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## UCFE INSTRUCTIONS FOR STATE AGENCIES

### APPENDIX A - TITLE 5 - SECTIONS 8501-8509, U.S. Code, AS AMENDED, UNEMPLOYMENT COMPENSATION FOR FEDERAL EMPLOYEES.

#### Section 8501. Definitions

For the purpose of this subchapter --

(1) "Federal service" means service performed after 1952 in the employ of the United States or an instrumentality of the United States which is wholly or partially owned by the United States, but does not include service (except service to which subchapter II of the chapter applies) performed --

(A) by an elective official in the executive or legislative branch;

(B) as a member of the armed forces or the Commissioned Corps of the National Oceanic and Atmospheric Administration;

(C) by members of the Foreign Service for whom payments are provided under Section 609(b)(1) of the Foreign Service Act of 1980;

(D) outside the United States, the Commonwealth of Puerto Rico, and the Virgin Islands by an individual who is not a citizen of the United States;

(E) by an individual excluded by regulations of the Office of Personnel Management from the operation of subchapter III of chapter 83 of this title because he is paid on a contract or fee basis;

(F) by an individual receiving nominal pay and allowances of \$12 or less a year;

(G) in a hospital, home, or other institution of the United States by a patient or inmate thereof;

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(H) by a student-employee as defined by section 5351 1/ of this title;

(I) by an individual serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency;

(J) by an individual employed under a Federal relief program to relieve him from unemployment;

(K) as a member of a State, county, or community committee under the Agricultural Stabilization and Conservation Service or of any other board, council, committee, or other similar body, unless the board, council, committee, or other body is composed exclusively of individuals otherwise in the full-time employ of the United States; or

(L) by an officer or a member of the crew on or in connection with an American vessel --

(i) owned by or bareboat chartered to the United States; and

(ii) whose business is conducted by a general agent of the Secretary of Commerce;

if contributions on account of the service are required to be made to an unemployment fund under a State unemployment compensation law under section 3305(g) of title 26;

(2) "Federal wages" means all pay and allowances, in cash and in kind, for Federal service;

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1/ reprinted from section 5351: "student-employee" means --

(a) a student nurse, medical or dental intern, resident-in-training, student dietitian, student physical therapist, and student occupational therapist, assigned or attached to a hospital, clinic, or medical or dental laboratory operated by an agency; and

(b) any other student-employee, assigned or attached primarily for training purposes to a hospital, clinic, or medical or dental laboratory operated by an agency, who is designated by the head of the agency with the approval of the Office of Personnel Management.

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- (3) "Federal employee" means an individual who has performed Federal service;
- (4) "compensation" means cash benefits payable to an individual with respect to his unemployment including any portion thereof payable with respect to dependents;
- (5) "benefit year" means the benefit year as defined by the applicable State unemployment compensation law, and if not so defined the term means the period prescribed in the agreement under this subchapter with a State or, in the absence of such an agreement, the period prescribed by the Secretary of Labor;
- (6) "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands;
- (7) "United States", when used in a geographical sense, means the States; and
- (8) "base period" means the base period as defined by the applicable State unemployment compensation law for the benefit year.

**Section 8502. Compensation under State agreement**

(a) The Secretary of Labor, on behalf of the United States, may enter into an agreement with a State, or with an agency administering the unemployment compensation law of a State, under which the State agency shall--

(1) pay, as agent of the United States, compensation under this subchapter to Federal employees; and

(2) otherwise cooperate with the Secretary and with other State agencies in paying compensation under this subchapter.

(b) The agreement shall provide that compensation will be paid by the State to a Federal employee in the same amount, on the same terms, and subject to the same conditions as the compensation which would be payable to him under the unemployment compensation law of the State if his Federal service and Federal wages assigned under section 8504 of this title to the State had been included as employment and wages under that State law.

[(c) Repealed.]

(d) A determination by a State agency with respect to entitlement to compensation under an agreement is subject to review in

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the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

(e) Each agreement shall provide the terms and conditions on which it may be amended or terminated.

### Section 8503. Compensation absent State agreement

(a) In the case of a Federal employee whose Federal service and Federal wages are assigned under section 8504 of this title to a State which does not have an agreement with the Secretary of Labor, the Secretary, under regulations prescribed by him, shall, on the filing by the Federal employee of a claim for compensation under this subsection, pay compensation to him in the same amount, on the same terms, and subject to the same conditions as would be paid to him under the unemployment compensation law of the State if his Federal service and Federal wages had been included as employment and wages under that State law. However, if the Federal employee without regard to his Federal service and Federal wages, has employment or wages sufficient to qualify for compensation during the benefit year under that State law, then payments of compensation under this subsection may be made only on the basis of his Federal service and Federal wages.

(b) A Federal employee whose claim for compensation under subsection (a) of this section is denied is entitled to a fair hearing under regulations prescribed by the Secretary with respect to entitlement to compensation under this section is subject to review by the courts in the same manner and to the same extent as is provided by section 405(g) of title 42.

### Section 8504. Assignment of Federal service and wages

Under regulations prescribed by the Secretary of Labor, the Federal service and Federal wages of a Federal employee shall be assigned to the State in which he had his last official station in Federal service before the filing of his first claim for compensation for the benefit year. However --

(1) if, at the time of filing his first claim, he resides in another State in which he performed, after the termination of his Federal service, service covered under the unemployment compensation law of the other State, his Federal service and Federal wages shall be assigned to the other State, and

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(2) if his last official station in Federal service, before filing his first claim, was outside the United States, his Federal service and Federal wages shall be assigned to the State where he resides at the time he files his first claim.

### Section 8505. Payments to States.

(a) Each State is entitled to be paid by the United States with respect to each individual whose base period wages included Federal wages an amount which shall bear the same ratio to the total amount of compensation paid to such individual as the amount of his Federal wages in his base period bears to the total amount of his base period wages.

(b) Each State shall be paid, either in advance or by way of reimbursement, as may be determined by the Secretary of Labor, the sum that the Secretary estimates the State is entitled to receive under this chapter for each calendar month. The sum shall be reduced or increased by the amount which the Secretary finds that his/her estimate for an earlier calendar month was greater or less than the sum which should have been paid to the State. An estimate may be made on the basis of a statistical sampling, or other method agreed on by the Secretary and the State agency.

(c) The Secretary, from time to time, shall certify to the Secretary of the Treasury the sum payable to each State under this section. The Secretary of the Treasury, before audit or settlement by the General Accounting Office, shall pay the State in accordance with the certification from the funds for carrying out the purposes of this subchapter.

(d) Money paid a State under this subchapter may be used solely for the purposes for which it is paid. Money so paid which is not used for these purposes shall be returned, at the time specified by the agreement, to the Treasury of the United States and credited to current applicable appropriations, funds, or accounts from which payments to States under this subchapter may be made.

(e) An agreement may --

(1) require each State officer or employee who certifies payments or disburses funds under the agreement or who otherwise participates in its performance, to give a surety bond to the United States in the amount the Secretary considers necessary; and

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(2) provide for payment of the cost of the bond from funds for carrying out the purposes of this subchapter.

(f) In the absence of gross negligence or intent to defraud the United States, an individual designated by the Secretary, or designated under an agreement, as a certifying official is not liable for the payment of compensation certified by him under this subchapter.

(g) In the absence of gross negligence or intent to defraud the United States, a disbursing official is not liable for a payment by him under this subchapter if it was based on a voucher signed by a certifying official designated as provided by subsection (f) of this section.

(h) For the purpose of payments made to a State under subchapter III of chapter 7 of title 42, administration by a State agency under an agreement is deemed a part of the administration of the State unemployment compensation law.

### Section 8506. Dissemination of Information.

(a) Each agency of the United States and each wholly or partially owned instrumentality of the United States shall make available to State agencies which have agreements under this subchapter, or to the Secretary of Labor, as the case may be, such information concerning the Federal service and Federal wages of a Federal employee as the Secretary considers practicable and necessary for the determination of the entitlement of the Federal employee to compensation under this subchapter. The information shall include the findings of the employing agency concerning --

- (1) whether or not the Federal employee has performed Federal service;
- (2) the periods of Federal service;
- (3) the amount of Federal wages; and
- (4) the reasons for termination of Federal service.

The employing agency shall make the findings in the form and manner prescribed by regulations of the Secretary. The regulations shall include provision for correction by the employing agency of errors and omissions. This subsection does not apply with respect to Federal service and Federal wages covered by subchapter II of this chapter.

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(b) The agency administering the unemployment compensation law of a State shall furnish the Secretary such information as he considers necessary or appropriate in carrying out this subchapter. The information is deemed the report required by the Secretary for the purpose of section 503(a)(6) of title 42.

**Section 8507. False Statements and Misrepresentations.**

(a) If a State agency, the Secretary of Labor, or a court of competent jurisdiction finds that an individual--

(1) knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact; and

(2) as a result of that action has received an amount as compensation under this subchapter to which he was not entitled; the individual shall repay the amount to the State agency or the Secretary. Instead of requiring repayment under this subsection, the State agency or the Secretary may recover the amount by deductions from compensation payable to the individual under this subchapter during the 2-year period after the date of the finding. A finding by a State agency or the Secretary may be made only after an opportunity for a fair hearing, subject to such further review as may be appropriate under sections 8502(d) and 8503(b) of this title.

(b) An amount repaid under subsection (a) of this section shall be --

(1) deposited in the fund from which payment was made if the repayment was to a State agency; or

(2) returned to the Treasury of the United States and credited to the current applicable appropriation, fund, or account from which payment was made, if the repayment was to the Secretary.

**Section 8508. Regulations.**

The Secretary of Labor may prescribe rules and regulations necessary to carry out this subchapter and subchapter II of this Chapter. The Secretary, insofar as practicable, shall consult with representatives of the State unemployment compensation agencies before prescribing rules or regulations which may affect

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the performance by the State agencies of functions under agreements under this subchapter.

### Section 8509. Federal Employees Compensation Account.

(a) The Federal Employees Compensation Account (as established by section 909 of the Social Security Act, and hereafter in this section referred to as the "Account") in the Unemployment Trust Fund (as established by section 904 of such Act) shall consist of-

- (1) funds appropriated to or transferred thereto, and
- (2) amounts deposited therein pursuant to subsection (c).

(b) Moneys in the Account shall be available only for the purpose of making payments to States pursuant to agreements entered into under this chapter and making payments of compensation under this chapter in States which do not have in effect such an agreement.

(c)(1) Each employing agency shall deposit into the Account amounts equal to the expenditures incurred under this subchapter on account of Federal service performed by employees and former employees of that agency.

(2) Deposits required by paragraph (1) shall be made during each calendar quarter and the amount of the deposit to be made by any employing agency during any quarter shall be based on a determination by the Secretary of Labor as to the amounts of payments, made prior to such quarter from the Account based on Federal service performed by employees of such agency after December 31, 1980, with respect to which deposit has not previously been made. The amount to be deposited by any employing agency during any calendar quarter shall be adjusted to take account of any overpayment or underpayment of deposit during any previous quarter for which adjustment has not already been made.

