additional 26 weeks of UC is paid to exhaustees who are enrolled in and making satisfactory progress in certain training programs.
- Dependents' allowances of at least \$15 per dependent per week, subject to a minimum aggregation, are paid to eligible beneficiaries.

##### *Part-Time Workers*

*III-2. Question:* What is the part-time work option?

*Answer:* State law must provide that an individual will not be denied UC under any provision relating to availability for work, active search for work, or refusal to accept work, solely because such individual is seeking only part-time work as defined by the Secretary of Labor.

The State law may, however, deny benefits if a majority of the weeks of work in the individual's base period do *not* include part-time work. States are not required to have this exception in their laws in order to qualify for the incentive payment under this option. In fact, a State may determine that an individual who has previously worked full time may be eligible for UC even if the individual limits him/herself to seeking part-time work.

*III-3. Question:* For purposes of "seeking only part-time work," how does the Department define "seeking only part-time work"?

*Answer:* For purposes of the incentive payment, the Department defines

“seeking only part-time work” as work meeting any one of the following situations:

- Situations where the individual is willing to work at least 20 hours per week.
- Situations where the individual is available for a number of hours per week that are comparable to the individual’s part-time work experience in the base period. For example, if the individual worked 16 hours per week in the base period, the State may require the individual to seek jobs offering at least 16 hours of work. If the individual worked 32 hours per week, the State may require the individual to seek jobs offering at least 32 hours of work.
- Situations where the individual is available for hours that are comparable to the individual’s work at the time of the most recent separation from employment. This is similar to the preceding definition except that it allows the State to take into account periods between the end of the base period and the filing of the first claim for UC.

The Department will approve a State’s application if the State uses any one of the above definitions. The State may also use a combination of these definitions. For example, a State may define part-time work as work having comparable hours to the individual’s work in the base period, except that an individual must be available for at least 20 hours of work per week.

A State may also have a broader definition of part-time work. For example, the State may require the individual to be available for only 10 or more hours per week. Of course, the State may not allow the individual to limit his or her availability to the extent that it constitutes a withdrawal from the labor market. (See 20 CFR 604.5(a)(1).)

*III-4. Question:* My State law provides for payment to individuals seeking part-time work only if they have worked part-time during the entire base period. Would an application containing this limitation be certified?

*Answer:* No. To qualify for the incentive payment, a State law must permit an individual to seek part-time work, except that the State may deny benefits if a *majority* of weeks of work in the base period do not include part-time work (i.e., were full-time). Requiring part-time work throughout the entire base period is more restrictive than the “majority” standard and would not qualify.

*III-5. Question:* My State law provides for payment to individuals seeking part-time work only if my agency determines the individual has a legitimate reason to limit employment to part-time work.

Would an application containing this limitation be certified?

*Answer:* No. To qualify for the incentive payment, a State law must permit an individual to seek part-time work, except that the State may deny benefits if a *majority* of weeks of work in the base period do not include part-time work (i.e., were full-time). Requiring agency approval is more restrictive.

*III-6. Question:* My State law provides for payment to individuals who have a history of part-time work. Would an application containing this limitation be certified?

*Answer:* It depends on how the State interprets and applies this provision. To obtain certification, the State’s application must demonstrate that, at a minimum, all individuals who work the majority of weeks in the base period in part-time employment will not be determined ineligible because they are seeking only part-time work.

*III-7. Question:* My State will use the option that permits us to examine whether the majority of weeks of work in the individual’s base period are in part-time work. If the individual worked 40 weeks in the base period and 21 weeks are part-time, must my State’s law provide that this individual may limit his/her availability to only part-time work?

*Answer:* Yes, the State’s law must provide that the individual may limit his/her availability to only part-time work under the facts as stated. Since the individual has worked the majority of weeks in the base period in part-time work, this individual must be allowed to seek only part-time work, as defined by the Department. For purposes of this option, a “week of work” is a calendar week.

*III-8. Question:* My State law requires an individual to be available for the same schedule of work as previously worked. For example, if the individual worked (either part-time or full-time) during specific hours Monday through Friday, the individual will be denied if he or she is not available for the same schedule on these calendar days. Will my State’s application be certified if it contains this provision?

*Answer:* Yes. The Federal requirement is that an individual not be denied “solely because the individual is seeking only part-time work.” In this case, the State is placing another, additional test of availability on all individuals seeking work, regardless of whether the work is full-time (as defined under State law) or part-time (as defined consistent with Q&A III-3).

In cases where a test applies only to part-time workers, the Department will

evaluate the test to determine if it is consistent with the definition of “seeking suitable part-time work” contained in this UIPL. For example, if a State required that only individuals seeking part-time work be available for the same work schedule, the State’s application would be denied since this UIPL does not interpret “suitable part-time work” to include such a requirement. If a State test, although worded in a way that is applicable to both full-time and part-time workers, is in fact applicable only to part-time workers, it will be reviewed as described in this paragraph.

#### *Quits Due to Compelling Family Reasons*

*III-9. Question:* For purposes of qualifying for the incentive payment, what are “compelling family reasons?”

