

or other party in interest or disqualified person with respect to a plan, from certain other provisions of ERISA and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of ERISA which require, among other things, that a fiduciary act prudently and discharge his or her duties respecting the plan solely in the interests of the participants and beneficiaries of the plan. Additionally, the fact that a transaction is the subject of an exemption does not affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act or section 4975(c)(1)(F) of the Code;

(3) In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code, the Department finds that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of such plans;

(4) The amendment is applicable to a particular transaction only if the transaction satisfies the conditions specified in the exemption; and

(5) The amendment is supplemental to, and not in derogation of, any other provisions of ERISA and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

#### Amendment

Under section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR 2570, Subpart B (55 FR 32836, 32847, August 10, 1990), the Department amends PTE 2006-06 as set forth below:

#### Exemption \* \* \*

##### I. Covered Transactions \* \* \*

(b) \* \* \*

(1) Designate itself or an affiliate as:  
(i) Provider of an individual retirement plan; (ii) provider, in the case of a distribution on behalf of a designated beneficiary (as defined by section 401(a)(9)(E) of the Code) who is not the surviving spouse of the deceased participant, of an inherited individual retirement plan (within the meaning of

section 402(c)(11) of the Code) established to receive the distribution on behalf of the nonspouse beneficiary under the circumstances described in section (d)(1)(ii) of the Safe Harbor Regulation for Terminated Plans (29 CFR section 2550.404a-3) (the Safe Harbor Regulation); or (iii) provider of an interest bearing, federally insured bank or savings association account maintained in the name of the participant or beneficiary, in the case of a distribution described in section (d)(1)(iii) of the Safe Harbor Regulation, for the distribution of the account balance of the participant or beneficiary of the abandoned individual account plan who does not provide direction as to the disposition of such assets;

#### V. Definitions \* \* \*

(b) The term "individual retirement plan" means an individual retirement plan described in section 7701(a)(37) of the Code. For purposes of section III of this exemption, the term "individual retirement plan" shall also include an inherited individual retirement plan (within the meaning of section 402(c)(11) of the Code) established to receive a distribution on behalf of a nonspouse beneficiary. Notwithstanding the foregoing, the term individual retirement plan shall not include an individual retirement plan which is an employee benefit plan covered by Title I of ERISA.

Signed at Washington, DC, this 26th day of September, 2008.

**Ivan L. Strasfeld,**

*Director, Office of Exemption Determinations.*

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#### DEPARTMENT OF LABOR

##### Employment and Training Administration

##### Notice of a Change in Status of an Extended Benefit (EB) Period for Alaska

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

**ACTION:** Notice.

**SUMMARY:** This notice announces a change in benefit period eligibility under the EB Program for Alaska.

The following change has occurred since the publication of the last notice regarding the State's EB status:

- Based on data reported by the Bureau of Labor Statistics on September 19, 2008, Alaska triggered "off" EB. Alaska's 3-month total unemployment rate for June, July and August fell to

109% of the prior year and 106% of the second prior year for the same period. This causes Alaska to be triggered "off" an EB period. After the week ending October 11, 2008, workers who exhaust their regular UI benefits will no longer be eligible to collect up to an additional 13 weeks of UI benefits under this program.

#### Information for Claimants

The duration of benefits payable in the EB Program, and the terms and conditions on which they are payable, are governed by the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and the operating instructions issued to the states by the U.S. Department of Labor. In the case of a state ending an EB period, the State Workforce Agency will furnish a written notice to each individual who is currently filing a claim for EB of the forthcoming end of the EB period and its effect on the individual's rights to EB (20 CFR 615.13(c)(4)).

#### FOR FURTHER INFORMATION CONTACT:

Scott Gibbons, U.S. Department of Labor, Employment and Training Administration, Office of Workforce Security, 200 Constitution Avenue, NW., Frances Perkins Bldg., Room S-4231, Washington, DC 20210, telephone number (202) 693-3008 (this is not a toll-free number) or by e-mail: [gibbons.scott@dol.gov](mailto:gibbons.scott@dol.gov).

Signed in Washington, DC, this 29th day of September, 2008.

**Brent R. Orrell,**

*Deputy Assistant Secretary of Labor for Employment and Training.*

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#### DEPARTMENT OF LABOR

##### Employment and Training Administration

##### Notice of a Change in Status of an Extended Benefit (EB) Period for North Carolina

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

**ACTION:** Notice.

**SUMMARY:** This notice announces a change in benefit period eligibility under the EB Program for North Carolina.

The following change has occurred since the publication of the last notice regarding the State's EB status:

- Based on data reported by the Bureau of Labor Statistics on September 19, 2008, North Carolina's 3-month

seasonally adjusted total unemployment rate rose to the 6.5 percent threshold and exceeded 110 percent of the corresponding rate in the prior year. This causes North Carolina to be triggered "on" to an EB period beginning October 5, 2008.

