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| TRAINING AND EMPLOYMENT<br>NOTICE | <b>NO.</b> 21-08             |
|                                   | <b>DATE</b> December 2, 2008 |

**TO:** STATE WORKFORCE AGENCIES  
STATE WORKFORCE LIAISONS  
STATE LABOR MARKET INFORMATION OFFICES

**FROM:** GAY M. GILBERT /s/  
Administrator  
Office of Workforce Investment

**SUBJECT:** Labor Surplus Areas (LSA) List for Program Year (PY) 2009

1. **Purpose.** To announce the annual list of Labor Surplus Areas for Fiscal Year (FY) 2009.
2. **References.** Executive Orders 12073 and 10582 as set forth at 20 CFR Part 654, Subparts A and B of the Department of Labor's regulations.
3. **Background.** The Department of Labor 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 regulations cited above require the Assistant Secretary of Labor for 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.

The 12-month reference period for LSA designation shall be October 1, 2008, through September 30, 2009.

4. **Who Uses the LSA list.** Several Federal, state, local and private agencies use the LSA list. Some of the users of the LSA list and reasons they use the list are:
  - a) The Administrator for Federal Procurement Policy and Executive agencies use the LSA list to identify where procurement set asides should be emphasized in order to strengthen our Nation's economy;
  - b) General Service Administration (GSA) Online Representations and Certifications Application (ORCA) system uses the LSA list as a tool to determine if a business qualifies as a Labor Surplus Area concern;
  - c) The Small Business Administration uses the LSA list for bid selections for small business awards in Historically Underutilized Business Zones (HUBZones);
  - d) Some state and local area governments use the LSA list to allocate employment related and other assistance (Supplemental Nutrition Assistance Program and training); and

- e) Private industry has used the LSA list for strategic planning and the identification of potential sources of human capital.

5. **What is a Labor Surplus Area.** A LSA is a civil jurisdiction that has a civilian average annual unemployment rate during the previous two calendar years of 20 percent or more above the average annual civilian unemployment rate for all states during the same 24-month reference period, or an unemployment rate of 10.0% or higher. Only official unemployment estimates provided to ETA by the Bureau of Labor Statistics are used in making these classifications. The average unemployment rate for all States includes data for the Commonwealth of Puerto Rico. The basic LSA classification criteria include a "floor unemployment rate" (6.0%)

Civil jurisdictions are defined as follows:

- a) A city of at least 25,000 population on the basis of the most recently available estimates from the Bureau of the Census; or
- b) A town or township in the States of Michigan, New Jersey, New York, or Pennsylvania of 25,000 or more population and which possess powers and functions similar to those of cities; or
- c) A county, except those counties which contain any type of civil jurisdictions defined in a or b above; or
- d) A "balance of county" consisting of a county less any component cities and townships identified in paragraphs a or b above; or
- e) A county equivalent which is a town in the States of Connecticut, Massachusetts, and Rhode Island, or a municipio in the Commonwealth of Puerto Rico.

6. **What are the Procedures for Exceptional Circumstances.** In these times of major economic shock due to natural and man-made catastrophes, there are exceptions to the criteria used for an area to be added to the LSA list. The basic LSA classification criteria described in the LSA regulations permit the Department to classify a civil jurisdiction, or a Metropolitan Statistical Area, or a Primary Metropolitan Statistical Area as a labor surplus area when an area's unemployment increases significantly due to exceptional circumstances. Such exceptional circumstances result from a variety of economic shocks such as major plant closings or cutbacks, contract cancellations, or such catastrophic events as fires, floods, and other major disasters. For an area to be classified as an LSA under the exceptional circumstances criteria, a petition must be received from a State Workforce Agency (SWA) indicating that the civil jurisdiction has had an increase in unemployment which is not temporary or seasonal and which was not adequately shown in the unemployment data for the 2-year reference period used in preparing the annual LSA listing. The SWAs are responsible for initiating the preparation and submittal of petitions requesting LSA classification under the exceptional circumstances criteria. Before preparing a petition, the SWA should first ascertain the following:

- a) The geographic area corresponds to a civil jurisdiction, as defined above in Part 5 or a Metropolitan Statistical Area or Primary Metropolitan Statistical Area as defined by the Office of Management and Budget;
- b) The area has had an increase in unemployment that was not adequately shown in the area's unemployment data for the 2-year reference period;
- c) The event responsible for the area's rise in unemployment has increased the unemployment rate in the area high enough to meet the "floor level" for each of the three latest months; and
- d) The impact on the area's level of unemployment is not due to temporary or seasonal factors and is expected to remain at that high level during each of the next 12 months.

If these requirements are met, the responsible SWA may send a petition to ETA requesting that the area be classified as an LSA under the exceptional circumstances criteria. In the case of Primary Metropolitan Statistical Areas, the petition should be filed by the SWA responsible for developing and publishing the labor force data for the multi-state area. The petition should include:

- a) Name of the civil jurisdiction, Metropolitan Statistical Area or Primary Metropolitan Statistical Area;
- b) Description of the event which caused the area's increased level of unemployment;
- c) Information which shows that the rise in unemployment is long term and not due to temporary or seasonal factors;
- d) Official monthly estimates of the area's labor force, employment, unemployment, and unemployment rate prepared by the SWA following Bureau of Labor Statistics (BLS) procedures for each month after the 2-year reference period;
- e) Monthly projections prepared by the SWA of the area's labor force, employment, unemployment, and unemployment rate for each of the next 12 months; and
- f) Supporting information to show that the long-term impact of the event is expected to keep the level of unemployment high enough to meet the "floor criteria" of these procedures.

Such supporting information can include: narrative describing the magnitude of the major plant closing, cutback, contract cancellation, catastrophic event or major disaster; newspaper clippings, etc.

Petitions may be in narrative form with appropriate tables and documentation. The SWA should send two copies directly to the Employment and Training Administration (ETA), 200 Constitution Avenue, N.W., Room S4231 (Attention: Anthony Dais), Washington, D.C. 20210, and one copy to the SWA's ETA Regional Office.

If the petition is complete and no further information is needed, ETA will determine within 60 days whether the area is eligible for LSA classification under the exceptional circumstances criteria. The ETA will advise the SWA of this determination through the ETA Regional

Office. If the area is approved for LSA classification, it will be published in the *Federal Register*.

The Assistant Secretary terminates the classification of a civil jurisdiction as a labor surplus area after any year in which the Assistant Secretary determines that the original criteria (basic or exceptional circumstances) are no longer met; therefore, if an area is not on the current list, the area is no longer classified as a labor surplus area. A SWA may petition ETA for an area to be included on the list in accordance with section 6 herein.

7. **Availability.** The current and previous LSA lists can be found at:  
<http://166.97.5.198/Programs/lisa.cfm>

8. **Action Requested.** Addressees are requested to share the LSA list with their staff and partners in their regions, state, and local areas as appropriate.

9. **Inquires.** Direct questions to Mr. Anthony D. Dais, or Samuel Wright, Office of Workforce Investment, Employment and Training Administration, 200 Constitution Avenue, NW, Room S-4231, Washington, D.C. 20210. Telephone: (202) 693-2784 or (202) 693-2870, respectively (This is not a toll-free number).