*Answer:* To qualify for the incentive payment using the “compelling family reason” option, the State law must provide that an individual will not be disqualified for separating from work under *any and all* of the following circumstances:

- Domestic violence (verified by reasonable and confidential documentation as the State law may require) which causes the individual reasonably to believe that the individual’s continued employment would jeopardize the safety of the individual or of any member of the individual’s immediate family (as defined by the U.S. Department of Labor (Department)).
- The illness or disability of a member of the individual’s immediate family (as these terms are defined by the Department).
- The need for the individual to accompany his/her spouse: (1) To a place from which it is impractical for such individual to commute; and (2) due to a change in location of the spouse’s employment.

*III-10. Question:* An employer discharges an individual for chronic absenteeism that constitutes misconduct under my State’s law. Only after the separation does the individual indicate that the absences were to care for a member of his/her immediate family. Would my State’s application be denied if individuals in this situation were disqualified under a misconduct separation?

*Answer:* No. The Federal law provides that an “individual shall not be disqualified from [UC] for separating from employment” for compelling family reasons. In some cases, such as when the individual fails to advise the employer of an absence, the basis for the separation may go beyond “compelling

family reasons.” That is, misconduct may exist despite the existence of what otherwise would be compelling family reasons, and the State may deny the individual under its misconduct provisions.

To be certified, a State law must reasonably define misconduct. The fact that the employer initiated the discharge does not mean misconduct exists. For example, an individual who is hospitalized as a result of domestic violence may be unable to contact the employer. If the individual is discharged in such cases, the State law, to be certified, must consider the individual to have separated from work due to compelling family reasons. Similarly, if the employer discharges an individual who has informed the employer of expected absences to care for an ill child, the State law must consider the individual to have been separated from work due to compelling family reasons.

Many State misconduct provisions have been interpreted to require a willful and wanton disregard of the employer’s interest. The Department anticipates that these State law provisions are generally expected to meet the conditions pertaining to compelling family reasons since separations for compelling family reasons do not in themselves constitute a willful and wanton disregard of the employer’s interest. However, to assure the State’s law does not provide for a denial due to misconduct for such separations, the State’s application will need to address the application of its misconduct provisions to compelling family reasons.

*III-11. Question:* For purposes of the domestic violence provision, what is meant by “verified by such reasonable and confidential documentation as the State law may require?”

*Answer:* As in other UC adjudications, the State must gather sufficient facts to support any eligibility determination, which may include verification of the individual’s belief that his/her continued employment would jeopardize the safety of the individual or a member of the immediate family. When the State verifies the individual’s belief, the Department has determined the State may reasonably require a statement supporting recent domestic violence from a qualified professional from whom the individual has sought assistance such as a counselor, shelter worker, member of the clergy, attorney, or health worker.

The State must accept any other kind of evidence that reasonably proves domestic violence. The State may accept, but may not require, as evidence

(1) an active or recently issued protective or other order documenting domestic violence, or (2) a police record documenting recent domestic violence as doing so will create an unreasonable bar to benefits.

If the State obtains one instance of information that adequately verifies the individual’s belief, it would defeat the purpose of the new Federal provisions for the State to burden the individual by requiring additional information. Therefore, any application that indicates that multiple verifications are necessary will not be certified.

At a minimum, for purposes of holding information about domestic violence confidential, the Department’s regulations at 20 CFR Part 603 addressing the confidentiality of UC information will apply, as it does to all confidential UC information. Given the sensitivity of the kind of information that may be needed to prove domestic violence, as well as the confidential sources from which it may have to be obtained, the Department views the language about “confidential information” as an authorization to seek information which may come from confidential sources and as a reminder that such information must be kept confidential.

*III-12. Question:* For purposes of the domestic violence and illness/disability options, what is meant by “immediate family member?”

*Answer:* At a minimum, a State must include spouses, parents and minor children under the age of 18 in its definition of “immediate family member” for its provision to qualify for certification. States may provide for a more inclusive definition (for example, including grandparents, sisters, brothers, domestic partners, adult children or foster children), but they are not required to do so for their provisions to be certified.

*III-13. Question:* For purposes of the illness/disability option, what is meant by “illness” and “disability?”

*Answer:* “Illness” means a verified illness which necessitates the care of the ill person for a period of time longer than the employer is willing to grant leave (paid or otherwise). Similarly, “disability” means a verified disability which necessitates the care of the disabled person for a period of time longer than the employer is willing to grant leave (paid or otherwise) for. “Disability” encompasses all types of disability, including (1) mental and physical disability; (2) permanent and temporary disabilities; and (3) partial and total disabilities. What is key is that the individual’s illness or disability necessitates care by another individual

and the employer does not accommodate the employee’s request for time-off.

This is a minimum standard for a State to receive its incentive payment. States may have broader eligibility provisions. However, a State law provision would not be certified if it has a narrower definition of illness or disability or provides for overly restrictive limits on the types of verification of illness. For example, if the State requires a medical doctor to verify an illness or disability when other sources of verification are available, the application would not be accepted. As another example, if a State law’s provisions only apply when the family member is terminally ill, the provision will not be certified.

*III-14. Question:* My State law pertaining to separations to care for family members is limited to cases where no reasonable, alternative care was available. Would this provision be certified?

*Answer:* No. The new Federal provisions broadly require, as a condition of certification, that the State law not disqualify an individual separating because of the “illness or disability of a family member. \* \* \*” The Act does not permit a State to limit eligibility to particular circumstances surrounding a separation for this reason. Thus, a provision would not be certified if it applies only when no reasonable, alternative care is available.

