

Justification, Non-Substantive Change Request, OMB 1205-0028, ETA 539
(December 2010)

Sections 501 and 502 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312; the Federal-State Extended Unemployment Compensation Act of 1970 (“EB law”), extended Unemployment Insurance benefits through December 31, 2011, thus modifying the system which controls states’ ability to issue extended benefits to the jobless.

P.L. 111-312 permits states to amend their laws to temporarily modify the provisions concerning EB “on” and “off” indicators. Specifically, it permits states to make determinations of whether there is an EB “on” or “off” indicator by comparing current unemployment rates to the unemployment rates for the corresponding period in the three preceding years. This comparison is called a “lookback”. (Under permanent EB law, the look-back compares current unemployment rates to rates in the previous two years.) This modification to the look-back provisions will enable many states to remain “on” EB much longer. This authority expires on December 31, 2011.

ETA captures data on a weekly basis on this triggering system on the ETA 539, one of two reports in OMB 1205-0028. Thus ETA slightly modified the reporting instructions on the ETA 539. The instructions currently lead the state through the calculation of the trigger values and the computation of a “lookback” percentage, a measure of how high the current rate is compared with the average rate in prior years. The way the law is constructed, it’s not enough for a state to have a high unemployment rate; the rate must also be higher than it was in prior years. Due to the length of the recession and high level of unemployment rates, many states will soon fail to remain on employment benefits; PL 111-312 allows states to extend their “lookback” period to three years.

ETA must ensure that states that adopt this modification can properly report it by replacing all mention in the reporting instructions of “two years” with more generic language directing states to use the appropriate number of years as specified in their state law. This non-substantive change request does NOT make additions or deletions to the current reporting requirements. There is merely a redefinition of one cell (average rate in prior years), along with some minor edits to make the guidance consistent with this new change. Furthermore, the instructions are generic, so that ETA 539 need not be changed again when the pertinent sections of PL 111-312 are no longer in force. Finally, information discussions with three state systems ascertained that any additional burden is extremely negligible, and the current (generous) burden estimate is more than enough to cover any additional time that may be expended on this expanded “lookback.”