(d) The Secretary of Labor shall certify to the Secretary of the Treasury the amount of the deposit which each employing agency is required to make to the Account during any calendar quarter, and the Secretary of the Treasury shall notify the Secretary of Labor as to the date and amount of any deposit made to such Account by any such agency.

(e) Prior to the beginning of each fiscal year (commencing with the fiscal year which begins October 1, 1981) the Secretary of Labor shall estimate -

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(1) the amount of expenditures which will be made from the Account during such year, and

(2) the amount of funds which will be available during such year for the making of such expenditures, and if, on the basis of such estimate, he determines that the account described in paragraph (2) is in excess of the amount necessary

(3) to meet the expenditures described in paragraph (1), and

(4) to provide a reasonable contingency fund so as to assure that there will, during all times in such year, be sufficient sums available in the Account to meet the expenditures described in paragraph (1), he shall certify the amount of such excess to the Secretary of the Treasury and the Secretary of the Treasury shall transfer, from the Account to the general fund of the Treasury, an amount equal to such excess.

(f) The Secretary of Labor is authorized to establish such rules and regulations as may be necessary or appropriate to carry out the provisions of this section.

(g) Any funds appropriated after the establishment of the Account, for the making of payments for which expenditures are authorized to be made from moneys in the Account, shall be made to the Account; and there are hereby authorized to be appropriated to the Account, from time to time, such sums as may be necessary to assure that there will, at all times, be sufficient sums available in the Account to meet the expenditures authorized to be made from moneys therein.

(h) For purposes of this section, the term "Federal service" includes Federal service as defined in section 8521(a).

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### APPENDIX B - PART 609 - UNEMPLOYMENT COMPENSATION FOR FEDERAL CIVILIAN EMPLOYEES

#### Subpart A--General Provision

##### § 609.1 Purpose and application.

(a) Purpose. Subchapter I of chapter 85, title 5 of the United States Code, as amended by Pub. L. 94-566, 90 Stat. 2667, 5 U.S.C. 8501-8508, provides for a permanent program of unemployment compensation for unemployed Federal civilian employees. The unemployment compensation provided for in Subchapter I is hereinafter referred to as unemployment compensation for Federal employees, or UCFE. The regulations in this part are issued to implement the UCFE Program.

(b) First rule of construction. 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. 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 (hereafter Department), not later than 10 days after issuance, a copy of each judicial or administrative decision ruling on an individual's entitlement to payment of UCFE or to credit for a waiting period. On request of the Department, a State agency shall forward to the Department a copy of any determination or redetermination ruling on an individual's entitlement to UCFE or waiting period credit.

(2) If the Department believes that a determination, redetermination, or decision is inconsistent with the Department's interpretation of the Act or this part, the Department may at any time notify the State agency of the Department's view. Thereafter the State agency shall issue a redetermination or appeal if possible, and shall not follow such determination, redetermination, or decision as a precedent; and, in any subsequent proceedings which involve such determination, redetermination, or decision, or wherein such determination, redetermination, or decision is cited as precedent or otherwise relied upon, the State agency shall inform the claims deputy or hearing officer or court of the Department's view and shall make all

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reasonable efforts, including appeal or other proceedings in an appropriate forum, to obtain modification, limitation, or overruling of the determination, redetermination, or decision.

(3) If the Department believes that a determination, redetermination, or decision is patently and flagrantly violative of the Act or this part, the Department may at any time notify the State agency of the Department's view. If the determination, redetermination, or decision in question denies UCFE to a claimant, the steps outlined in paragraph (d)(2) of this section shall be followed by the State agency. If the determination, redetermination, or decision in question awards UCFE to a claimant, the benefits are "due" within the meaning of section 303(a)(1) of the Social Security Act, 42 U.S.C. 503(a)(1), and therefore must be paid promptly to the claimant. However, the State agency shall take the steps outlined in paragraph (d)(2) of this section, and payments to the claimant may be temporarily delayed if redetermination or appeal action is taken not more than one business day following the day on which the first payment otherwise would be issued to the claimant; and the redetermination action is taken or appeal is filed to obtain a reversal of the award of UCFE and a ruling consistent with the Department's view; and the redetermination action or appeal seeks an expedited redetermination or appeal within not more than two weeks after the redetermination action is taken or the appeal is filed. If redetermination action is not taken or appeal is not filed within the above time limit, or a redetermination or decision is not obtained within the two-week limit, or any redetermination or decision or order is issued which affirms the determination, redetermination, or decision awarding UCFE or allows it to stand in whole or in part, the benefits awarded must be paid promptly to the claimant.

(4)(i) If any determination, redetermination, or decision, referred to in paragraph (d)(2) or paragraph (d)(3) of this section, is treated as a precedent for any future UCFE claim or claim under the UCX Program (Part 614 of this chapter), the Secretary will decide whether the Agreement with the State entered into under the Act shall be terminated.

(ii) In the case of any determination, redetermination, or decision that is not legally warranted under the Act or this Part, including any determination, redetermination, or decision referred to in paragraph (d)(3) of this section, the Secretary will decide whether the State shall be required to restore the funds of the United States for any sums paid under such a determination, redetermination, or decision, and whether, in the absence of such restoration, the Agreement with the State shall be terminated and whether other action shall be taken to recover such sums for the United States.

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(5) A State agency may request reconsideration of a notice issued pursuant to paragraph (d)(2) of paragraph (d)(3) of this section, and shall be given an opportunity to present views and arguments if desired.

(6) Concurrence of the Department in a determination, redetermination, or decision shall not be presumed from the absence of a notice issued pursuant to this section.

**§ 609.2 Definitions of term.**

For the purposes of the Act and this part:

(a) Act means subchapter I of chapter 85, title 5, United States Code, 5 U.S.C. 8501-8508.

(b) Agreement means the agreement entered into pursuant to the Act between a State and the Secretary under which the State agency of the State agrees to make payments of unemployment compensation in accordance with the Act and the regulations and procedures thereunder prescribed by the Department.

(c) Based period means the base period as defined by the applicable State law for the benefit year.

(d) Benefit year means the benefit year as defined by the applicable State law, and if not so defined the term means the period prescribed in the agreement with the State or, in the absence of an Agreement, the period described by the Department.

(e) Federal agency means any department, agency, or governmental body of the United States, including any instrumentality wholly or partially owned by the United States, in any branch of the Government of the United States, which employs any individual in Federal civilian service.

(f) Federal civilian service means service performed in the employ of any Federal agency, except service performed-

(1) By an elective official in the executive or legislative branches of the Government of the United States;

(2) As a member of the Armed Forces or the Commissioned Corps of the National Oceanic and Atmospheric Administration;

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(3) By Foreign Service personnel for whom special separation allowances are provided under chapter 14 of title 22 of the United States Code;

(4) Outside the 50 States, the Commonwealth of Puerto Rico, the Virgin Islands, and the District of Columbia by an individual who is not a citizen of the United States;

(5) By an individual excluded by regulations of the Office of Personnel Management from civil service retirement coverage provided by Subchapter III of chapter 83 of title 5 of the United States Code because the individual is paid on a contract or fee basis;

(6) By an individual receiving nominal pay and allowances of \$12 or less a year;

(7) In a hospital, home, or other institution of the United States by a patient or inmate thereof;

(8) By a student-employee as defined by 5 U.S.C. 5351; that is: (i) A student nurse, medical or dental intern, resident-in-training, student dietitian, student physical therapist, or student occupational therapist, assigned or attached to a hospital, clinic, or medical or dental laboratory operated by an agency as defined in section 5351; or (ii) Any other student-employee, assigned or attached primarily for training purposes to such a hospital, clinic, or medical or dental laboratory operated by such an agency, who is designated by the head of the agency with the approval of the Office of Personnel Management;

(9) By an individual serving on a temporary basis in case of fire, storm earthquake, flood, or other similar emergency;

(10) By an individual employed under a Federal relief program to relieve the individual from unemployment;

(11) As a member of a State, county, or community committee under the Agricultural Stabilization and Conservation Service or of any other board, council, committee, or other similar body, unless such body is composed exclusively of individuals otherwise in the full-time employ of the United States;

(12) By an officer or member of the crew on or in connection with an American vessel which is:

(i) Owned by or bareboat chartered to the United States, and

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(ii) The business of which is conducted by a general agent of the Secretary of Commerce; and

(iii) If contributions on account of such service are required under section 3305(g) of the Internal Revenue Code of 1954 (26 U.S.C. 3305(g)) to be made to an unemployment fund under a State law;

(13) By an individual excluded by any other Federal law from coverage under the UCFE Program; or

(14) By an individual whose service is covered by the UCX Program to which Part 614 of this chapter applies.

(g) Federal employee means an individual who has performed Federal civilian service.

(h) Federal findings means the facts reported by a Federal agency pertaining to an individual as to:

(1) Whether or not the individual has performed Federal civilian service for such an agency;

(2) The period or periods of such Federal civilian service;

(3) The individual's Federal wages; and

(4) The reasons for termination of the individual's Federal civilian service.

(i) Federal wages means all pay and allowances, in cash and in kind, for Federal civilian service.

(j) First claim means an initial claim for unemployment compensation under the UCFE Program, the UCX Program (Part 614 of this chapter), a State law, or some combination thereof, whereby a benefit year is established under an applicable State law.

(k) Official station means the State (or country, if outside the United States) designated on a Federal employee's notification of personnel action terminating the individual's Federal civilian service (Standard Form 50 or its equivalent) as the individual's "duty station." If the form of notification does not specify the Federal employee's "duty station", the individual's official station shall be the State or country designated under "name and location of employing office" on such form or designated as the individual's place of employment on an equivalent form.

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(l) Secretary means the Secretary of Labor of the United States.

(m) State means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(n) State agency means the agency of the State which administers the applicable State law and is administering the UCFE Program in the State pursuant to an Agreement with the Secretary.

(o) (1) State Law means the unemployment compensation law of a State approved by the Secretary under section 3304 of the Internal Revenue Code of 1954, 26 U.S.C. 3304 if the State is certified under section 3304(c) of the Internal Revenue Code of 1954, 26 U.S.C. 3304(c).

(2) Applicable State law means the State law made applicable to a UCFE claimant by § 609.8.

(p) (1) Unemployment compensation means cash benefits (including dependents' allowances) payable to individuals with respect to their unemployment, and includes regular, additional, emergency, and extended compensation.

(2) Regular compensation means unemployment compensation payable to an individual under any State law, but not including additional compensation or extended compensation.

(3) Additional compensation means unemployment 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.

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

(5) Extended compensate means unemployment 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, as amended, 26 U.S.C. 3304 note, and Part 615 of this chapter, with respect to the payment of extended compensation.