*III-15. Question:* For purposes of quitting to accompany a spouse to a new location from which it is impractical to commute, what is meant by “impractical?”

*Answer:* What is “impractical” will be based on commuting patterns in the locality. States should assure that their provisions reasonably reflect these commuting patterns.

*III-16. Question:* My State looks at whether it is impractical for the individual to commute from the new location. We do not examine the reason why the spouse relocated. Would this provision qualify for an incentive payment?

*Answer:* In this case, the State permits payment of UC in all situations required for the State to qualify for an incentive payment. State law may provide for broader eligibility than required for certification, such as where it is not practical to commute from the new location.

*III-17. Question:* Do the provisions on compelling family reasons affect my State’s availability requirements as a condition of claimant eligibility?

*Answer:* There is no effect. States must continue to require, at a minimum,

that individuals be able to and available for work as defined by the Department's regulations at 20 CFR part 604. The new Federal provisions on compelling family reasons relate only to whether the reason for quitting work is disqualifying, and do not address issues related to the individual's continuing unemployment. Thus, for example, an individual who quits employment for a compelling family reason may not be disqualified for quitting, but the individual will be ineligible if unavailable for work.

#### *Training Benefits*

**III-18. Question:** If a State elects the training benefit option, under what conditions must it be payable?

**Answer:** The State law must provide that a training benefit be payable to any individual who is unemployed (as determined under State law, including partial and part-total unemployment), has exhausted all rights to regular UC, and is enrolled in and making satisfactory progress in either:

- A State-approved training program, or
- A job training program authorized under the Workforce Investment Act of 1998 (WIA).

The State law must provide for payment of the training benefit to individuals who are enrolled in and making satisfactory progress in *both* of the above types of programs. However, the State law is not required to provide for payment of the training benefit to an individual who is receiving "similar stipends" or other training allowances which can be used for non-training costs. (In addition, the State may treat such stipends as disqualifying income.) In this case, "similar stipend" means an amount provided under a program with similar aims, such as providing training to increase employability, and in approximately the same amounts.

WIA or other approved job training programs for which training benefits are paid may be limited to those that prepare an individual for entry into a high-demand occupation if the individual has been:

- Separated from a declining occupation, or
- Involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment.

The requirements related to the job training program are *minimum* requirements for purposes of certification. If the State pays training benefits to a broader class of individuals participating in training than specified above, the State will meet the requirements for this option. For

example, a State law may pay additional training benefits to any individual who is preparing for a job in a "demand occupation" as opposed to a "high-demand occupation." However, a State law would not qualify for certification if it limits training benefits to a narrower class of individuals. For example, if the training benefits are payable only to individuals in job training programs leading to high-wage occupations, the State law would not be certified because the Federal provision does not authorize a high-wage restriction.

Whether an occupation is "declining" or "high-demand" will be determined by the State using available labor market information data.

**III-19. Question:** How must the amount of training benefits be determined for purposes of this option?

**Answer:** The amount of UC payable for a week of unemployment must, at a minimum, equal the individual's weekly benefit amount (including dependents' allowances) for the most recent benefit year less any deductible income as determined under State law. The total amount of UC payable to any individual must equal at least 26 times the individual's average weekly benefit amount (including dependents' allowances) for the most recent benefit year.

**III-20. Question:** What is meant by "State-approved training program"?

**Answer:** A program that the State determines is reasonably expected to lead to employment in an occupation, including high-demand occupations.

**III-21. Question:** What evidence may my State require for purposes of determining whether an individual is making satisfactory progress in the training program?

**Answer:** The State may require reasonable evidence of satisfactory progress, such as reports from training providers and evidence of attending training when attendance is a necessary part of such training.

**III-22. Question:** My State has a training benefit provision, but amounts must be appropriated each year by the legislature. Will this provision qualify for the incentive payment?

**Answer:** No. To qualify for an incentive distribution, the State law provision may not be subject to discontinuation. A provision subject to appropriation may be capped with the result that it could be discontinued within the State's fiscal year for which the appropriation is made. Further, there is no guarantee any appropriation will be made for future years.

**III-23. Question:** May the training benefit be paid after federally-funded extensions of UC?

**Answer:** Yes. The training benefit may be paid after the individual exhausts eligibility under the current Emergency Unemployment Compensation program or under the permanent Federal-State Extended Benefits program.

**III-24. Question:** May eligibility for the training benefit be terminated by the expiration of a benefit year, or may it be limited to individuals who have not previously received it?

**Answer:** No. Federal law does not contain these limitations.

#### **Dependents' Allowances**

**III-25. Question:** What is meant by "dependent" for purposes of qualifying for an incentive payment under the option related to dependents' allowances, as well as in other provisions relating to incentive payments?

**Answer:** The term "dependent" is defined under State law for all of these purposes.

**III-26. Question:** With respect to the dependents' allowances option, what dollar amounts must be paid as dependents' allowances to qualify for the incentive payment?

**Answer:** The State must pay an amount equaling at least \$15 per dependent per week. However, the State may cap the total allowance paid to an individual for dependents at \$50 per week of unemployment or 50 percent of the individual's weekly benefit amount for the benefit year, whichever is less.

