

appeal the Governor's denial of substate area designation to the Secretary of Labor. The procedures that apply to such appeals shall be those set forth at § 628.405(g) for appeals of the Governor's denial of SDA designation.

(2) An entity described in paragraph (c)(2) of this section that has been denied substate area designation may utilize the State-level grievance procedures required by section 144(a) of the Act and subpart E of part 627 of this chapter for the resolution of disputes arising from such a denial.

(h) Designation of substate areas shall not be revised more frequently than once every two years. All such designations must be completed no later than four months prior to the beginning of any program year (section 312(a)(6)).

§ 631.35 Designation of substate grantees.

The Governor may establish procedures for the designation of substate grantees.

(a) Designation of the substate grantee for each substate area shall be made on a biennial basis.

(b) Entities eligible for designation as substate grantees include:

- (1) Private industry councils in the substate area;
- (2) Service delivery area grant recipients or administrative entities designated under Title II of the Act;
- (3) Private non-profit organizations;
- (4) Units of general local government in the substate area, or agencies thereof;
- (5) Local offices of State agencies; and
- (6) Other public agencies, such as community colleges and area vocational schools.

(c) Substate grantees shall be designated in accordance with an agreement among the Governor, the local elected official or officials of such area, and the private industry council or councils of such area. Whenever a substate area is represented by more than one such official or council, the respective officials and councils shall each designate representatives, in accordance with procedures established by the Governor (after consultation with

the SJTCC or HRIC), to negotiate such agreement.

(d) The agreement specified in paragraph (c) of this section shall set forth the conditions, considerations, and other factors related to the selection of substate grantees in accordance with section 312(b) of the Act.

(e) The Governor shall negotiate in good faith with the parties identified in paragraph (c) of this section and shall make a good faith effort to reach agreement. In the event agreement cannot be reached on the selection of a substate grantee, the Governor shall select the substate grantee.

(f) Decisions under paragraphs (c), (d), and (e) of this section are not appealable to the Secretary (section 312(b) and (c)).

§ 631.36 Biennial State plan.

(a) In order to receive an allotment of funds under §§ 631.11 and 631.12 of this part, the State shall submit to the Secretary, in accordance with instructions issued by the Secretary, on a biennial basis, a biennial State plan (section 311). Such plan shall include:

- (1) Assurances that—
 - (i) The State will comply with the requirements of Title III of the Act and this part;
 - (ii) Services will be provided only to eligible displaced workers, except as provided in paragraph (a)(2) of this section;
 - (iii) Services will not be denied on the basis of State of residence to eligible dislocated workers displaced by a permanent closure or substantial layoff within the State; and may be provided to other eligible dislocated workers regardless of the State of residence of such workers;
- (2) Provision that the State will provide services under this part to displaced homemakers only if the Governor determines that the services may be provided to such workers without adversely affecting the delivery of services to eligible dislocated workers;
- (3) A description of the substate allotment and reallocation procedures and assurance that they meet the requirements of the Act and this part;
- (4) A description of the State procurement system and procedures to be used under Title III of the Act and this