(q) Week means, for purposes of eligibility for and payment of UCFE, a week as defined in the applicable State law.

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(r) Week of unemployment means a week of total, part-total, or partial unemployment as defined in the applicable State law, which shall be applied in the same manner and to the same extent to all employment and earnings, and in the same manner and to the same extent for the purposes of the UCFE Program, as if the individual filing for UCFE were filing a claim for State unemployment compensation.

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### Subpart B--Administration of UCFE Program

#### § 609.3 Eligibility requirements for UCFE.

An individual shall be eligible to receive a payment of UCFE or to waiting period credit with respect to a week of unemployment if:

(a) The individual has Federal civilian service and Federal wages in the base period under the applicable State law;

(b) The individual meets the qualifying employment and wage requirements of the applicable State law, either on the basis of Federal civilian service and Federal wages alone or in combination with service and wages covered under a State law or under the UCX Program (Part 614 of this chapter);

(c) The individual has filed an initial claim for UCFE and, as appropriate, has filed a timely claim for waiting period credit or a payment of UCFE with respect to that week of unemployment; and

(d) The individual is totally, part-totally, or partially unemployed, and is able to work, available for work, and seeking work within the meaning of or as required by the applicable State law, and is not subject to disqualification under this Part or the applicable State law, with respect to that week of unemployment.

#### 609.4 Weekly and maximum benefit amounts.

(a) Total unemployment. The weekly amount of UCFE payable to an eligible individual for a week of total unemployment shall be the amount that would be payable to the individual as unemployment compensation for a week of total unemployment as determined under the applicable State law.

(b) Partial and part-total unemployment. The weekly amount of UCFE payable for a week of partial or part-total unemployment shall be the amount that would be payable to the individual as unemployment compensation for a week of partial or part-total unemployment as determined under the applicable State law.

(c) Maximum amount. The maximum amount of UCFE which shall be payable to an eligible individual during and subsequent to the individual's benefit year shall be the maximum amount of all unemployment compensation that would be payable to the individual as determined under the applicable State law.

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(d) Computation rules. (1) The weekly and maximum amounts of UCFE payable to an individual under the UCFE Program shall be determined under the applicable State law to be in the same amount, on the same terms, and subject to the same conditions as the State unemployment compensation which would be payable to the individual under the applicable State law if the individual's Federal civilian service and Federal wages assigned or transferred under this Part to the State had been included as employment and wages covered by that State law.

(2) All Federal civilian service and Federal wages for all Federal agencies shall be considered employment with a single employer for purposes of the UCFE Program.

**§ 609.5 Claims for UCFE.**

(a) First claim. A first claim for UCFE shall be filed by an individual in any State agency of any State (or Canada) according to the applicable State law, and on a form prescribed by the Department which shall be furnished to the individual by the State agency where the claim is filed.

(b) Weekly claims. Claims for waiting week credit and payments of UCFE for weeks of unemployment shall be filed in any State agency (or Canada) at the times and in the manner as claims for State unemployment compensation are filed under the applicable State law, and on forms prescribed by the Department which shall be furnished to the individual by the State agency where the claim is filed.

(c) Secretary's standard. The procedure for reporting and filing claims for UCFE and waiting period credit shall be consistent with this Part 609 and the Secretary's "Standard for Claim Filing, Claimant Reporting, Job Finding and Employment Services" ("Employment Security Manual, Part V, sections 5000 et seq.).

**§ 609.6 Determination of entitlement; notices to individual.**

(a) Determination of first claim. The State agency whose State law applies to an individual under § 609.8 shall, promptly upon the filing of a first claim for UCFE, determine whether the individual is eligible and whether a disqualification applies, and, if the individual is found to be eligible, the individual's benefit year and the weekly and maximum amounts of UCFE payable to the individual.

(b) Determinations of weekly claims. The State agency promptly shall, upon the filing of a claim for payment of UCFE or

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waiting period credit with respect to a week, determine whether the individual is entitled to a payment of UCFE or waiting period credit with respect to such week, and, if entitled, the amount of UCFE or waiting period credit 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 State unemployment compensation under the applicable State law shall apply to determinations pertaining to UCFE.

(d) Notices to individual. The State agency promptly shall give notice in writing to the individual of any determination or redetermination of a first claim, and, except as may be authorized under paragraph (g) of this section, of any determination or redetermination of any weekly claim which denies UCFE or waiting period credit or reduces the weekly amount or maximum amount initially determined to be payable. 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 determinations and redetermination with respect to claims for State unemployment compensation; and where information furnished by a Federal agency was considered in making the determination, or redetermination, the notice thereof shall include an explanation of the right of the individual to seek additional information pursuant to § 609.23 and/or a reconsideration of Federal findings pursuant to § 609.24.

(e) Obtaining information for claim determinations.

(1) Information required for the determination of claims for UCFE shall be obtained by the State agency from claimants, employers, and others, in the same manner as information is obtained for claim purposes under the applicable State law, but information (including additional and reconsidered Federal findings) shall be obtained from the Federal agency that employed the UCFE claimant as prescribed in §§ 609.21 through 609.25. On request by a UCFE claimant, the State agency shall seek additional information pursuant to § 609.23 and reconsideration of Federal findings pursuant to § 609.24.

(2) If Federal findings have not been received from a Federal agency within 12 days after the request for information was submitted to the Federal agency, the State agency shall determine the individual's entitlement to UCFE on the basis of an affidavit completed by the individual on a form prescribed by the Department. In addition, the individual shall submit for

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## UCFE INSTRUCTIONS FOR STATE AGENCIES

examination by the State agency any documents issued by the Federal agency (for example, Standard Form 50 or W-2) verifying that the individual performed services for and received wages from such Federal agency.

(3) If Federal findings received by a State agency after a determination has been made under this section contain information which would result in a change in the individual's eligibility for or entitlement to UCFE, the State agency promptly shall make a redetermination and notify the individual, as provided in this section. All payments of UCFE made prior to or after such redetermination shall be adjusted in accordance therewith.

(f) Promptness. Full payment of UCFE when due shall be consistent with this Part 609 and shall be made with the greatest promptness that is administratively feasible, but the provisions of Part 640 of this chapter (relating to promptness of benefit payments) shall not be applicable to the UCFE Program.

(g) Secretary's standard. The procedures for making determinations and redetermination, and furnishing written notices of determinations, redetermination, and rights of appeal to individuals applying for UCFE, shall be consistent with this Part 609 and with the Secretary's "Standard for Claim Determinations-Separation Information" (Employment Security Manual, Part V, sections 6010 et seq. ).

### 609.7 Appeal and review.

(a) Applicable State Law. The provisions of the applicable State law concerning the right of appeal and fair hearing from a determination or redetermination of entitlement to State unemployment compensation shall apply to determinations and redetermination of eligibility for or entitlement to UCFE and waiting period credit. Any such determination or redetermination shall be subject to appeal and review only in the manner and to the extent provided in the applicable State law with respect to determinations and redeterminations of entitlement to State unemployment compensation.

(b) Rights of appeal and fair hearing. The provisions on right to appeal and opportunity for a fair hearing with respect to claims for UCFE 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).

(c) Promptness on appeals.

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(1) Decisions on appeals under the UCFE Program shall accord with the Secretary's "Standard for Appeals Promptness-Unemployment Compensation" in Part 650 of this chapter, and with §609.1(d).

(2) Any provision of an applicable State law for advancement or priority of unemployment compensation cases on judicial calendars, or otherwise intended to provide for the prompt payment of unemployment compensation when due, shall apply to proceedings involving claims for UCFE.

(d) Appeal and review by Federal agency. If a Federal agency believes that a State agency's determination or redetermination of an individual's eligibility for or entitlement to UCFE is incorrect, the Federal agency may seek appeal and review of such determination or redetermination in the same manner as an interested employer may seek appeal and review under the applicable State law.

§609.8 The applicable State for an individual.

(a) The applicable State. The applicable State for an individual shall be the State to which the individual's Federal civilian service and Federal wages are assigned or transferred under this section. The applicable State law for the individual shall be the State law of such State.

(b) Assignment of service and wages.

(1) An individual's Federal civilian service and Federal wages shall be assigned to the State in which the individual had his or her last official station prior to filing a first claim unless:

(i) At the time a first claim is filed the individual resides in another State in which, after separation from Federal civilian service, the individual performed service covered under the State law, in which case all of the individual's Federal civilian service and wages shall be assigned to the latter State; or

(ii) Prior to filing a first claim an individual's last official station was outside the States, in which case all of the individual's Federal civilian service and Federal wages shall be assigned to the State in which the individual resides at the time the individual files a first claim, provided the individual is personally present in a State when the individual files the first claim.

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(2) Federal civilian service and wages assigned to a State in error shall be reassigned for use by the proper State agency. An appropriate record of a reassignment shall be made by the State agency which makes the reassignment.

(3) Federal civilian service and Federal wages assigned to a State shall be transferred to another State where such transfer is necessary for the purposes of a combined-wage claim filed by an individual.

(c) Assignment deemed complete. All of an individual's Federal civilian service and Federal wages shall be deemed to have been assigned to a State upon the filing of a first claim. Federal civilian service and Federal wages shall be assigned to a State only in accordance with paragraph (b) of this section.

(d) Use of assigned service and wages. All assigned Federal civilian service and Federal wages shall be used only by the State to which assigned or transferred in accordance with paragraph (b) of this section.

### § 609.9 Provisions of State law applicable to UCFE claims.

(a) Particular provisions applicable. Except where the result would be inconsistent with the provisions of the Act or this Part or the procedures thereunder prescribed by the Department, the terms and conditions of the applicable State law which apply to claims for, and the payment of, State unemployment compensation shall apply to claims for, and the payment of, UCFE and claims for waiting period credit. The provisions of the applicable State law which shall apply include, but are not limited to:

- (1) Claim filing and reporting;
- (2) Information to individuals, as appropriate;
- (3) Notices to individuals and Federal agencies, as appropriate, including notice to each individual of each determination and redetermination of eligibility for or entitlement to UCFE;
- (4) Determinations and redeterminations;
- (5) Ability to work, availability for work, and search for work; and
- (6) Disqualifications.

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(b) IBPP. The Interstate Benefit Payment Plan shall apply, where appropriate, to individuals filing claims for UCFE.

(c) Wage combining. The State's provisions complying with the Interstate Arrangement for Combining Employment and Wages (Part 616 of this chapter) shall apply, where appropriate, to individuals filing claims for UCFE.

(d) Procedural requirements. The provisions of the applicable State law which apply hereunder to claims for and the payment of UCFE shall be applied consistently with the requirements of Title III of the Social Security Act and the Federal Unemployment Tax Act which are pertinent in the case of State unemployment compensation, including but not limited to those standards and requirements specifically referred to in the provisions of this part, except as provided in paragraph (f) of § 609.6.