The State is not, however, required to pay the full dependents' allowance when the individual has earnings for the week. Instead, the State may provide for a reasonable reduction in the amount of any such allowance for such week. A State law will qualify for certification under this "reasonableness" test if it provides for the same pro rata reduction in the dependents' allowance as was applied to the weekly benefit amount. For example, if the individual is eligible for one-half of the weekly benefit amount, the State may reduce the dependents' allowance by one-half. If a State applies another reduction test that it believes is reasonable, the State's application must explain why the test is reasonable.

**III-27. Question:** My State does not pay a dependents' allowance if the individual qualifies for the maximum weekly benefit amount. Would my State's dependents' allowances provision qualify?

**Answer:** No. The new Federal provisions require, as a condition of certification, that a State pay dependents' allowances, but permits some limitation on their aggregation. Because this State provision places an

additional limitation on dependents' allowances, the Department would not certify it. Similarly, the Department would not certify a State provision that does not pay dependents' allowances to individuals who qualify for the minimum weekly benefit amount.

### Regular Compensation

*III-28. Question:* The options relating to part-time work, compelling family reasons, and dependents' allowances specify that they must be applied to "regular compensation." Does this mean they are not required to be applied to other payments of UC?

*Answer:* For UC programs where benefits are funded by the Federal government, Federal "equal treatment" requirements apply. Therefore, except where the laws and regulations governing these programs provide otherwise, benefits for the following UC programs must be paid in the same amount, on the same terms, and under the same conditions as regular compensation:

- The permanent Federal-State Extended Benefits program.
- The UC programs for former Federal employees and ex-military personnel. Moreover, these programs are also included in the definition of "regular compensation" in Section 205(2) of the Federal-State Unemployment Compensation Act of 1970, as amended.
- The current emergency UC program, commonly called the EUC08 program.
- The Disaster Unemployment Assistance program.
- Trade Readjustment Allowances payable under the Trade Act, as amended.

However, unless a State's law contains an "equal treatment" requirement for "additional compensation," it need not apply the requirements relating to part-time work, compelling family reasons and, with one possible exception for the training benefit (explained in the next paragraph), dependents' allowances in the payment of additional compensation. Additional compensation is not regular compensation, but, rather, compensation totally financed by a State and payable under State law by reason of high unemployment or other special factors. Thus, the limitation to "regular compensation" means, for example, that for a State's provision relating to part-time workers to be certified, the State law need not pay additional compensation to part-time workers.

Note that benefits under the training benefits option are a form of additional compensation. However, as discussed

above for the training benefits option, the State must include dependents' allowances in calculating the individual's weekly benefit amount for the training benefit. Those dependents' allowances must be calculated for the training benefit in the same manner as they are calculated for regular compensation. Thus, if a State selects its dependents' allowances provision for certification, it must apply it to the training benefit.

### Applications for Incentive Payments

*III-29. Question:* I believe my State law qualifies for an incentive payment under two or more of the above options. What should my application State?

*Answer:* For each option under which the State is applying, the application must:

- Name the State;
- Cite to and attach the specific provisions of State law supporting the application;
- Certify that the provision of State law is either currently in effect or will become effective for claims filed after a specified date;
- Contain a certification that the provision is permanent (that is, not temporary) and is not subject to discontinuation under any circumstances other than repeal by the legislature; and
- Address how the State intends to use the incentive payment to improve or strengthen its UC program.

The following additional information is also required:

- When an application is based on an interpretation of State law rather than explicit statutory language (as may be the case under the options for part-time workers and compelling family reasons), the State must provide evidence of its interpretation. This evidence may include regulations, court cases, precedent decisions, or administrative procedures. An application that merely asserts a provision of State law is interpreted in a certain way will be deemed incomplete and denied. Similarly, an application that cites to a court case as an authoritative interpretation will be deemed incomplete and denied unless the State provides regulations or procedures demonstrating the court case has been implemented. The application must describe these authorities and attach copies of any relevant material.

- For an application pertaining to compelling family reasons, the State must (1) explain its requirements for verification of domestic violence and why they are reasonable, and (2) describe how the State's misconduct provisions are consistent with Q&A III-

10. The application must attach copies of any relevant material supporting the application's statements.

- For an application that provides for a "reasonable reduction" in dependents' allowances for weeks with earnings, describe the reduction and why it is believed to be reasonable.

*III-30. Question:* My State has submitted an application under the base period provision for the first one-third of its incentive payment. Should we wait until that application is approved prior to submitting an application for the remaining two-thirds?

*Answer:* No. It is not necessary to wait for approval of the base period application. However, the Department will not certify the State for the remaining two-thirds until it certifies the base period provision.

### Attachment IV

#### Special Administrative Transfers

#### Questions and Answers

*IV-1. Question:* How was Federal law amended to authorize the special administrative transfer?

*Answer:* Section 2003(a) of Public Law 111-5 added a new subsection (g) to Section 903, SSA, to make a special administrative transfer to all States totaling \$500,000,000 within 30 days of the date of enactment, which was February 17, 2009. A State need take no action to receive its share of the distribution.

*IV-2. Question:* How is my State's share of the special administrative transfer determined?