#### Information for Claimants

The duration of benefits payable in the EB Program, and the terms and conditions on which they are payable, are governed by the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and the operating instructions issued to the states by the U.S. Department of Labor. In the case of a state beginning an EB period, the State Workforce Agency will furnish a written notice of potential entitlement to each individual who has exhausted all rights to regular benefits and is potentially eligible for EB (20 CFR 615.13(c)(1)).

Persons who believe they may be entitled to EB, or who wish to inquire about their rights under the program, should contact their State Workforce Agency.

**FOR FURTHER INFORMATION CONTACT:** Scott Gibbons, U.S. Department of Labor, Employment and Training Administration, Office of Workforce Security, 200 Constitution Avenue, NW., Frances Perkins Bldg., Room S-4231, Washington, DC 20210, telephone number (202) 693-3008 (this is not a toll-free number) or by e-mail: [gibbons.scott@dol.gov](mailto:gibbons.scott@dol.gov).

Signed in Washington, DC, this 29th day of September, 2008.

**Brent R. Orrell,**

*Deputy Assistant Secretary of Labor for Employment and Training.*

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**BILLING CODE 4510-FN-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Labor Surplus Area Classification Under Executive Orders 12073 and 10582

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

**ACTION:** Notice.

**SUMMARY:** The purpose of this notice is to announce the annual list of labor surplus areas for Fiscal Year (FY) 2009.

**DATES:** Effective Date: The annual list of labor surplus areas is effective October 1, 2008, for all states, the District of Columbia, and Puerto Rico.

#### FOR FURTHER INFORMATION CONTACT:

Anthony D. Dais, Office of Workforce Investment, Employment and Training Administration, 200 Constitution Avenue, NW., Room S-4231, Washington, DC 20210. Telephone: (202) 693-2784 (This is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The Department of Labor's regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR Part 654, Subparts A and B. These regulations require the Employment and Training Administration (ETA) to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations, ETA is hereby publishing the annual list of labor surplus areas.

In addition, the regulations provide exceptional circumstance criteria for classifying labor surplus areas when catastrophic events, such as natural disasters, plant closings, and contract cancellations are expected to have a long-term impact on labor market area conditions, discounting temporary or seasonal factors.

#### Eligible Labor Surplus Areas

##### *Procedures for Classifying Labor Surplus Areas*

The Department of Labor (DOL) issues the labor surplus area list on a fiscal year basis. The list becomes effective each October 1 and remains in effect through the following September 30. The reference period used in preparing the current list was January 2006 through December 2007. The national average unemployment rate during this period was 4.7 percent. Applying the "floor" concept (see regulations), the unemployment rate for an area to qualify as having a surplus of labor for FY 2009 is 6.0 percent. Therefore, areas included on the FY 2009 labor surplus area list had an average unemployment rate of 6.0 percent or above during the reference period. This year the balance of county areas are not listed since all of the balance of county areas eligible to be a labor surplus area were in counties that also qualified as a labor surplus area. A second listing would be

unnecessarily redundant and potentially confusing. The FY 2009 labor surplus area list can be accessed at: <http://www.doleta.gov/programs/lssa.cfm>.

#### Petition for Exceptional Circumstance Consideration

The classification procedures also provide for the designation of labor surplus areas under exceptional circumstance criteria. These procedures permit the regular classification criteria to be waived when an area experiences a significant increase in unemployment, which is not temporary or seasonal and was not reflected in the data for the 2-year reference period. Under the program's exceptional circumstance procedures, labor surplus area classifications can be made for civil jurisdictions, Metropolitan Statistical Areas or Primary Metropolitan Statistical Areas, as defined by the Office of Management and Budget. In order for an area to be classified as a labor surplus area under the exceptional circumstance criteria, the state workforce agency must submit a petition requesting such classification to the DOL ETA. The current criteria for an exceptional circumstance classification are: An area's unemployment rate of at least 6.0 percent for each of the three most recent months; a projected unemployment rate of at least 6.0 percent for each of the next 12 months; and documentation that the exceptional circumstance event has already occurred. The state workforce agency may file petitions on behalf of civil jurisdictions, as well as Metropolitan Statistical Areas or Primary Metropolitan Statistical Areas. The addresses of state workforce agencies are available on the ETA Web site at: <http://www.doleta.gov/programs/lssa.cfm>. State workforce agencies may submit petitions in electronic format to [dais.anthony@dol.gov](mailto:dais.anthony@dol.gov), or in hard copy to the U.S. Department of Labor, Employment and Training Administration, Office of Workforce Investment, 200 Constitution Avenue, NW., Room S-4231, Washington, DC 20210. Data collection for the petition is approved under OMB 1205-0207, expiration date March 31, 2011.

Signed at Washington, DC this 30th day of September, 2008.

**Brent R. Orrell,**

*Deputy Assistant Secretary for Employment and Training Administration.*