### §609.10 Restrictions on Entitlement.

(a) Disqualification. If the week of unemployment for which an individual claims UCFE is a week to which a disqualification for State unemployment compensation applies under the applicable State law, or would apply but for the fact that the individual has no right to such compensation, the individual shall not be entitled to a payment of UCFE for that week.

(b) Allocation of terminal annual leave payments. Lump-sum terminal annual leave payments shall not be allocated by a Federal agency and shall be allocated by a State agency in the same manner as similar payments to individuals employed by private employers are allocated under the applicable State law. In a State in which a private employer has an option as to the period to which such payments shall be allocated, such payments shall be allocated to the date of separation from employment.

### § 609.11 Overpayments; penalties for fraud.

(a) False statements and representations. Section 8507(a) of the Act provides that if a State agency, the Department, or a court of competent jurisdiction finds that an individual--

(1) Knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact; and

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(2) As a result of that action has received an amount as UCFE to which the individual was not entitled; the individual shall repay the amount to the State agency or the Department. Instead of requiring repayments, the State agency or the Department may recover the amount by deductions from UCFE payable to the individual during the 2-year period after the date of the finding. A finding by a State agency or the Department may be made only after an opportunity for a fair hearing, subject to such further review as may be appropriate under § 609.7.

(b) Prosecution for fraud. Section 1919 of title 18, United States Code, provides that whoever makes a false statement or representation of a material fact knowing it to be false, or knowingly fails to disclose a material fact, to obtain or increase for himself or for any other individual any payment authorized to be paid under chapter 85 of title 5, United States Code, or under an agreement thereunder, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(c) Absence of fraud. If a State agency or court of competent jurisdiction finds that an individual has received a payment of UCFE to which the individual was not entitled under the Act and this part, which was not due to a false statement or representation as provided in paragraph (a) or (b) of this section, 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.

(d) Recovery by offset.

(1) The State agency shall recover, insofar as is possible, the amount of any overpayment which is not repaid by the individual, by deductions from any UCFE payable to the individual under the Act and this Part, or from any unemployment 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 with respect to unemployment under any other Federal law administered by the State agency.

(2) A State agency shall also recover, insofar as is possible, the amount of any overpayment of UCFE made to the individual by another State, by deductions from any UCFE payable by the State agency to the individual under the Act and this Part, or from any unemployment compensation payable to the individual under any Federal unemployment compensation law

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**UCFE INSTRUCTIONS FOR STATE AGENCIES**

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.

(3) Recoupment of fraudulent overpayment referred to in paragraph (a) of this section shall be limited to the 2-year period stated in that paragraph. Recoupment of fraudulent overpayment referred to in paragraph (b) of this section, and nonfraudulent overpayment referred to in paragraph (c) of this section shall be subject to any time limitation on recoupment provided for in the State law that applies to the case.

(e) Debts due the United States. UCFE 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 except pursuant to a court order for child support or alimony in accordance with the law of the State and Section 459 of the Social Security Act, 42 U.S.C. 659.

(f) Application of State law.

(1) Except as indicated in paragraph (a) of this section, any provision of State law that may be applied for the recovery of overpayment or prosecution for fraud, and any provision of State law authorizing waiver of recovery of overpayment of unemployment compensation, shall be applicable to UCFE.

(2) In the case of any finding of false statement or representation under the Act and paragraph (a) of this section, or prosecution for fraud under 18 U.S.C. 1919 or pursuant to paragraph (f)(1) of this section, the individual shall be disqualified or penalized in accordance with the provisions of the applicable State law relating to fraud in connection with a claim for State unemployment compensation.

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

(h) Procedural requirements.

(1) The provisions of paragraphs (c), (d), and (g) of § 609.6 shall apply to determinations and redetermination made pursuant to this section.

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## UCFE INSTRUCTIONS FOR STATE AGENCIES

(2) The provisions of § 609.7 shall apply to determinations and redetermination made pursuant to this section.

(i) Fraud detection and prevention. Provisions in the procedures of each State with respect to detection and prevention of fraudulent overpayment of UCFE shall be, as a minimum, commensurate with the procedures adopted by the State with respect to State unemployment compensation and consistent with the Secretary's "Standard for Fraud and Overpayment Detection" (Employment Security Manual, Part V, section 7510 et seq.).

(j) Recovered overpayment. An amount repaid or recouped under this section shall be-

(1) Deposited in the fund from which payment was made, if the repayment was to a State agency; or

(2) Returned to the Treasury of the United States and credited to the current applicable appropriation, fund, or account from which payment was made, if the repayment was to the Department.

### §609.12 Inviolate right to UCFE.

Except as specifically provided in this part, the rights of individuals to UCFE shall be protected in the same manner and to the same extent as the rights of persons to State unemployment compensation are protected under the applicable State law. Such measures shall include protection of applicants for UCFE from waiver, release, assignment, pledge, encumbrance, levy, execution, attachment, and garnishment of their rights to UCFE, except as provided in § 609.11. 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 UCFE.

### § 609.13 Recordkeeping; disclosure of information.

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

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## UCFE INSTRUCTIONS FOR STATE AGENCIES

(b) Disclosure of Information. Information in records maintained by a State agency in administering the UCFE Program 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 State unemployment compensation and the entitlement of individuals thereto may be disclosed under the applicable State law. This provision on the confidentiality of information maintained in the administration of the UCFE Program shall not apply, however, to the Department or for the purposes of §§ 609.11 or 609.13, or in the case of information, reports and studies required pursuant to §§609.17 or 609.25, 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 Department promulgated thereunder.

### §609.14 Payments to States.

(a) State entitlement. Each State is entitled to be paid by the United States with respect to each individual whose base period wages included Federal wages, an amount bearing the same ratio to the total amount of compensation paid to such individual as the amount of the individual's Federal wages in the individual's base period bears to the total amount of the individual's base period wages.

(b) Payment. Each State shall be paid, either in advance or by way of reimbursement, as may be determined by the Department, the sum that the Department estimates the State is entitled to receive under the Act and this Part for each calendar month. The sum shall be reduced or increased by the amount which the Department finds that its estimate for an earlier calendar month was greater or less than the sum which should have been paid to the State. An estimate may be made on the basis of a statistical sampling, or other method agreed on by the Department and the State agency.

(c) Certification by the Department. The Department, from time to time, shall certify to the Secretary of the Treasury the sum payable to each State under this section. The Secretary of the Treasury, before audit or settlement by the General Accounting office, shall pay the State in accordance with the certification from the funds for carrying out the purposes of the Act and this part.

(d) Use of money. Money paid a State under the Act and this Part may be used solely for the purposes for which it is paid. Money so paid which is not used solely for these purposes

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shall be returned, at the time specified the Agreement, to the Treasury of the United States and credited to the current applicable appropriation, fund, or account from which payments to States under the Act and this part may be made.

### § 609.15 Public access to Agreements.

The State agency of a State will make available to any individual or organization 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.

### §609.16 Administration in absence of an Agreement.

(a) Administering Program. The Department shall administer the UCFE Program through personnel of the Department or through other arrangements under procedures prescribed by the Department, in the case of any State which does not have an Agreement with the Secretary as provided for in 5 U.S.C. 8502. The procedures prescribed by the Department under this section shall be consistent with the Act and this part.

(b) Applicable State law. On the filing by an individual of a claim for UCFE in accordance with arrangements under this section, UCFE shall be paid to the individual, if eligible, in the same amount, on the same terms, and subject to the same conditions as would be paid to the individual under the applicable State law if the individual's Federal civilian service and Federal wages had been included as employment and wages under the State law. Any such claim shall include the individual's Federal civilian service and Federal wages, combined with any service and wages covered by State law. However, if the individual, without regard to his or her Federal civilian service and Federal wages, has employment or wages sufficient to qualify for compensation during the benefit year under that State law, then payments of UCFE under this section may be made only on the basis of the individual's Federal civilian service and Federal wages.

(c) Final hearing. An individual whose claim for UCFE is denied under this section is entitled to a fair hearing under rules of procedure prescribed by the Department. A final determination by the Department with respect to entitlement to UCFE under this section is subject to review by the courts in the same manner and to the same extent as is provided by section 205(g) of the Social Security Act, 42 U.S.C. 405(g).

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**UCFE INSTRUCTIONS FOR STATE AGENCIES**

**§609.17 Information, reports, and studies.**

State agencies shall furnish to the Department such information and reports and conduct such studies as the Department determines are necessary or appropriate for carrying out the purposes of the UCFE Program.

**Subpart C - Responsibilities of Federal Agencies**

**§ 609.20 Information to Federal civilian employees.**

Each Federal agency shall:

(a) Furnish information to its employees as to their rights and responsibilities under the UCFE Program and 18 U.S.C. 1919; and

(b) Furnish a completed copy of a form approved by the Department, "Notice to Federal Employee About Unemployment Compensation," in accordance with instructions thereon, to each employee at the time of separation from Federal civilian service, when transferred from one payroll office to another, or when the office responsible for distribution of the form is advised that an individual is in nonpay status for seven consecutive days or more.

**§ 609.21 Findings of Federal agency.**

(a) Answering request. Within four workdays after receipt from a State agency of a request for Federal findings on a form furnished by the State agency, and prescribed by the Department, a Federal agency shall make such Federal findings, complete all copies of the form, and transmit the completed copies to the State agency. If documents necessary for completion of the form have been assigned to an agency records center or the Federal Records Center in St. Louis, the Federal agency shall obtain the necessary information from the records center. Any records center shall give priority to such a request.

(b) Failure to meet time limit. If a completed form containing the Federal agency's findings cannot be returned within four workdays of receipt, the Federal agency immediately shall inform the State agency, and shall include an estimated date by which the completed form will be returned.

(c) Administrative control. Each Federal agency shall maintain a control of all requests for Federal findings received by it, and the Federal agency's response to each request. The

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**UCFE INSTRUCTIONS FOR STATE AGENCIES**

records shall be maintained so as to enable the Federal agency to ascertain at any time the number of such forms that have not been returned to State agencies, and the dates of the Federal agency's receipt of such unreturned forms.

**§ 609.22 Correcting Federal findings.**

If a Federal agency ascertains at any time within one year after it has returned a completed form reporting its findings, that any of its findings were erroneous, it shall promptly correct its error and forward its corrected findings to the State agency.

**§609.23 Furnishing additional information.**

On receipt of a request for additional information from a State agency, a Federal agency shall consider the information it supplied initially in connection with such request and shall review its findings. The Federal agency promptly shall forward to the State agency such additional findings as will respond to the request. The Federal agency shall, if possible, respond within four workdays after the receipt of a request under this section.

**§609.24 Reconsideration of Federal findings.**

On receipt of a request for reconsideration of Federal findings from a State agency, the Federal agency shall consider the initial information supplied in connection with such request and shall review its findings. The Federal agency shall correct any errors or omissions in its findings and shall affirm, modify, or reverse any or all of its findings in writing. The Federal agency promptly shall forward its reconsidered findings to the requesting authority. The Federal agency shall, if possible, respond within four workdays after the receipt of a request under this section.