*Answer:* It is calculated in the same manner as a "Reed Act" distribution. This means each State's share is based on its proportionate share of FUTA taxable wages multiplied by the \$500,000,000 authorized by the amendments. For purposes of computing each State's proportionate share, the Secretary of Labor will use the taxable wages that would have been used for calculating any Reed Act distribution occurring on October 1, 2008. As provided by the SSA, data for tax year 2007 is used for determining each State's share.

*IV-3. Question:* What are the permissible uses of the administrative transfer?

*Answer:* The administrative transfer may be used only for—

- Implementing and administering the provisions of State law that qualify the State for the incentive payments;
- Improved outreach to individuals who might be eligible by virtue of these provisions;

- The improvement of UC benefit and tax operations, including responding to increased demand for UC; and
- Staff-assisted reemployment services for UC claimants.

*IV-4. Question:* Must my State legislature appropriate these special administrative transfers?

*Answer:* Federal law does not require such an appropriation. (This is unlike the incentive payments discussed in Attachment I, which must be appropriated by the State legislature before they can be used for administrative purposes.) However, nothing prohibits a State legislature from appropriating such money or from attaching more specific or limiting conditions to the use of such money.

*IV-5. Question:* Do I need to amend my State’s UC law?

*Answer:* Most State UC laws contain permanent provisions regarding the use of moneys transferred under Section 903, SSA. These provisions usually mirror the requirements of Section 903(c)(2), SSA, pertaining to “traditional” Reed Act distributions, including a provision that the moneys be used for the payment of UC unless appropriated by the legislative body of the State for the administration of the State’s UC law or the State’s system of public employment offices.

The special administrative transfer is not, however, available for the payment of UC and its administrative uses are more limited. As a result, if the State’s UC law permits a broader use, the State must either (1) amend its UC law to reflect the more limited use of the special administrative transfer, or (2) interpret its UC law consistent with the limited uses specified in Section 903(g), SSA. States exploring the latter option may be able to base their interpretation on State UC law provisions that require interpretations of State UC law in a manner consistent with Federal law.

Attachment II to UIPL 39–97 contains draft language for State Reed Act provisions, which many States used to create their permanent provisions. For these States, we recommend the following language be added:

(6) Notwithstanding paragraph (1), moneys credited with respect to the special transfer made under section 903(g), SSA, may be used solely for the purposes specified in such section and are not subject to appropriation by the legislature. [Emphasis added.]

States should modify this language to accord with State usage and to assure correct State law citations. The emphasized language is necessary only if the State chooses to avoid the appropriation process for the special administrative transfer. As an alternative to this approach, States may also consider a broader amendment that automatically authorizes the State law to take into account any Federal law limitations on use not contained in State law.

*IV-6. Question:* My State has an advance under Title XII, SSA, so that it can continue to pay benefits. Does this affect my administrative transfer?

*Answer:* No. Eligibility for the transfer does not depend upon a State having no outstanding advance. Therefore, the entire amount of the special administrative transfer for a State will be transferred to the State’s account in the UTF, notwithstanding any advance.

**Attachment V**

*Suspensions*

*Interest on Advances and Federal Taxation of UC*

*Interest Payments*

*V-1. Question:* How did the amendments made by Section 2004 of Public Law 111–5 affect interest due on Title XII advances?

*Answer:* Section 2004 added new paragraph (10) to Section 1202(b), SSA. Under this new paragraph, any interest payment due during the period beginning on the date of enactment (that is beginning February 17, 2009) and ending on December 31, 2010, shall be “deemed to have been” paid by the State. This effectively waives all interest due during this period. Further, no interest accrues on any advance or advances made to a State during this period.

*V-2. Question:* Will interest accrue on advances made prior to the date of enactment?

*Answer:* Yes. Although interest will accrue on such advances, any interest due within the period beginning February 17, 2009, and ending on December 31, 2010 will, as discussed in the previous Q&A, be waived. However, interest accrued after September 30, 2010, will not be due within this period. Instead, such accrued interest will be due no later than September 30, 2011.

*V-3. Question:* How is interest after December 31, 2010, determined?

*Answer:* The normal rules for determining the amounts of interest accrued and the dates interest is due will again apply.

**Partial Suspension of Federal Income Tax**

*V-4. Question:* How did the amendments made by Public Law 111–5 affect the taxation of unemployment benefits?

*Answer:* For tax year 2009 only, the first \$2,400 paid in unemployment benefits is not subject to Federal income tax. Amounts above \$2,400 remain taxable.

*V-5. Question:* Will this suspension require any operational changes by my agency?

*Answer:* States are to continue to (1) report UC payments on Form 1099 and (2) withhold Federal income tax from UC benefits when requested by the individual. States are encouraged to promptly update information provided to individuals about the taxation of UC so that individuals may make informed decisions about whether to elect (or continue) the withholding of Federal income tax from UC.

**Attachment VI**

*Text of Sections 2003 and 2004 of Public Law 111–5*

Text may be found at: <http://wdr.doleta.gov/directives/attach/UIPL/UIPL14-09f.pdf>.

