

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	<b>CLASSIFICATION</b> TAA
	<b>CORRESPONDENCE SYMBOL</b> OTAA
	<b>DATE</b> December 27, 2013

**ADVISORY:**      **TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 7-13**

**TO:**                STATE WORKFORCE AGENCIES  
 STATE WORKFORCE LIAISONS  
 AFFILIATE AMERICAN JOB CENTER MANAGERS  
 COMPREHENSIVE AMERICAN JOB CENTER MANAGERS  
 STATE WORKFORCE ADMINISTRATORS  
 STATE AND LOCAL WORKFORCE BOARD CHAIRS AND  
 DIRECTORS  
 STATE LABOR COMMISSIONERS  
 RAPID RESPONSE COORDINATORS  
 TRADE ADJUSTMENT ASSISTANCE LEADS

**FROM:**            ERIC M. SELEZNOW /s/  
 Acting Assistant Secretary

**SUBJECT:**        Operating Instructions for Implementing the Sunset Provisions of the Amendments  
 to the Trade Act of 1974 Enacted by the Trade Adjustment Assistance Extension  
 Act of 2011 (TAAEA or the 2011 Amendments)

1. **Purpose.** To assist State Workforce Agencies or agencies designated by Governors as “Cooperating State Agencies” (CSAs or “states”) to implement the sunset provisions to the Trade Adjustment Assistance Extension Act of 2011 (TAAEA or the 2011 Amendments) by providing operating instructions to apply to adversely affected workers covered by petitions filed on or after January 1, 2014, and identifying prior guidance that CSAs must continue to follow.
  
2. **Scope.** These Operating Instructions primarily address changes to the Trade Adjustment Assistance (TAA) program made by the sunset provisions of TAAEA, and will be referred to as *Reversion 2014*. For issues that are not addressed by these operating instructions, such as performance and reporting, states must continue to comply with Training and Employment Guidance Letters (TEGLs) cited in the section below and other such program guidance letters issued by the U.S. Department of Labor (Department) applicable to the TAA benefits and assistance for adversely affected workers covered under TAA certifications resulting from petitions filed before 11:59 PM EST, Tuesday, December 31, 2013.
  
3. **References.**
  - Chapter 2 of Title II of the Trade Act of 1974, as amended (Pub. L. 93-618) (1974 Act and, as amended, Trade Act);

<b>RESCISSIONS</b> None	<b>EXPIRATION DATE</b> Continuing
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- Trade Adjustment Assistance Reform Act of 2002, Division A, Title I, Subtitle A of the Trade Act of 2002 (Pub. L. 107-210), as amended by the Miscellaneous Trade and Technical Corrections Act of 2004, (Pub. L. 108-429);
- Trade and Globalization Adjustment Assistance Act of 2009, Division B, Title I, Subtitle I of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5);
- Omnibus Trade Act of 2010 (Pub. L. 111-344) (Omnibus Trade Act);
- Trade Adjustment Assistance Extension Act of 2011 (Pub. L. 112-40);
- 20 Code of Federal Regulations (CFR) part 617;
- 20 CFR part 618;
- 29 CFR part 90;
- TEGL No. 11-02, *Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade Act of 2002, and its Changes 1; 2, and 3;*
- TEGL No. 2-03, *Interim Operating Instructions for Implementing the Alternative Trade Adjustment Assistance (ATAA) for Older Workers Program Established by the Trade Adjustment Assistance Reform Act of 2002, and its Change 1 and 2;*
- TEGL No. 22-08, *Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade and Globalization Adjustment Assistance Act of 2009, and its Change 1;*
- TEGL No. 6-09, *Instructions for Implementing the Revised 2010 Trade Adjustment Assistance Trade Activity Participant Report (TAPR) and its Change 1 and 2;*
- TEGL No. 16-10, *Instructions for Phasing Out Changes to the Trade Act of 1974 Enacted by the Trade and Globalization Adjustment Assistance Act of 2009, and its Change 1;*
- TEGL No. 08-11, *Availability of Equitable Tolling of Deadlines for Workers Covered Under Trade Adjustment Assistance (TAA) Certifications;* and
- TEGL No. 10-11, *Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade Adjustment Assistance Extension Act of 2011(TAAEA), and its Changes 1 and 2.*