**609.25 Furnishing other information.**

(a) Additional Information. In addition to the information required by §§ 609.21, 609.22, 609.23, and 609.24, a Federal agency shall furnish to a State agency or the Department within the time requested, any information which it is not otherwise prohibited from releasing by law, which the Department determines is necessary for the administration of the UCFE Program.

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**UCFE INSTRUCTIONS FOR STATE AGENCIES**

(b) Reports. Federal agencies shall furnish to the Department or State agencies such reports containing such information as the Department determines are necessary or appropriate for carrying out the purposes of the UCFE Program.

**§ 609.26 Liaison with Department.**

To facilitate the Department's administration of the UCFE Program, each Federal agency shall designate one or more of its officials to be the liaison with the Department. Each Federal agency will inform the Department of its designation(s) and of any change in a designation.

**UCFE INSTRUCTIONS FOR STATE AGENCIES**

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**APPENDIX C - COVERAGE RULINGS**

<b>U.S. Department of Labor</b> Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION
	UI
	CORRESPONDENCE SYMBOL
	TEUMI
	DATE
	April 21, 1992

**DIRECTIVE : UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 23-92**

**TO : ALL STATE EMPLOYMENT SECURITY AGENCIES**

**FROM : *Donald J. Kulick*  
DONALD J. KULICK  
Administrator  
for Regional Management**

**SUBJECT : Unemployment Compensation for Federal Employees (UCFE)--Coverage Ruling for Employees and Members of Agricultural Promotion Boards and Marketing Agreement and Order Administrative Committees**

**1. Purpose.** To inform State Employment Security Agencies (SESAs) of a recent UCFE program coverage ruling relating to employees and members of Agricultural Promotion Boards and Marketing Agreement and Order Administrative Committees.

**2. References.** 5 U.S.C. 8501(1); ET Handbook No. 391; and ETO No. 2-92, dated March 20, 1992.

**3. Background.** Several inquiries have been made to the National Office concerning whether employees and members of Agricultural Promotion Boards and Marketing Agreement and Order Administrative Committees perform "Federal service" for UCFE program purposes. This recent coverage ruling updates a 1957 coverage ruling concerning boards and committees established under the Agricultural Marketing Agreement Act of 1937, as amended.

The Secretary of Labor is responsible for interpreting whether claimants perform "Federal service" (civilian) as defined in 5 U.S.C. 8501(1) for UCFE program purposes. ETO No. 2-92 delegates this authority and assignment of responsibility for making rulings of "Federal service" to the Director, Unemployment Insurance Service (UIS). SESAs are required to follow the UCFE coverage rulings issued by the Department.

REVISIONS	EXPIRATION DATE
	April 30, 1993

DISSEMINATION

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**UCFE INSTRUCTIONS FOR STATE AGENCIES**

**APPENDIX C - COVERAGE RULINGS**

Attachment to UIPL No. 23-92

U.S. Department of Labor

Employment and Training Administration  
200 Constitution Avenue NW  
Washington, DC 20210



**UCFE Program Coverage Ruling No. 92-1**

**Agricultural Promotion Boards and Marketing Agreement  
and Order Administrative Committees**

**Ruling:** Each of the below listed boards and committees is an "instrumentality of the United States" and services performed in the employ of all such boards and committees is "Federal service" within the meaning of 5 U.S.C. 8501(1): the National Dairy Promotion and Research Board (7 U.S.C. 4501-4513; 7 CFR Part 1150), the Honey Board (7 U.S.C. 4601-4612; 7 CFR Part 1240), the National Potato Promotion Board (7 U.S.C. 2611-2627; 7 CFR Part 1207), the Cotton Board (7 U.S.C. 2101-2118; 7 CFR Part 1205), the National Pork Board (7 U.S.C. 4801-4819; 7 CFR Part 1250), the Cattlemen's Beef Promotion and Research Board (7 U.S.C. 2901-2911; 7 CFR Part 1260), the Egg Board (7 U.S.C. 2701-2718; 7 CFR Part 1250) and 44 marketing agreement and order administrative committees (see enclosed list) established under 7 U.S.C. 601-674 (7 CFR Parts 905-998). Members of such boards and committees who are appointed by the Secretary of Agriculture are excluded from program coverage by 5 U.S.C. 8501(1)(K).

**Prior Ruling:** A ruling on UCFE program coverage of marketing agreement and order administrative committees was issued on June 20, 1957. This 1992 ruling supersedes the 1957 ruling and is now controlling for UCFE program coverage purposes of these agricultural promotion boards and marketing agreement and order administrative committees. No subsequent amendments to title 7 of the United States Code have altered the nature or characteristics of these boards and committees upon which our ruling was based. Nor have there been any amendments to 5 U.S.C. 8501(1) which are relevant to the coverage of such boards and committees. The addition of Section 8509 by Section 1023(b) of the Omnibus Reconciliation Act of 1980 (P.L. 96-499) did not affect coverage of the UCFE program.

**Statement of Facts:** In holding that employees of such committees perform "Federal service," I have relied on the following factors:

1. The primary function of these committees is to act as agents for the Secretary of Agriculture in carrying out the policy declared by Congress at 7 U.S.C. 602.

**UCFE INSTRUCTIONS FOR STATE AGENCIES**

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**APPENDIX C - COVERAGE RULINGS**

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4. Ruling. On March 24, 1992, the Director, Unemployment Insurance Service, determined that employees of the Agricultural Promotion Boards and Marketing Agreement and Order Administrative Committees perform "Federal service" within the meaning of 5 U.S.C. 8501(1). However, members of these boards and committees are excluded from UCFE coverage by 5 U.S.C. 8501(1)(K).

5. Action Required. SESAs should:

a. Distribute the attached UCFE program coverage ruling to all staff responsible for UCFE claims processing.

b. Follow the attached ruling in all cases involving claims filed by employees and members of Agricultural Promotion Boards and Marketing Agreement and Order Administrative Committees.

6. Inquiries. Direct questions to the appropriate Regional Office.

7. Attachment. UCFE Program Coverage Ruling No. 92-1 for Agricultural Promotion Boards and Marketing Agreement and Order Administrative Committees.

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### APPENDIX C - COVERAGE RULINGS

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2. Such committees have the authority to appoint employees, agents, and representatives, and to determine the salaries and duties of such individuals.

3. The members of such committees, as well as employees and agents, are subject to removal by the Secretary of Agriculture.

4. Every act of such committees is subject to approval by the Secretary of Agriculture.

5. On November 29, 1945, the Internal Revenue Service ruled that services performed in the employ of certain administrative committees established by the Secretary of Agriculture under the Agricultural Marketing Agreement Act were exempt from the provisions of the Federal Unemployment Tax Act by reason of the exclusion from the definition of "employment" in 26 U.S.C. 1607(c) (now, without relevant change, Section 3306(c)(6) of the Internal Revenue Code of 1986). Also, on October 15, 1952, the Director of the Bureau of Employees' Compensation (now the Office of Workers' Compensation Programs) ruled that personnel of the Federal Milk Market Administrators are "employees" within the meaning of the Federal Employees' Compensation Act.

6. Such committees are authorized to incur such expenses as the Secretary of Agriculture finds reasonable.

7. The funds to cover the expenses of such committees are raised by assessments, paid to the committees by the covered industries and enforceable by the Secretary of Agriculture in the District Courts of the United States.

8. The decision in United States v. Levine, 129 F.2d 745 (2d Cir. 1942) found that a Market Administrator (established by order of the Secretary of Agriculture under the Agricultural Marketing Agreement Act) was an agency of the United States. Further, as recently as 1984, the Supreme Court cited with approval the Levine opinion finding that a Market Administrator was an agency of the United States (Dixon v. United States, 104 S.Ct. 1172, 1179-1180 (1984)).

9. The Internal Revenue Service affirmed, in a letter from Jerry E. Holmes to Mary Ann Wyrach, dated November 26, 1990, that there is no change in the positions taken in the above cited rulings.

Discussion/Analysis: With regard to the promotion boards, the purpose of these entities is to carry out coordinated programs of research and promotion designed to strengthen the competitive position of each covered commodity and to maintain and expand domestic and foreign markets for American producers of each such commodity (e.g., 7 U.S.C. 2101 with respect to the Cotton Board). Although the purpose and authorizing statutes of these

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entities are different from the marketing committees, their manner of creation and method of operation are nearly identical.

As with the marketing committees, the promotion boards are created by order of the Secretary of Agriculture (e.g., 7 U.S.C. 2104 and 2106(a) with respect to the Cotton Board). Their members are selected by the Secretary of Agriculture (e.g., 7 U.S.C. 2106(b) and are subject to removal by the Secretary (e.g., 7 CFR 1205.323). The boards have authority to appoint employees and to determine the salaries and duties of such individuals (e.g., 7 CFR 1205.328(b)). The actions of these boards are subject to the approval of the Secretary of Agriculture (e.g., 7 U.S.C. 2106(c)). These boards are authorized to incur such expenses as the Secretary of Agriculture finds reasonable (e.g., 7 CFR 1205.330(a)). The funds to cover the expenses of these boards are raised by assessments paid to the boards by the covered industry and enforceable by the Secretary of Agriculture in the District Courts of the United States (e.g., 7 U.S.C. 2106(e) and 2112(b); 7 CFR 1205.515(d)).

In the Internal Revenue Service's letter of November 26, 1990, referenced above, the Department of Labor was informed that:

. . . it appears that an administrative committee established under the Agricultural Marketing Agreement Act of 1937 would qualify as a wholly owned instrumentality of the United States Government under current law. Under section 3306(c)(6) of the Internal Revenue Code of 1986 . . . , services performed in the employ of an instrumentality of the United States wholly or partially owned by the United States are excepted from the definition of employment for FUTA [Federal Unemployment Tax Act] purposes. If a committee is similar to the committee described in the 1945 ruling, it appears that the committee would constitute a wholly or partially owned instrumentality of the United States under section 3306(c)(6). . . . An examination of the relevant Code of Federal Regulations provisions discloses that organizations created under the Agricultural Marketing Agreement Act of 1937 are subject to the same overriding authority of the Secretary of Agriculture. In addition to the factors enumerated in the 1945 ruling, we note the extensive control over the assets of the committees that the Secretary of Agriculture may exercise under the applicable regulations. Therefore, . . . it appears that service performed in the employ of such committees are excepted from employment as service performed in the employ of an instrumentality of the United States Government. Thus, with regard to the conclusions in the 1945 ruling, our conclusion with respect to entities similar to the entity described in the ruling would appear to be that

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**UCFE INSTRUCTIONS FOR STATE AGENCIES**

**APPENDIX C - COVERAGE RULINGS**

- 4 -

services for the entities would be excepted from employment by section 3306(c)(6) of the Internal Revenue Code as services performed for a wholly or partially owned instrumentality of the United States.