**Attachment VII**

**UC MODERNIZATION DISTRIBUTIONS—AMOUNTS**

State	\$500 M Admin Distribution	\$7.0 Billion Distribution	1/3 Share	2/3 Share
AK .....	\$1,115,660	\$15,619,234	\$5,206,411	\$10,412,823
AL .....	7,176,668	100,473,351	33,491,117	66,982,234
AR .....	4,283,524	59,969,332	19,989,777	39,979,555
AZ .....	10,721,206	150,096,885	50,032,295	100,064,590
CA .....	59,905,736	838,680,283	279,560,094	559,120,189
CO .....	9,104,983	127,469,762	42,489,921	84,979,841
CT .....	6,272,238	87,811,338	29,270,446	58,540,892
DC .....	1,973,784	27,632,982	9,210,994	18,421,988
DE .....	1,562,028	21,868,398	7,289,466	14,578,932



UC MODERNIZATION DISTRIBUTIONS—AMOUNTS—Continued

State	\$500 M Admin Distribution	\$7.0 Billion Distribution	1/3 Share	2/3 Share
FL	31,733,965	444,275,516	148,091,839	296,183,677
GA	15,734,725	220,286,144	73,428,715	146,857,429
HI	2,180,480	30,526,725	10,175,575	20,351,150
IA	5,058,171	70,814,387	23,604,796	47,209,591
ID	2,304,345	32,260,831	10,753,610	21,507,221
IL	21,510,763	301,150,687	100,383,562	200,767,125
IN	10,607,023	148,498,323	49,499,441	98,998,882
KS	4,926,439	68,970,143	22,990,048	45,980,095
KY	6,441,139	90,175,943	30,058,648	60,117,295
LA	7,027,524	98,385,331	32,795,110	65,590,221
MA	11,620,239	162,683,341	54,227,780	108,455,561
MD	9,053,580	126,750,124	42,250,041	84,500,083
ME	2,016,519	28,231,263	9,410,421	18,820,842
MI	14,877,327	208,282,572	69,427,524	138,855,048
MN	9,290,259	130,063,620	43,354,540	86,709,080
MO	9,522,006	133,308,082	44,436,027	88,872,055
MS	4,009,761	56,136,656	18,712,219	37,424,437
MT	1,394,697	19,525,764	6,508,588	13,017,176
NC	14,647,397	205,063,552	68,354,517	136,709,035
ND	1,039,443	14,552,205	4,850,735	9,701,470
NE	3,116,126	43,625,769	14,541,923	29,083,846
NH	2,242,944	31,401,220	10,467,073	20,934,147
NJ	14,773,097	206,823,364	68,941,121	137,882,243
NM	2,787,327	39,022,582	13,007,527	26,015,055
NV	5,495,529	76,937,412	25,645,804	51,291,608
NY	29,481,579	412,742,107	137,580,702	275,161,405
OH	18,893,471	264,508,588	88,169,529	176,339,059
OK	5,420,463	75,886,483	25,295,494	50,590,989
OR	6,112,474	85,574,641	28,524,880	57,049,761
PA	19,521,393	273,299,496	91,099,832	182,199,664
PR	2,946,268	41,247,756	13,749,252	27,498,504
RI	1,675,756	23,460,578	7,820,193	15,640,385
SC	6,961,392	97,459,490	32,486,497	64,972,993
SD	1,260,545	17,647,634	5,882,545	11,765,089
TN	10,129,145	141,808,031	47,269,344	94,538,687
TX	39,690,810	555,671,344	185,223,781	370,447,563
UT	4,356,943	60,997,206	20,332,402	40,664,804
VA	13,460,932	188,453,049	62,817,683	125,635,366
VI	143,065	2,002,911	667,637	1,335,274
VT	994,136	13,917,898	4,639,299	9,278,599
WA	10,470,988	146,593,828	48,864,609	97,729,219
WI	9,566,720	133,934,079	44,644,693	89,289,386
WV	2,369,759	33,176,630	11,058,877	22,117,753
WY	1,017,509	14,245,130	4,748,377	9,496,753
US	500,000,000	7,000,000,000	2,333,333,331	4,666,666,669

**UIPL No. 14–09, Change 1—Special Transfers for Unemployment Compensation Modernization and Administration and Relief From Interest on Advances**

1. *Purpose.* To provide additional guidance to States concerning unemployment compensation (UC) modernization incentive payments, the recent special administrative transfers, and to correct guidance related to relief from interest on advances to State unemployment funds.

2. *References.* The Assistance for Unemployed Workers and Struggling Families Act, Title II of Division B of Public Law 111–5, enacted February 17, 2009; the Social Security Act (SSA); the Federal Unemployment Tax Act

(FUTA); and Unemployment Insurance Program Letter (UIPL) No. 14–09.

3. *Background.* UIPL No. 14–09 provided guidance to States on the UC provisions of Public Law 111–5, including how to qualify for UC modernization payments. This UIPL, using a Question and Answer (Q&A) format, provides, among other things:

- Additional guidance concerning applications for UC modernization incentive payments and on using a training benefit provision to qualify for such payments.
- Additional guidance related to the special administrative transfer.
- A correction to earlier guidance related to relief from interest on advances.

4. *Action.* State administrators should distribute this advisory to appropriate staff.

5. *Inquiries.* Questions should be addressed to your Regional Office.

6. *Attachment.* QUESTIONS AND ANSWERS

**Attachment**

*Questions and Answers*

**UC Modernization—Applications Under “Permanent” Laws**

*CH 1–1. Question.* UIPL No. 14–09 provides that applications for incentive payments should only be made under provisions of State laws that are currently in effect as *permanent law* and not subject to discontinuation. Does this mean that my State may never repeal

any of the provisions that qualified it for a UC Modernization payment?