#### **4. Definitions.**

- a) *2002 Amendments* means the Trade Act of 1974, Pub. L. 93-618, as amended by the Trade Adjustment Assistance Reform Act of 2002 (TAARA), Pub. L. 107-210 and the Miscellaneous Trade and Technical Corrections Act of 2004, Pub. L. 108-429 (TAARA).
- b) *2002 Program* means the TAA program under the 2002 Amendments or TAARA.
- c) *2009 Amendments* means the Trade Act of 1974, as amended by the Trade and Globalization Adjustment Assistance Act of 2009 (TGAAA).
- d) *2009 Program* means the TAA program under the 2009 Amendments or TGAAA.
- e) *2011 Amendments* means the Trade Act, as amended by the Trade Adjustment Assistance Extension Act of 2011 (TAAEA).
- f) *2011 Program* means the TAA program under the 2011 Amendments or TAAEA.
- g) *ATAA* means the Demonstration Project for Alternative Trade Adjustment Assistance for Older Workers, under Section 246 of the 2002 Act, as in effect on May 17, 2009, the day before the effective date of the 2009 Act, and during the period from February 13, 2011 through October 20, 2011.
- h) *CSA* means Cooperating State Agency.

- i) *Department* means the United States Department of Labor.
- j) *HCTC* means Health Coverage Tax Credit (Section 35, Internal Revenue Code (I.R.C.) of 1986) (26 U.S.C. 35).
- k) *Reversion 2014* means the TAA program under the Sunset Provisions of the TAAEA.
- l) *RTAA* means Reemployment Trade Adjustment Assistance, under Section 246 of the 2009 Act and the 2011 Act.
- m) *Secretary* means the Secretary of Labor.
- n) *TAA Program* means the Trade Adjustment Assistance for Workers Program under chapter 2 of title II of the Trade Act (19 U.S.C. 2271 et seq.).
- o) *TRA* means Trade Readjustment Allowances.
- p) *Trade Act of 1974* means the Trade Act of 1974, Pub. L. 93-618, as amended (through Pub. L. No. 106-113).
- q) *Wagner Peyser* means the Wagner Peyser Act of 1933, Pub. L. 73-30, as amended (29 U.S.C. 49 et seq.).
- r) *WIA* means the Workforce Investment Act of 1998, Pub. L. 105-220, as amended (29 U.S.C. 2801, et seq.).

**5. Background.** The TAA program is a federal entitlement program that assists U.S. workers who have lost their jobs as a result of foreign trade. The TAA program for workers, established by the Trade Act of 1974, has been amended a number of times over the past 40 years. The latest amendments, referred to as the 2011 Amendments, are contained in the TAAEA. Currently, adversely affected workers may be covered and eligible to apply for TAA benefits and services under either the 2002 Amendments, the 2009 Amendments, or the 2011 Amendments. Workers receiving TAA program benefits and services under any of these amendments will continue to receive the applicable benefits and services as directed under these programs.

Previously issued guidance related to the above mentioned amendments remains in effect and is available as follows:

1. Workers covered by certifications numbered TA-W-81,000-84,999, are addressed in TEGL No. 10-11 and its Changes 1 and 2; except for TEGL No. 10-11, Change 1, Section H, Question and Answer H1, which is superseded by the guidance provided herein;
2. Workers covered by certifications numbered TA-W-70,000-79,999, are addressed in TEGL No. 22-08 and its Change 1;
3. Workers covered by certifications numbered TA-W-69,999 and below, are addressed in TEGL No. 11-02 and its Changes 1, 2, and 3.
4. An exception exists for workers covered by certifications numbered TA-W-80,000-80,999. The 2009 Amendments expired on February 12, 2011, at which time the program reverted to operating under the 2002 Amendments. Between February 12, 2011, and October 21, 2011, the Department certified and states served workers under the 2002 Amendments. The 2011 Amendments included a provision allowing workers covered under this certification series who were receiving benefits under the 2002 Amendments on or before December 20, 2011, to make a one-time choice (between

December 20, 2011 and March 19, 2012) to continue being served under the 2002 Program or to receive the 2011 Program level of benefits and services. Therefore, CSAs should take care to identify which law governs workers certified under TA-W-80,000-80,999 and guidance is contained in TEGL No. 10-11 and its Changes 1 and 2.