The reasons stated above support the conclusion stated in the first paragraph of this ruling that employees hired by the boards and committees (as distinguished from members) of all of the agricultural boards and committees referred to herein are covered by the UCFE program. The employing agency may not participate in the UCFE program for the board and committee members due to the exclusion at 5 U.S.C. 8501(1)(K).

This coverage ruling is issued pursuant to redelegation of authority from the Assistant Secretary of Labor, in Employment and Training Order No. 2-92, dated March 20, 1992, which is authorized by Section 6 of Secretary's Order No. 4-75 (40 Fed. Reg. 18515) (as amended by Secretary's Order No. 14-75).

  
\_\_\_\_\_  
MARY ANN WYRSCH  
Director  
Unemployment Insurance Service

March 24, 1992  
DATE

# DRAFT

## UCFE INSTRUCTIONS FOR STATE AGENCIES

### APPENDIX C - COVERAGE RULINGS

List of 44 Agricultural Marketing  
Agreement and Order Administrative Committees  
As of March 1, 1991  
(7 U.S.C. Parts 905-998)

- 905 Citrus Administrative Committee - Florida
- 906 Texas Valley Citrus Committee
- 907 Navel Orange Administrative Committee - California & Arizona
- 908 Valencia Orange Administrative Committee - California  
and Arizona
- 910 Lemon Administrative Committee - California and Arizona
- 911 Florida Lime Administrative
- 915 Florida Avocado Administrative Committee
- 916 Nectarine Administrative Committee - California
- 917 Control Committee - California
  - Pear Commodity Committee
  - Plum Commodity Committee
  - Peach Commodity Committee
- 918 Georgia Peach Industry Committee
- 919 Colorado Peach Administrative Committee
- 920 Kiwifruit Administrative Committee - California
- 921 Washington Fresh Peach Marketing Committee
- 922 Washington Apricot Marketing Committee
- 923 Washington Cherry Marketing Committee
- 924 Washington-Oregon Fresh Prune Marketing Committee
- 925 California Desert Grape Administrative Committee
- 926 Tokay Grape Industry Committee - California
- 927 Winter Pear Control Committee - Oregon, Washington,  
and California
- 928 Papaya Administrative Committee - Hawaii
- 929 Cranberry Marketing Committee - Massachusetts, Rhode Island,  
Connecticut, New Jersey, Wisconsin, Michigan, Oregon,  
Minnesota, Washington, and Long Island, New York
- 931 Northwest Fresh Bartlett Marketing Committee - Oregon  
and Washington
- 932 California Olive Committee
- 945 Idaho Eastern Oregon Potato Committee
- 946 State of Washington Potato Committee
- 947 Oregon-California Potato Committee
- 948 Colorado Potato Administrative Committee
- 950 Maine Potato Committee (currently inactive)
- 953 Southeastern Potato Committee - Virginia and North Carolina
- 955 Vidalia Onion Committee - Georgia
- 958 Idaho-Eastern Oregon Onion Committee
- 959 South Texas Onion Committee
- 965 Texas Valley Tomato Committee
- 966 Florida Tomato Committee
- 967 Florida Celery Committee
- 971 South Texas Lettuce Committee
- 979 South Texas Melon Committee
- 981 Almond Board of California
- 982 Filbert/Hazelnut Marketing Board - Oregon and Washington
- 984 Walnut Marketing Board - California
- 985 Far West Spearmint Oil Administrative Committee
- 987 California Date Administrative Committee
- 989 Raisin Administrative Committee - California
- 993 Prune Marketing Committee California
- 998 Peanut Administrative Committee - Georgia

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## UCFE INSTRUCTIONS FOR STATE AGENCIES

### APPENDIX C - COVERAGE RULINGS

U. S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION
	UCFE
	CORRESPONDENCE SYMBOL
	TEUMI
DATE	
May 20, 1993	

**DIRECTIVE** : UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 23-92, Change 1

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

**FROM:** : *Barbara Ann Farmer*  
BARBARA ANN FARMER  
Administrator  
for Regional Management

**SUBJECT** : Unemployment Compensation for Federal Employees (UCFE)--Coverage Ruling for Employees and Members of Agricultural Promotion Boards and Marketing Agreement and Order Administrative Committees

- 1. Purpose.** To ensure that a UCFE program coverage ruling, dated March 24, 1992, relating to employees and members of Agricultural Promotion Boards and Marketing Agreement and Order Administrative Committees is distributed to State agency tax and appellate staff.
- 2. Reference.** UIPL No. 23-92, dated April 21, 1992.
- 3. Background.** The routing instructions in the above referenced UIPL issued last year did not include State agency tax and appellate staff. This has created some confusion relating to State coverage provisions and FUTA tax liability of these boards and committees. It has been ruled that the employees (not members) of these boards and committees are Federal employees and perform "Federal service" for UCFE program purposes. These boards and committees are wholly owned instrumentalities of the United States and, therefore, are exempt from FUTA under Section 3306(c)(6) of the Internal Revenue Code of 1986.
- 4. Action Required.** SESA administrators are requested to distribute this ruling immediately to the appropriate State agency staff responsible for UCFE, tax, and appellate operations.
- 5. Inquiries.** Questions should be directed to the appropriate Regional Office.
- 6. Attachment.** UCFE Program Coverage Ruling No. 92-1 for Agricultural Promotion Boards and Marketing Agreement and Order Administrative Committees.

RESCISSIONS	EXPIRATION DATE
None	April 30, 1994

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## UCFE INSTRUCTIONS FOR STATE AGENCIES

### APPENDIX C - COVERAGE RULINGS

Attachment to UIPL No. 23-92,  
Change 1

U.S. Department of Labor

Employment and Training Administration  
200 Constitution Avenue NW  
Washington DC 20210



#### UCFE Program Coverage Ruling No. 92-1

#### Agricultural Promotion Boards and Marketing Agreement and Order Administrative Committees

**Ruling:** Each of the below listed boards and committees is an "instrumentality of the United States" and services performed in the employ of all such boards and committees is "Federal service" within the meaning of 5 U.S.C. 8501(1): the National Dairy Promotion and Research Board (7 U.S.C. 4501-4513; 7 CFR Part 1150), the Honey Board (7 U.S.C. 4601-4612; 7 CFR Part 1240), the National Potato Promotion Board (7 U.S.C. 2611-2627; 7 CFR Part 1207), the Cotton Board (7 U.S.C. 2101-2118; 7 CFR Part 1205), the National Pork Board (7 U.S.C. 4801-4819; 7 CFR Part 1250), the Cattlemen's Beef Promotion and Research Board (7 U.S.C. 2901-2911; 7 CFR Part 1260), the Egg Board (7 U.S.C. 2701-2718; 7 CFR Part 1250) and 44 marketing agreement and order administrative committees (see enclosed list) established under 7 U.S.C. 601-674 (7 CFR Parts 905-998). Members of such boards and committees who are appointed by the Secretary of Agriculture are excluded from program coverage by 5 U.S.C. 8501(1)(K).

**Prior Rulings:** A ruling on UCFE program coverage of marketing agreement and order administrative committees was issued on June 20, 1957. This 1992 ruling supersedes the 1957 ruling and is now controlling for UCFE program coverage purposes of these agricultural promotion boards and marketing agreement and order administrative committees. No subsequent amendments to title 7 of the United States Code have altered the nature or characteristics of these boards and committees upon which our ruling was based. Nor have there been any amendments to 5 U.S.C. 8501(1) which are relevant to the coverage of such boards and committees. The addition of Section 8509 by Section 1023(b) of the Omnibus Reconciliation Act of 1980 (P.L. 96-499) did not affect coverage of the UCFE program.

**Statement of Facts:** In holding that employees of such committees perform "Federal service," I have relied on the following factors:

1. The primary function of these committees is to act as agents for the Secretary of Agriculture in carrying out the policy declared by Congress at 7 U.S.C. 602.

# DRAFT

## UCFE INSTRUCTIONS FOR STATE AGENCIES

### APPENDIX C - COVERAGE RULINGS

- 2 -

2. Such committees have the authority to appoint employees, agents, and representatives, and to determine the salaries and duties of such individuals.

3. The members of such committees, as well as employees and agents, are subject to removal by the Secretary of Agriculture.

4. Every act of such committees is subject to approval by the Secretary of Agriculture.

5. On November 29, 1945, the Internal Revenue Service ruled that services performed in the employ of certain administrative committees established by the Secretary of Agriculture under the Agricultural Marketing Agreement Act were exempt from the provisions of the Federal Unemployment Tax Act by reason of the exclusion from the definition of "employment" in 26 U.S.C. 1607(c) (now, without relevant change, Section 3306(c)(6) of the Internal Revenue Code of 1986). Also, on October 15, 1952, the Director of the Bureau of Employees' Compensation (now the Office of Workers' Compensation Programs) ruled that personnel of the Federal Milk Market Administrators are "employees" within the meaning of the Federal Employees' Compensation Act.

6. Such committees are authorized to incur such expenses as the Secretary of Agriculture finds reasonable.

7. The funds to cover the expenses of such committees are raised by assessments, paid to the committees by the covered industries and enforceable by the Secretary of Agriculture in the District Courts of the United States.

8. The decision in United States v. Levine, 129 F.2d 745 (2d Cir. 1942) found that a Market Administrator (established by order of the Secretary of Agriculture under the Agricultural Marketing Agreement Act) was an agency of the United States. Further, as recently as 1984, the Supreme Court cited with approval the Levine opinion finding that a Market Administrator was an agency of the United States (Dixon v. United States, 104 S.Ct. 1172, 1179-1180 (1984)).

9. The Internal Revenue Service affirmed, in a letter from Jerry E. Holmes to Mary Ann Wyrsh, dated November 26, 1990, that there is no change in the positions taken in the above cited rulings.

Discussion/Analysis: With regard to the promotion boards, the purpose of these entities is to carry out coordinated programs of research and promotion designed to strengthen the competitive position of each covered commodity and to maintain and expand domestic and foreign markets for American producers of each such commodity (e.g., 7 U.S.C. 2101 with respect to the Cotton Board). Although the purpose and authorizing statutes of these

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**UCFE INSTRUCTIONS FOR STATE AGENCIES**

**APPENDIX C - COVERAGE RULINGS**

- 3 -

entities are different from the marketing committees, their manner of creation and method of operation are nearly identical.