*Answer:* No. If a State eventually decides to repeal or modify any of these provisions, it may do so, and it will not be required to return any incentive payments. However, in providing the incentive payments, Congress clearly intended to support States that had already adopted certain eligibility provisions and to expand eligibility to additional beneficiaries by encouraging other States to adopt these provisions. By specifying that the provisions must be in effect as permanent law, Congress also made clear its intention that the benefit expansions not be transitory. While States are free to change or repeal the provisions on which modernization payments were based subsequent to receipt of incentive payments, Congress and the Department rely on States' good faith in adopting the eligibility criteria, and the application must attest to this good faith as required by the following Q&A.

*CH 1-2. Question:* Are there any changes to the application procedure?

*Answer:* Yes. Each State's application for incentive payments must contain a certification that the application is submitted in good faith with the intention of providing benefits to unemployed workers who meet the eligibility provisions on which the application is based.

#### UC Modernization—Training Benefits

*CH 1-3. Question:* May my State establish a limitation on when the individual must enroll in training to be eligible for the training benefit?

*Answer:* Yes. As a general matter, individuals who were separated from declining occupations or businesses reducing operations, and who would benefit from job training, should be placed in appropriate training as soon as possible. A State law would qualify for certification if it provided that an individual must be enrolled in training no later than the end of the benefit year established with respect to the separation that makes the individual eligible for the training benefit. (That is, a separation from a declining occupation, or a separation due to a permanent reduction of operations at the individual's place of employment.) A State may provide for a longer period of time, but its application would not be certified if it provided for a period of time ending prior to the end of the individuals' benefit year.

States adopting this limitation must notify individuals of the limitation at the time the State approves their initial claims.

*CH 1-4. Question:* Q&A III-24 in UIPL No. 14-09 provides that eligibility for the training benefit may not be terminated by the expiration of a benefit year. Does this mean that my State may set no outside limits on payment of the training benefit?

*Answer:* No. Q&A III-24 was intended to assure that an individual enrolled and making satisfactory progress in training did not have eligibility for the training benefit terminated because the benefit year ended. A State may, however, terminate an individual's training benefit after the individual has been provided a reasonable period to collect the entire training benefit. A State law would qualify for certification if it provided that no training benefits are payable one year following the end of the benefit year. If a State adopts a shorter termination date, its application must justify why the date is reasonable.

*CH 1-5. Question:* An individual voluntarily quit a job. May my law deny this individual the training benefit?

*Answer:* The answer depends upon the facts. Section 903(f)(3)(C)(ii), SSA, as amended, provides that the training benefit is payable to an individual who was either "separated from a declining occupation, or [was] involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment. \* \* \*" Since these two conditions are in the disjunctive, a State must pay the training benefit if a claimant meets either one. Accordingly, the State must pay the training benefit to an individual who voluntarily quit a job in a "declining occupation," because Federal law does not condition eligibility on the cause of the separation where the separation is from a declining occupation. Further, the State must pay the benefit where the individual was "involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment. \* \* \*" However, the State may deny the benefit where neither condition is met: an individual voluntarily quit a job and the job was not in a declining occupation.

#### Special Administrative Transfers

*CH 1-6. Question:* Section 903(g)(3)(C) of the SSA provides that my State's share of the \$500 million special administrative transfer is available for, among other things, "improvement of unemployment benefit and tax operations, including responding to increased demand for unemployment compensation." Does this mean that my State may use this money to fund the

hiring of additional staff due to increased workload?

*Answer:* Yes. Adding staff to respond to workload is "responding to increased demand for unemployment compensation."

*CH 1-7. Question:* May my State use its share of the \$500 million special administrative transfer to pay costs individuals might otherwise incur in using their UC debit cards?

*Answer:* Yes. Reducing costs to individuals in accessing their UC payments is an "improvement" in UC benefit operations because it facilitates the payment of benefits.

*CH 1-8. Question:* When was the \$500 million special administrative distribution transferred to States?

*Answer:* March 2, 2009.

#### Reporting

*CH 1-9. Question:* Where should transactions involving UC modernization incentive payments and the \$500 million special administrative distribution be reported?

*Answer:* The transfer of any incentive payments and the \$500 million special administrative funds was authorized by Title IX of the SSA, as amended. As such, transactions involving these funds should be reported on the ETA 8403 Summary of Financial Transaction—Title IX Funds as well as on lines 15 and 44 of the ETA 2112, UI Financial Transaction Summary report. (OMB Numbers 1205-0154 and 1205-0154.)

#### Interest on Title XII Advances

*CH 1-10. Question:* How did the amendments made by Section 2004 of Public Law 111-5 affect interest due on Title XII advances?

*Answer:* Section 2004 added new paragraph (10) to Section 1202(b), SSA:

(10)(A) With respect to the period beginning on the date of enactment of this paragraph and ending on December 31, 2010—

(i) any interest payment otherwise due from a State under this subsection during such period shall be deemed to have been made by the State; and

(ii) no interest shall accrue *during such period* on any advance or advances made under section 1201 to a State.