Individuals who file petitions on October 21, 2011, through 11:59 PM EST, Tuesday, December 31, 2013, will have access to benefits and services under the 2011 Amendments for the certification series TA-W-81,000-84,999, as provided in TEGL No. 10-11 and its Changes 1 and 2. Individuals who file petitions on or after January 1, 2014, must meet the group eligibility certification requirements of the 2002 Amendments and *only* the reduced benefits and services under Reversion 2014 will be available to workers covered under those certifications, in accordance with statutory sunset provisions to the 2011 Amendments, which read in pertinent part as follows:

*SEC. 233. SUNSET PROVISIONS.*

*(a) APPLICATION OF PRIOR LAW.—Subject to subsection (b), beginning on January 1, 2014, the provisions of chapters 2, 3, 5, and 6 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), as in effect on February 13, 2011, shall apply, except that in applying and administering such chapters—*

*(1) paragraph (1) of section 231(c) of that Act shall be applied and administered as if subparagraphs (A), (B), and (C) of that paragraph were not in effect;*

*(2) section 233 of that Act shall be applied and administered—*

*(A) in subsection (a)*

*(i) in paragraph (2), by substituting “104-week period” for “104-week period” and all that follows through “130-week period”;*and

*(ii) in paragraph (3) –*

*(I) in the matter preceding subparagraph (A), by substituting “65” for “52”; and*

*(II) by substituting “78-week period” for “52-week period” each place it appears; and*

*(B) by applying and administering subsection (g) as if it read as follows:*

*(g) PAYMENT OF TRADE READJUSTMENT ALLOWANCES TO COMPLETE TRAINING.— Notwithstanding any other provision of this section, in order to assist an adversely affected worker to complete training approved for the worker under section 236 that leads to the completion of a degree or industry-recognized credential, payments may be made as trade readjustment allowances for not more than 13 weeks within such period of eligibility as the Secretary may prescribe to account for a break in training or for justifiable cause that follows the last week for which the worker is otherwise entitled to a trade readjustment allowance under this chapter if—*

*(1) payment of the trade readjustment allowance for not more than 13 weeks is necessary for the worker to complete the training;*

*(2) the worker participates in training in each such week; and*

*(3) the worker—*

*(A) has substantially met the performance benchmarks established as part of the training approved for the worker;*

*(B) is expected to continue to make progress toward the completion of the training; and*

*(C) will complete the training during that period of eligibility.’’*

*(4) section 245 of that Act shall be applied and administered by substituting ‘‘2014’’ for ‘‘2007’’;*

*(5) section 246(b)(1) of that Act shall be applied and administered by substituting ‘‘December 31, 2014’’ for ‘‘the date that is 5 years’’ and all that follows through ‘‘State’’;*

\* \* \* \* \*

*(6) section 285 of that Act shall be applied and administered—*

*(A) in subsection (a), by substituting ‘‘2014’’ for ‘‘2007’’ each place it appears; and*

*(B) by applying and administering subsection (b) as if it read as follows:*

*(b) EXCEPTIONS.—The provisions of chapters 2, 3, 4, 5, and 6 of title II of the Trade Act of 1974, as in effect on the date of the enactment of this Act, shall continue to apply on and after January 1, 2014, with respect to—*

*(1) workers certified as eligible for trade adjustment assistance benefits under chapter 2 of title II of that Act pursuant to petitions filed under section 221 of that Act before January 1, 2014;*

In accordance with Federal regulations at 29 CFR 90.2 which define the ‘‘date of filing’’ as the ‘‘date on which petitions are received by’’ the Office of Trade Adjustment Assistance (OTAA), a petition filed before January 1, 2014, is covered under the 2011 Program *only* if OTAA receives it on or before 11:59 PM EST, Tuesday, December 31, 2013. The date and time in the Eastern Standard Time (EST) zone controls whether a petition is filed by that deadline. Note that, due to security protocols, mail to the Department may be delayed, so it is recommended that all mailed petitions are submitted early to meet the above deadline. The Department strongly recommends that petitioners consider using the on-line petition filing or fax the petition to ensure receipt by the Department before the statutory deadline. Below are the options mentioned for filing a petition:

- Via mail at the U.S. Department of Labor, Employment and Training Administration, Office of Trade Adjustment Assistance, 200 Constitution Avenue, NW, Washington DC 20210 (must have a postmarked date on or before Tuesday, December 31, 2013);
- Via fax to (202) 693-3585 on or before 11:59 PM EST, Tuesday, December 31, 2013. The Department strongly suggests that petitioners retain the fax cover sheet with the date and time stamp.
- Via online petition processing located on OTAA’s website, <http://www.doleta.gov/tradeact/>. A confirmation email generated by the system is sent to the worker that indicates the petition was received in OTAA on or before 11:59 PM EST, Tuesday, December 31, 2013.