As with the marketing committees, the promotion boards are created by order of the Secretary of Agriculture (e.g., 7 U.S.C. 2104 and 2106(a) with respect to the Cotton Board). Their members are selected by the Secretary of Agriculture (e.g., 7 U.S.C. 2106(b) and are subject to removal by the Secretary (e.g., 7 CFR 1205.323). The boards have authority to appoint employees and to determine the salaries and duties of such individuals (e.g., 7 CFR 1205.328(b)). The actions of these boards are subject to the approval of the Secretary of Agriculture (e.g., 7 U.S.C. 2106(c)). These boards are authorized to incur such expenses as the Secretary of Agriculture finds reasonable (e.g., 7 CFR 1205.330(a)). The funds to cover the expenses of these boards are raised by assessments paid to the boards by the covered industry and enforceable by the Secretary of Agriculture in the District Courts of the United States (e.g., 7 U.S.C. 2106(e) and 2112(b); 7 CFR 1205.515(d)).

In the Internal Revenue Service's letter of November 26, 1990, referenced above, the Department of Labor was informed that:

. . . it appears that an administrative committee established under the Agricultural Marketing Agreement Act of 1937 would qualify as a wholly owned instrumentality of the United States Government under current law. Under section 3306(c)(6) of the Internal Revenue Code of 1986 . . . , services performed in the employ of an instrumentality of the United States wholly or partially owned by the United States are excepted from the definition of employment for FUTA [Federal Unemployment Tax Act] purposes. If a committee is similar to the committee described in the 1945 ruling, it appears that the committee would constitute a wholly or partially owned instrumentality of the United States under section 3306(c)(6). . . . An examination of the relevant Code of Federal Regulations provisions discloses that organizations created under the Agricultural Marketing Agreement Act of 1937 are subject to the same overriding authority of the Secretary of Agriculture. In addition to the factors enumerated in the 1945 ruling, we note the extensive control over the assets of the committees that the Secretary of Agriculture may exercise under the applicable regulations. Therefore, . . . it appears that service performed in the employ of such committees are excepted from employment as service performed in the employ of an instrumentality of the United States Government. Thus, with regard to the conclusions in the 1945 ruling, our conclusion with respect to entities similar to the entity described in the ruling would appear to be that

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## UCFE INSTRUCTIONS FOR STATE AGENCIES

### APPENDIX C - COVERAGE RULINGS

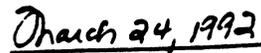
- 4 -

services for the entities would be excepted from employment by section 3306(c)(6) of the Internal Revenue Code as services performed for a wholly or partially owned instrumentality of the United States.

The reasons stated above support the conclusion stated in the first paragraph of this ruling that employees hired by the boards and committees (as distinguished from members) of all of the agricultural boards and committees referred to herein are covered by the UCFE program. The employing agency may not participate in the UCFE program for the board and committee members due to the exclusion at 5 U.S.C. 8501(1)(K).

This coverage ruling is issued pursuant to redelegation of authority from the Assistant Secretary of Labor, in Employment and Training Order No. 2-92, dated March 20, 1992, which is authorized by Section 6 of Secretary's Order No. 4-75 (40 Fed. Reg. 18515) (as amended by Secretary's Order No. 14-75).

  
\_\_\_\_\_  
MARY ANN WYRSCH  
Director  
Unemployment Insurance Service

  
\_\_\_\_\_  
DATE

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**UCFE INSTRUCTIONS FOR STATE AGENCIES**

**APPENDIX C - COVERAGE RULINGS**

**List of 44 Agricultural Marketing  
Agreement and Order Administrative Committees  
As of March 1, 1991  
(7 U.S.C. Parts 905-998)**

- 905 Citrus Administrative Committee - Florida
- 906 Texas Valley Citrus Committee
- 907 Navel Orange Administrative Committee - California & Arizona
- 908 Valencia Orange Administrative Committee - California  
and Arizona
- 910 Lemon Administrative Committee - California and Arizona
- 911 Florida Lime Administrative
- 915 Florida Avocado Administrative Committee
- 916 Nectarine Administrative Committee - California
- 917 Control Committee - California
  - Pear Commodity Committee
  - Plum Commodity Committee
  - Peach Commodity Committee
- 918 Georgia Peach Industry Committee
- 919 Colorado Peach Administrative Committee
- 920 Kiwifruit Administrative Committee - California
- 921 Washington Fresh Peach Marketing Committee
- 922 Washington Apricot Marketing Committee
- 923 Washington Cherry Marketing Committee
- 924 Washington-Oregon Fresh Prune Marketing Committee
- 925 California Desert Grape Administrative Committee
- 926 Tokay Grape Industry Committee - California
- 927 Winter Pear Control Committee - Oregon, Washington,  
and California
- 928 Papaya Administrative Committee - Hawaii
- 929 Cranberry Marketing Committee - Massachusetts, Rhode Island,  
Connecticut, New Jersey, Wisconsin, Michigan, Oregon,  
Minnesota, Washington, and Long Island, New York
- 931 Northwest Fresh Bartlett Marketing Committee - Oregon  
and Washington
- 932 California Olive Committee
- 945 Idaho Eastern Oregon Potato Committee
- 946 State of Washington Potato Committee
- 947 Oregon-California Potato Committee
- 948 Colorado Potato Administrative Committee
- 950 Maine Potato Committee (currently inactive)
- 953 Southeastern Potato Committee - Virginia and North Carolina
- 955 Vidalia Onion Committee - Georgia
- 958 Idaho-Eastern Oregon Onion Committee
- 959 South Texas Onion Committee
- 965 Texas Valley Tomato Committee
- 966 Florida Tomato Committee
- 967 Florida Celery Committee
- 971 South Texas Lettuce Committee
- 979 South Texas Melon Committee
- 981 Almond Board of California
- 982 Filbert/Hazelnut Marketing Board - Oregon and Washington
- 984 Walnut Marketing Board - California
- 985 Far West Spearmint Oil Administrative Committee
- 987 California Date Administrative Committee
- 989 Raisin Administrative Committee - California
- 993 Prune Marketing Committee California
- 996 Peanut Administrative Committee - Georgia

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## UCFE INSTRUCTIONS FOR STATE AGENCIES

### APPENDIX C - COVERAGE RULINGS

<b>U. S. Department of Labor</b> Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION
	UCFE
	CORRESPONDENCE SYMBOL
	TEUMI
DATE	
November 10, 1993	

**DIRECTIVE** : UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 23-92, Change 2

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

**FROM** : MARY ANN WYRSCH *Mary Ann Wyrach ELG*  
Director  
Unemployment Insurance Service

**SUBJECT** : Unemployment Compensation for Federal Employees (UCFE)--Coverage Ruling for Employees and Members of Agricultural Promotion Boards and Marketing Agreement and Order Administrative Committees

1. **Purpose.** To forward to the State employment security agencies (SESAs) an updated listing of Agriculture boards and committees previously submitted in the below referenced program letters.

2. **References.** UIPL No. 23-92, dated April 21, 1992, and UIPL No. 23-92, Change 1, dated May 20, 1993.

3. **Background.** The Department of Agriculture recently requested a coverage ruling for employees of six additional boards to be covered for UCFE benefits within the meaning of 5 U.S.C. 8501(1). Therefore, the listing, previously approved under UCFE Program Coverage Ruling No. 92-1 and contained in the referenced program letters, has been updated to include these additional boards. It has been determined that the employees (not members) of these six boards are Federal employees and perform "Federal service" for UCFE program purposes. The six boards listed below are wholly owned instrumentalities of the United States and, therefore, are exempt from FUTA under Section 3306(c)(6) of the Internal Revenue Code of 1986. They are:

- a. Lime Board (7 U.S.C. 6201-6212; 7 CFR Part 1212)
- b. Mushroom Council (7 U.S.C. 6101-6112; 7 CFR Part 1209)
- c. National Fluid Milk Processor Promotion Board (7 U.S.C. 6401-6417; 7 CFR Part 1160 (Proposed))
- d. National Watermelon Promotion Board (7 U.S.C. 4901-4916; 7 CFR Part 1210)
- e. Pecan Marketing Board (7 U.S.C. 6001-6013; 7 CFR Part 1211)

RESCISSIONS	EXPIRATION DATE
UIPL No. 23-92 and No. 23-92, Change 1	November 30, 1994

**UCFE INSTRUCTIONS FOR STATE AGENCIES**

**APPENDIX C - COVERAGE RULINGS**

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- 2 -

f. United Soybean Board (7 U.S.C. 6301-6311; 7 CFR Part 1220)

4. Action Required. SESA administrators are requested to distribute this updated listing immediately to the appropriate State agency staff responsible for UCFE, tax, and appellate operations.

5. Inquiries. Questions should be directed to the appropriate Regional Office.

6. Attachment. Updated Listing of Agricultural Promotion Boards and Marketing Agreement and Order Administrative Committees.

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**UCFE INSTRUCTIONS FOR STATE AGENCIES**

**APPENDIX C - COVERAGE RULINGS**

Attachment to UIPL No. 23-92, Chg. 2

**Agricultural Promotion Boards and Marketing Agreement  
and Order Administrative Committees  
As of September 1993**

Listed below are the six additional boards where it has been determined that the employees perform "Federal service" for UCFE program purposes within the meaning of 5 U.S.C. 8501(1).

1. Line Board (7 U.S.C. 6201-6212; 7 CFR Part 1212)
2. Mushroom Council (7 U.S.C. 6101-6112; 7 CFR Part 1209)
3. National Fluid Milk Processor Promotion Board (7 U.S.C. 6401-6417; 7 CFR Part 1160 (Proposed))
4. National Watermelon Promotion Board (7 U.S.C. 4901-4916; 7 CFR Part 1210)
5. Pecan Marketing Board (7 U.S.C. 6001-6013; 7 CFR Part 1211)
6. United Soybean Board (7 U.S.C. 6301-6311; 7 CFR Part 1220)

The following boards were previously contained in UCFE Program Coverage Ruling No. 92-1 an attached to UIPL No. 23-92 and No. 23-92, Change 1.

1. National Dairy Promotion and Research Board (7 U.S.C. 4501-4513; 7 CFR Part 1150)
2. Honey Board (7 U.S.C. 4601-4612; 7 CFR Part 1240)
3. National Potato Promotion Board (7 U.S.C. 2611-2627; 7 CFR Part 1207)
4. Cotton Board (7 U.S.C. 2101-2118; 7 CFR Part 1205)
5. National Pork Board (7 U.S.C. 4801-4819; 7 CFR Part 1250)
6. Cattlemen's Beef Promotion and Research Board (7 U.S.C. 2901-2911; 7 CFR Part 1260)
7. Egg Board (7 U.S.C. 2701-2718; 7 CFR Part 1250)

The following committees were previously contained in UCFE Program Coverage Ruling No. 92-1 as an attachment to UIPL No. 23-92 and No. 23-92, Change 1, and are established under 7 U.S.C. 601-674; 7 CFR Parts 905-998.