(B) The provisions of subparagraph (A) shall have no effect on the requirement for interest payments under this subsection after the period described in such subparagraph or on the accrual of interest under this subsection after such period. [Emphasis added.]

Under this new paragraph, any interest payment due during the period beginning on the date of enactment (that is, beginning February 17, 2009) and ending on December 31, 2010, shall be "deemed to have been" paid by the

State. This effectively waives all interest due during this period. Further, no interest accrues on any advance or advances during this period.

This Q&A supersedes Q&A V-1 of UIPL 14-09 and corrects the text of the amendment found on page 4 of Attachment VI to UIPL 14-09.

**CH 1-11. Question:** Will interest accrue on advances made prior to the date of enactment during the period February 17, 2009 through December 31, 2010?

**Answer:** No. As discussed in the previous Q&A, no interest will accrue on advances during the period. This Q&A supersedes Q&A V-2 of UIPL No. 14-09.

**CH 1-12. Question:** How is interest after December 31, 2010, determined?

**Answer:** The normal rules for determining the amounts of interest accrued and the dates interest is due will again apply. This response is the same as Q&A V-3 of UIPL No. 14-09.

Dated this 17th day of September, 2009.

**Jane Oates,**

*Assistant Secretary of Labor, Employment and Training Administration.*

[FR Doc. E9-22917 Filed 9-22-09; 8:45 am]

**BILLING CODE 4510-FW-P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (09-080)]

### Notice of Intent To Grant Exclusive License

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of Intent to grant exclusive license.

**SUMMARY:** This notice is issued in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant an exclusive license worldwide to practice the invention described and claimed in U.S. patent 5,393,634, entitled "Continuous Phase and Amplitude Holographic Elements" to Snapshot Spectra, having its principal place of business in Pasadena, California. The patent rights in this invention have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective exclusive license will comply with the terms and conditions of 35 U.S.C 209 and 37 CFR 404.7.

**DATES:** The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives

written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license. Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

**ADDRESSES:** Objections relating to the prospective exclusive license may be submitted to Patent Counsel, NASA Management Office, Jet Propulsion Laboratory, Mail Code 180-200, 4800 Oak Grove Drive, Pasadena, CA 91109; or via facsimile at (818) 393-3160.

**FOR FURTHER INFORMATION CONTACT:** Mark Homer, Patent Counsel, NASA Management Office, Jet Propulsion Laboratory, Mail Code 180-200, 4800 Oak Grove Drive, Pasadena, CA 91109; (818) 354-7770; (818) 393-3160 [facsimile]. Information about other NASA inventions available for licensing can be found online at <http://technology.nasa.gov/>.

Dated: September 15, 2009.

**Richard W. Sherman,**

*Deputy General Counsel.*

[FR Doc. E9-22847 Filed 9-22-09; 8:45 am]

**BILLING CODE 7510-13-P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (09-081)]

### Privacy Act of 1974; Privacy Act System of Records

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of the retirement of one Privacy Act system of records notice.

**SUMMARY:** In accordance with the Privacy Act of 1974, NASA is giving notice that it proposes to retire the following Privacy Act system of records notice, Kennedy Space Center Shuttle Training Certification System (YC-04)/KSC 76STCS (October 1, 2007, 72 FR 55832) from its inventory of record systems and rely upon the Government-wide system of records notice issued by the Office of Personnel Management, OPM/Govt-1 General Personnel Records (June 19, 2006, 71 FR 35342), which is written to cover all Federal government training and certification records.

**DATES:** These changes will take effect 30 calendar days from the date of this publication.

**FOR FURTHER INFORMATION CONTACT:** Patti F. Stockman, Privacy Act Officer, Office of the Chief Information Officer, National Aeronautics and Space Administration Headquarters, Washington, DC 20546-0001, (202) 358-4787, [NASA-PAOfficer@nasa.gov](mailto:NASA-PAOfficer@nasa.gov).

### SUPPLEMENTARY INFORMATION:

Pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, and as part of ongoing integration and management efforts, NASA is retiring the system of records notice, Kennedy Space Center Shuttle Training Certification System (YC-04)/KSC 76STCS (October 1, 2007, 72 FR 55832).

NASA will continue to collect and maintain records regarding individuals who are trained and certified to safely perform hazardous work and will rely upon the existing Federal Government-wide system of records notice titled OPM/GOVT-1 General Personnel Records (June 19, 2006, 71 FR 35342), which is written to cover all Federal training and certification record systems. Eliminating this notice will have no adverse impacts on individuals, but will promote the overall streamlining and management of NASA Privacy Act record systems.

**Bobby L. German,**

*Acting NASA Chief Information Officer.*

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**BILLING CODE 7510-03-P**

## NUCLEAR REGULATORY COMMISSION

### Sunshine Federal Register Notice

**AGENCY HOLDING THE MEETINGS:** Nuclear Regulatory Commission.

**DATES:** Weeks of September 21, 28, October 5, 12, 19, 26, 2009.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

### Week of September 21, 2009

*Tuesday, September 22, 2009*

9:25 a.m.

Affirmation Session (Public Meeting) (Tentative).

a. Final Rule Establishing Criminal Penalties for the Unauthorized Introduction of Weapons into Facilities Designated by the Nuclear Regulatory Commission. (Tentative).

b. Final Rule Related to Alternate