**6. Operating Instructions.** The operating instructions contained in this TEGl constitute the controlling program guidance issued to states and are provided by the Department, through the Employment and Training Administration (ETA), in its role as the principal of the TAA program. The states, as agents of the Secretary, are directed to administer the following Reversion 2014 guidance and may not vary from the operating instructions in this document

without prior approval from ETA. These operating instructions primarily address changes to the TAA program made by the sunset provisions of the TAAEA. To that end, the operating instructions in the remainder of this guidance include statutory references from both TAAEA and TAARA.

**A. BENEFITS AND SERVICES**

**Statute:** Section 233(a) of the TAAEA reads in pertinent part:

*(a) APPLICATION OF PRIOR LAW.—Subject to subsection (b), beginning on January 1, 2014, the provisions of chapters 2, 3, 5, and 6 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), as in effect on February 13, 2011, shall apply....*

**Administration:** Beginning on January 1, 2014, the Department will once again start a new petition number series to identify workers who are certified under *Reversion 2014*. At the same time, CSAs will be required to manage benefits and services for four programs and five distinct participant cohorts resulting from the enactment of the TGAAA and the TAAEA and their sunset provisions. The relevant laws governing each cohort, marked by certification numbers and effective dates, are provided in the table below, along with the guidance documents that CSAs must continue to apply. The Department will identify petitions received on or after January 1, 2014, with petition numbers TA-W-85,000 and above.

Petition Series	Amendment	Guidance
I. TA-W-69,999 and below	TAARA (2002 Amendments)	TEGL No. 11-02 and Changes 1, 2, and 3; TEGL No. 2-03, and Change 1; 20 CFR parts 617 and 618, and 29 CFR part 90.
II. TA-W-70,000 through TA-W-79,999	TGAAA (2009 Amendments)	TEGL No. 22-08 and Change 1; Omnibus Trade Act; and 20 CFR parts 617 and 618, and 29 CFR part 90.
III. TA-W-80,000 through TA-W-80,999	TAARA (2002 Amendments under TGAAA sunset provisions) –or- TAAEA (2011 Amendments under “choice” provisions)	These workers are subject to either (I) or (IV), as described in TEGL No. 10-11, and its Changes 1 and 2
IV. TA-W-81,000 through TA-W-84,999	TAAEA (2011 Amendments)	TEGL No. 10-11, and Changes 1, and 2; and 20 CFR parts 617 and 618 and 29 CFR part 90.

V. TA-W-85,000 and above	Reversion 2014 (2002 Amendments under TAAEA sunset provisions)	TEGL No. 11-02 and Changes, 1, 2, and 3; TEGL No. 2-03, and Change 1; and TEGL 10-11, and its Changes 1 and 2, where it applies 2011 policies retained by the 2011 sunset provisions; these operating instructions; and 20 CFR parts 617 and 618, and 29 CFR part 90.
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The table above illustrates the following benefits and services by petition series, amendments, and guidance:

- I. Workers covered by petitions filed on or before May 17, 2009, identified by certification numbers TA-W-69,999 and below. These workers are subject to the provisions of the 2002 Amendments, as implemented in TEGL No. 11-02 and its Changes, 1, 2, and 3; TEGL No. 2-03, and its Change 1; as well as regulations codified at 20 CFR parts 617 and 618, and 29 CFR part 90.
- II. Workers covered by petitions filed on or after May 18, 2009, and on or before 11:59 PM on February 14, 2011, are identified by certification numbers TA-W-70,000 through TA-W-79,999. These workers are subject to the provisions of the 2009 Amendments as implemented in TEGL No. 22-08 and its Change 1; as well as regulations codified at 20 CFR parts 617 and 618, and 29 CFR part 90.
- III. Workers covered by petitions filed on or after February 15, 2011, and on or before 11:59 PM on October 20, 2011, are identified by certification numbers TA-W-80,000 through TA-W-80,999. These workers are subject either to the provisions of the 2002 Amendments indicated in (I) above, or the 2011 Amendments as provided in (IV) below through a one-time election subject to the statutory conditions explained in TEGL No. 10-11 and its Changes 1 and 2.
- IV. Workers covered by petitions filed on or after October 21, 2011, and on or before 11:59 PM on December 31, 2013, are identified by certification numbers TA-W-81,000 through TA-W-84,999. These workers are subject to the provisions of the 2011 Amendments as implemented in TEGL No. 10-11, and its Changes 1, and 2; as well as regulations at 20 CFR 617 and 618 and 29 CFR 90.
- V. Workers covered by petitions filed on or after January 1, 2014, are identified by the petition series TA-W-85,000 and above. These workers will be subject to the provisions of the 2002 Amendments, as implemented in TEGL No. 11-02 and its Changes, 1, 2, and 3; TEGL No. 2-03, and its Change 1; and TEGL 10-11, and its Changes 1 and 2 where it

applies 2011 policies retained by the 2011 sunset provisions; as well as these operating instructions; also regulations codified at 20 CFR 617 and 618, and 29 CFR 90.

## **B. GROUP ELIGIBILITY**

Under Reversion 2014, the more limited TAARA Group Eligibility requirements, including petition investigation criteria, explained in TEGL No. 11-02, Section C., apply to petitions filed on or after January 1, 2014. The broader criteria for group eligibility for workers under the 2009 and 2011 Amendments will no longer apply to petitions received after January 1, 2014. This includes but is not limited to workers in the service sectors, and those workers will not be certified under Reversion 2014. Furthermore, workers will now only be able to access TAA benefits and services after layoffs occur and not prior to separation.

## **C. TRADE READJUSTMENT ALLOWANCES (TRA)**

TRA eligibility and subsequent benefits available under the TAAEA are generally extended. The maximum number of weeks of income support for workers is 130. Due to the complexity related to TRA, requirements for Reversion 2014 are explained below in detail.

### **C.1. Weeks of Additional TRA**

The TAAEA changed the maximum number of available weeks of Additional TRA to 65 weeks. Reversion 2014 retains this change.

**Statute:** Section 213 of TAAEA amended section 233(a)(3) of the Trade Act to read:

*(3) Notwithstanding paragraph (1), in order to assist the adversely affected worker to complete a training program approved for the worker under section 236, and in accordance with regulations prescribed by the Secretary, payments may be made as trade readjustment allowances for up to 65 additional weeks in the 78-week period that*

*(A) follows the last week of entitlement to trade readjustment allowances otherwise payable under this chapter; or*

*(B) begins with the first week of such training, if such training begins after the last week described in subparagraph (A).*

*Payments for such additional weeks may be made only for weeks in such 78-week period during which the individual is participating in such training*

**Administration:** Under the TAAEA, a maximum of 65 weeks of Additional TRA were available to assist the worker to complete TAA training, which was payable to workers over a 78 consecutive calendar week eligibility period, as explained in TEGL No. 10-11, Section C.2. Under Reversion 2014, these provisions continue to apply and the worker must actually be participating in TAA training, on a full-time basis, during the weeks for which the worker may be eligible to receive Additional TRA.

## C.2. Availability of Completion TRA

The TAAEA introduced Completion TRA while eliminating Remedial TRA. Up to 13 weeks are available to assist a worker complete TAA training after exhausting the maximum amount payable of Additional TRA. Reversion 2014 retains this change. Section 233(f) must be re-designated as section 233(g) because of the return of section 233(b), as covered under Section C.4., below.