1. Citrus Administrative Committee - Florida
2. Texas Valley Citrus Committee
3. Navel Orange Administrative - California & Arizona
4. Valencia Orange Administrative Committee - California and Arizona
5. Lemon Administrative Committee - California & Arizona
6. Florida Lime Administrative Committee
7. Florida Avocado Administrative Committee
8. Nectarine Administrative Committee - California
9. Control Committee - California
  - Pear Commodity Committee
  - Plum Commodity Committee
  - Peach Commodity Committee
10. Georgia Peach Industry Committee
11. Colorado Peach Administrative Committee

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**UCFE INSTRUCTIONS FOR STATE AGENCIES**

**APPENDIX C - COVERAGE RULINGS**

- 2 -

12. Kiwifruit Administrative Committee - California
13. Washington Fresh Peach Marketing Committee
14. Washington Apricot Marketing Committee
15. Washington Cherry Marketing Committee
16. Washington-Oregon Fresh Prune Marketing Committee
17. California Desert Grape Administrative Committee
18. Tokay Grape Industry Committee - California
19. Winter Pear Control Committee - Oregon, Washington,  
and California
20. Papaya Administrative Committee - Hawaii
21. Cranberry Marketing Committee - Massachusetts, Rhode Island,  
Connecticut, New Jersey, Wisconsin, Michigan, Oregon,  
Minnesota, Washington, and Long Island, New York
22. Northwest Fresh Bartlett Marketing Committee - Oregon  
and Washington
23. California Olive Committee
24. Idaho Eastern Oregon Potato Committee
25. State of Washington Potato Committee
26. Oregon-California Potato Committee
27. Colorado Potato Administrative Committee
28. Maine Potato Committee (currently inactive)
29. Southeastern Potato Committee - Virginia & North Carolina
30. Vidalia Onion Committee - Georgia
31. Idaho-Eastern Oregon Onion Committee
32. South Texas Onion Committee
33. Texas Valley Tomato Committee
34. Florida Tomato Committee
35. Florida Celery Committee
36. South Texas Lettuce Committee
37. South Texas Melon Committee
38. Almond Board of California
39. Filbert/Hazelnut Marketing Board - Oregon & Washington
40. Walnut Marketing Board - California
41. Far West Spearmint Oil Administrative Committee
42. California Date Administrative Committee
43. Raisin Administrative Committee - California
44. Prune Marketing Committee - California
45. Peanut Administrative Committee - Georgia

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## UCFE INSTRUCTIONS FOR STATE AGENCIES

### Appendix D. Listing of 3-Digit Federal Agency Codes

<u>Code</u>	<u>Title</u>
001	Senate
002	House of Representatives
004	U.S. House of Representatives Restaurant System
010	Architect of the Capitol
012	Copyright Royalty Tribunal
015	Botanic Gardens
020	General Accounting Office
025	Government Printing Office
030	Library of Congress
035	United States Tax Court
040	Congressional Budget Office
045	Office of Technology Assessment
111	Supreme Court
112	U.S. Courts, Administrative Office of
205	White House Office
207	Office of the Vice President
210	Office of Management and Budget
215	Office of Administration
220	Council of Economic Advisors
221	Council on Environmental Quality
223	Executive Mansion and Grounds
224	Executive Residence at the White House
225	Office of Policy Development
230	National Security Council
233	Office of Federal Procurement Policy
235	Office of Science and Technology Policy
238	Office of Special Representative for Trade Negotiations
250	Regulatory Information Service Center
300	Appraisal Subcommittee of the Federal Financial Institution Examination Council
301	Architectural and Transportation Barriers Compliance Board
302	Arctic Research Commission
303	Barry Goldwater Scholarship and Excellence in Education Foundation
304	Christopher Columbus Quincentenary Jubilee Commission
305	Committee on Agricultural Workers
306	Commission on Interstate Child Support
307	Committee on Minority Business Development
308	Commission on National and Community Service
309	Competitiveness Policy Council
310	Defense Nuclear Facility Safety Board
311	International Cultural and Trade Commission

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## UCFE INSTRUCTIONS FOR STATE AGENCIES

### Code Title

312 James Madison Memorial Fellowship Foundation  
313 Martin Luther King, Jr., Federal Holiday Commission  
314 National Commission on Aids  
315 National Committee on Judicial Discipline and Removal  
316 National Committee on Migrant Education  
317 National Committee on Children  
318 National Commission on American Indians, Alaskan  
Natives, and Native Hawaiian Housing  
319 National Commission on Responsibilities for Financing  
Post Secondary Education  
320 National Committee on Infant Mortality  
321 National Council an Disabled  
322 National Women's Business Council  
323 Nuclear Waste Technical Review Board  
324 Prospective Payment Assessment Commission  
325 Physical Payment Review Committee  
326 U.S. Institute of Peace  
327 U.S. Nuclear Waste Negotiator  
328 National Advisory Council on Public Service  
329 Presidential Commission on Policies and Programs  
Affecting Alaska Natives  
330 Joint Federal State Commission on Policies and Programs  
Affecting Alaska Natives  
331 National Commission on Financial Institutions Reform,  
Recovery, and Enforcement  
405 State, Department of  
410 Treasury, Department of the  
421 Defense - w/o Army, Navy, and Air Force  
422 Army, Department of the (Civilian)  
423 Navy, Department of the (Civilian)  
424 Air Force, Department of the (Civilian)  
425 Army--Non-appropriated Fund Activity  
427 Air Force--Non-appropriated Fund Activity  
429 Army and Air Force Exchange Service

DD-117

**UCFE INSTRUCTIONS FOR STATE AGENCIES**

**Code Title**

430 Justice, Department of  
440 Interior, Department of  
445 Agriculture, Department of  
450 Commerce, Department of  
455 Labor, Department of  
460 Health and Human Services, Department of  
465 Housing and Urban Development, Department of  
470 Transportation, Department of  
475 Energy, Department of  
480 Education, Department of  
502 Action  
503 Administrative Conference of the United States  
505 Advisory Commission on Federal Pay  
506 United States International Development  
Cooperation Agency  
507 Advisory Council on Historic Preservation  
508 Alaska National Gas Transportation System  
509 Appalachian Regional Commission  
510 American Battle Monuments Commission  
511 Board of International Broadcasting  
512 Arms Control and Disarmament Agency  
520 Board of Governors, Federal Reserve System  
530 Civil Aeronautics Board  
531 Comm. for Purch. of Prod. from the Handicap.  
532 Delaware River Basin Commission  
535 Office of Personnel Management  
537 Comm. on the Bicent. of the U.S. Constitution  
538 Commission on Fine Arts  
539 Commission on Civil Rights  
541 Consumer Product Safety Commission  
543 Commodities Futures Trading Commission  
545 Advisory Commission on Intergovernmental Relations  
552 Environmental Protection Agency  
554 Equal Employment Opportunity Commission  
555 Export-Import Bank  
557 Farm Credit Administration  
570 Federal Communications Commission  
572 Federal Election Commission  
574 Federal Emergency Management Agency  
575 Federal Deposit Insurance Corporation  
576 Federal Home Loan Bank Board  
577 Federal Labor Relations Authority

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**UCFE INSTRUCTIONS FOR STATE AGENCIES**

**Code Title**

578 Federal Maritime Commission  
580 Federal Mediation and Conciliation Service  
583 Federal Mine Safety and Health Review Commission  
584 Federal Retirement Thrift Investment Board  
586 Federal Savings and Loan Insurance Corporation  
590 Federal Trade Commission  
592 Foreign Claims Settlement Commission  
600 General Services Administration  
601 Harry S. Truman Scholarship Foundation  
602 Japan-U.S. Friendship Commission  
618 Institute of Museum Services  
619 John F. Kennedy Center for the Performing Arts  
620 U.S. Information Agency  
621 Inter-American Foundation  
622 International Boundary and Water Commission  
623 International Trade Commission  
625 Interstate Commerce Commission  
627 Marine Mammal Commission  
628 Merit System Protection Board  
631 National Aeronautics and Space Administration  
633 National Archives and Records Administration  
634 National Credit Union Administration  
635 National Commission for Employment Policy  
639 National Commission on Libraries & Info. Sciences  
640 National Capital Planning Commission  
642 National Gallery of Art  
643 National Commission on Severely Distressed Public  
Housing  
644 National Commission on Aids  
645 National Labor Relations Board  
646 National Endowment for the Arts  
647 National Endowment for the Humanities  
650 National Mediation Board  
652 National Railroad Adjustment Board  
655 National Science Foundation  
656 National Transportation Policy Study Commission  
657 Navajo and Hopi Indian Relocation Commission  
659 Nuclear Regulatory Commission  
660 National Transportation Safety Board  
661 Nuclear Safety Oversight Commission  
663 Occupation Safety and Health Review Commission  
664 Overseas Private Investment Corporation  
665 Panama Canal Commission

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## UCFE INSTRUCTIONS FOR STATE AGENCIES

### Code Title

667 Pension Benefit Guaranty Corporation  
668 Postal Rate Commission  
670 Railroad Retirement Board  
674 Ozarks Regional Commission  
677 Peace Corps  
678 Pennsylvania Avenue Development Commission  
680 President's Commission on Ethical Problems  
682 President's Commission on Pension Policy  
683 Railroad Accounting Principles Board  
690 Securities and Exchange Commission  
695 Selective Service System  
697 Susquehanna River Basin Commission  
700 Small Business Administration  
701 United States Holocaust Memorial Council  
705 Smithsonian Institution  
710 Soldier's and Airmen's Home  
730 Tennessee Valley Authority  
732 U.S. Postal Service  
735 Veteran's Administration  
807 Navy Exchange Service  
808 Navy Club and Recreation System  
809 U.S. Marine Corps Morale, Welfare,  
and Recreation Support Activity  
811 U.S. Coast Guard--Nonappropriated Fund Activity  
902 Central Intelligence Agency  
909 Census--UCFE

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## UCFE INSTRUCTIONS FOR STATE AGENCIES

### APPENDIX E - LIST OF UCFE INSTRUCTIONS SUPERSEDED BY THIS HANDBOOK

The following instructions issued to Federal agencies are superseded by the issuance of this Handbook:

1. How to Reduce Unemployment Insurance Overpayments and Benefit Costs for Federal Employees. Issued March 24, 1983.
2. Procedures for the Unemployment Compensation for Federal Employees (UCFE) Program. Issued October 6, 1986.
3. Issuance of Revised Standard Form 8 (SF-8), Notice to Federal Employee About Unemployment Insurance. Issued September 22, 1987.
4. Change in Billing Policy for Unemployment Insurance Benefit Costs Payable by Federal Employing Agencies. Issued February 17, 1988.
5. Backpay Award (Comptroller General's Decision). Issued April 17, 1988.
6. Privacy Act Release Statements. Issued May 18, 1988.
7. Effect of Backpay Awards on Unemployment Compensation Benefit Amounts (State Laws). Issued May 15, 1990.
8. Procedures Relating to Federal Civilian Employee Furloughs. Issued September 11, 1990.
9. Completion of Wage Information on Claims Inquiries. Issued November 16, 1992.