

§ 640.3

Until he is so satisfied, he shall make no further certification to the Secretary of the Treasury with respect to such State * * *.

§ 640.3 Interpretation of Federal law requirements.

(a) *Section 303(a)(1)*. The Secretary interprets section 303(a)(1) of the Social Security Act to require that a State law include provision for such methods of administration as will reasonably insure the full payment of unemployment benefits to eligible claimants with the greatest promptness that is administratively feasible.

(b) *Section 303(b)(2)*. (1) The Secretary interprets section 303(b)(2) of the Social Security Act to require that, in the administration of a State law, there shall be substantial compliance with the provision required by section 303(a)(1).

(2) The greatest promptness that is administratively feasible will depend upon the circumstances in each State that impacts upon its performance in paying benefits. Factors reasonably beyond a State's control may cause its performance to drop below the level of adequacy expressed in the table below as criteria for substantial compliance applicable to all States. Where it is demonstrated that failure to meet the criteria of adequacy is attributable to factors reasonably beyond the State's control and, in light of those factors, the State has performed at the highest level administratively feasible, it will be considered that the State is in substantial compliance with the Standard for conformity. Whether or not the State is in substantial compliance, the remedial provisions of §§ 640.7 and 640.8 will be applicable when the pertinent criteria are not met.

§ 640.4 Standard for conformity.

A State law will satisfy the requirement of section 303(a)(1), if it contains a provision requiring, or which is construed to require, such methods of administration as will reasonably insure the full payment of unemployment benefits to eligible claimants with the greatest promptness that is administratively feasible.

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§ 640.5 Criteria for compliance.

The criteria in the schedule below shall apply in determining whether, in the administration of a State law, there has been substantial compliance with the provision required by section 303(a)(1) in the issuance of benefit payments to eligible claimants for the first compensable weeks of unemployment in their benefit years:

	Percentage of first payments issued—days following end of first compensable week		
	14 days, waiting week States	21 days, non-waiting week States ¹	35 days, all States
INTRASTATE CLAIMS			
Performance to be achieved for the 12-mo. period ending:			
Mar. 31, 1978	80	80
Mar. 31, 1979	² 83	² 83	² 90
Mar. 31, 1980, and thereafter	87	87	93
INTERSTATE CLAIMS			
Performance to be achieved for the 12-mo. period ending:			
Mar. 31, 1978	60	60
Mar. 31, 1979	² 65	² 65	² 75
Mar. 31, 1980, and thereafter	70	70	78

¹ A nonwaiting week State is any State whose law does not require that a non-compensable period of unemployment be served before the payment of benefits commences.
² Beginning with the month following the effective date of this revised regulation.

A State will be deemed to comply substantially, as set out in §§ 640.2(b) and 640.3(b), if its average performance, for the period of review, meets or exceeds the applicable criteria set forth above.

§ 640.6 Review of State compliance.

(a) *Annual reviews*. The administration of each State law shall be reviewed annually for compliance, as set out in §§ 640.2(b) and 640.3(b). Annual reviews shall be for the 12-month period ending on March 31 of each year. An annual review with respect to any State shall be based upon the monthly reports of performance submitted to the Department by the State agency, any special reports of performance submitted to the Department by the State agency, any benefit payment performance plan applicable to the period

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being reviewed, any study or analysis of performance relevant to the period being reviewed, and any other audit, study, or analysis as directed by the Department of Labor.

(b) *Periodic review.* The administration of any State law may be reviewed at any other time, when there is reason to believe that there may be failure of compliance as set out in §§ 640.2(b) and 640.3(b). Such a review shall be based upon the same elements as may be required for an annual review.

§ 640.7 Benefit payment performance plans.

(a) *Annual plan.* An annual benefit payment performance plan shall be submitted by a State agency to the Department of Labor when average performance over a 12-month period ending on March 31 of any year does not meet the criteria specified in § 640.5. An annual plan shall be submitted by July 31 following the applicable March 31, and shall be a plan for the fiscal year that begins on the succeeding October 1. An annual plan shall be subject to continuing appraisal during the period it is in effect, and shall be subject to modification from time to time as may be directed by the Department of Labor after consultation with the State agency.

(b) *Periodic plan.* A periodic benefit payment performance plan shall be submitted by a State agency when directed by the Department of Labor. A periodic plan may be in addition to, or a modification of an annual plan and may be required even though an annual plan covering the same period is not required. A periodic plan shall be subject to continuing appraisal during the period it is in effect, and shall be subject to modification from time to time as may be directed by the Department of Labor.

(c) *Content of plan.* An annual plan or periodic plan shall set forth such corrective actions, performance and evaluation plans, and other matters as the

Department of Labor directs, after consultation with the State agency.

(Approved by the Office of Management and Budget under control number 1205-0132)

(Pub. L. No. 96-511)

[43 FR 33225, July 28, 1978, as amended at 49 FR 18295, Apr. 30, 1984]

§ 640.8 Enforcement of the standard.

(a) *Action by the Department of Labor.* When a State agency fails, for an extended period, to meet the standard set forth in § 640.4 or the criteria specified in § 640.5, or fails to show satisfactory improvement after having submitted a benefit payment performance plan of action, the Department of Labor shall pursue any of the following remedial steps that it deems necessary before considering application of the provisions of § 640.2:

(1) Initiate informal discussion with State agency officials pursuant to § 601.5(b) of this chapter.

(2) Conduct an evaluation of the State's benefit payment processes and analyze the reasons for the State's failure to meet the standard.

(3) Recommend specific actions for the State to take to improve its benefit payment performance.

(4) Request the State to submit a plan for complying with the standard by a prescribed date.

(5) Initiate special reporting requirements for a specified period of time.

(6) Consult with the Governor of the State regarding the consequences of the State's noncompliance with the standard.

(7) Propose to the Governor of the State and on an agreed upon basis arrange for the use of expert Federal staff to furnish technical assistance to the State agency with respect to its payment operations.

(b) *Action by the Assistant Secretary.* If, after all remedial steps have been exhausted, a State fails to take appropriate action, or otherwise fails to meet the standard specified in § 640.4, the Assistant Secretary for Employment and Training shall, after taking