**Statute:** Section 213 of the TAAEA amended section 233(f) of the Trade Act to read:

*(f) PAYMENT OF TRADE READJUSTMENT ALLOWANCES TO COMPLETE TRAINING.— Notwithstanding any other provision of this section, in order to assist an adversely affected worker to complete training approved for the worker under section 236 that leads to the completion of a degree or industry-recognized credential, payments may be made as trade readjustment allowances for not more than 13 weeks within such period of eligibility as the Secretary may prescribe to account for a break in training or for justifiable cause that follows the last week for which the worker is otherwise entitled to a trade readjustment allowance under this chapter if—*

*(1) payment of the trade readjustment allowance for not more than 13 weeks is necessary for the worker to complete the training;*

*(2) the worker participates in training in each such week; and*

*(3) the worker—*

*(A) has substantially met the performance benchmarks established as part of the training approved for the worker; (B) is expected to continue to make progress toward the completion of the training; and (C) will complete the training during that period of eligibility.’’*

**Administration:** Under TAAEA, a worker who has exhausted the maximum 65 weeks of Additional TRA and requires a longer period of income support to complete an approved training program and who also meets training benchmarks may be eligible to receive up to 13 weeks of Completion TRA, as described in TEGl No. 10-11, Section C.3 and its Changes 1 and 2. Under Reversion 2014, this benefit is retained and continues to be available under the same conditions. Completion TRA is payable after exhaustion of Additional TRA, provided the individual meets all other eligibility requirements of the Act, as amended.

The five eligibility criteria for Completion TRA are as follows: 1) the requested weeks are necessary for the worker to complete a training program that leads to completion of a degree or industry-recognized credential, as described in TEGl No. 15-10; 2) the worker is participating in training in each such week; 3) the worker has substantially met the performance benchmarks established in the approved training plan; 4) the worker is expected to continue to make progress towards the completion of approved training; and 5) the worker will complete training during the period authorized for receipt of Completion TRA.

### C.3. Eligibility for TRA – Enrollment in TAA Training Deadlines

Reversion 2014 requires that the worker be enrolled in TAA training by the TAARA deadlines. These deadlines require enrollment no later than the later of: 1) last day of the 8<sup>th</sup> week following the date in which the certification covering the worker was issued by the Secretary; or 2) the 16<sup>th</sup> week following the day in which the worker was most recently totally separated from adversely affected employment. These are the deadlines established under TAARA and found in TEGL No. 11-02, Section D.2.

**Statute:** 231(a)(5)(A) of the Trade Act (as provided under the 2002 Amendments) reads:

*“(5) Such worker*

*(A)(i) is enrolled in a training program approved by the Secretary under Section 236(a) of this title, and*

*(ii) the enrollment required under clause (i) occurs no later than the latest of*  
*(I) the last day of the 16<sup>th</sup> week after the worker’s most recent total separation from adversely affected employment which meets the requirements of paragraphs (1) and (2),*

*(II) the last day of the 8<sup>th</sup> week after the week in which the Secretary issues a certification covering the worker,*

*(III) 45 days after the later of the dates specified in subclause (I) or (II), if the Secretary determines that there are extenuating circumstances that justify an extension in the enrollment period, or*

*(IV) the last day of a period determined by the Secretary to be approved for enrollment after the termination of a waiver issued pursuant to subsection (c).”*

**Administration:** Section 231(a)(5)(A) requires, as a condition for receiving TRA, that the worker be enrolled in training. It also allows a worker to receive a waiver of the training requirement in order to receive Basic TRA. Section 231(a)(5)(A)(ii) sets deadlines by which the enrollment in training must occur. These deadlines apply for eligibility for Basic TRA, Additional TRA, and Completion TRA. An extension of the enrollment deadlines for 45 days applies where the CSA determines that there are extenuating circumstances justifying the extension.

A worker must be enrolled in training as a condition of Basic TRA when the enrollment in training deadline is reached. Furthermore, a CSA may not waive the enrollment in training requirement after the deadlines have passed, as explained in TEGL No. 11-02, Change 1. Workers who have received a waiver of the training requirement must be enrolled in training before the last day of a period set by the Secretary after the termination of a waiver in order to maintain future eligibility for TRA, as explained in TEGL No. 11-02, Change 1. The Department has determined that the worker must be enrolled in training by the Monday of the first week occurring 30 days after the date on which the waiver terminated, whether by revocation or expiration. As explained in TEGL No. 10-11, Section A.2.4.2, and TEGL No. 22-08, Section C.2. The Department believes 30 calendar days is sufficient time for a worker whose waiver has been terminated or revoked to be advised of, and consider, training options, select an option, and enroll in training.

“Extenuating circumstances” continue to be situations beyond the worker’s control. This includes situations where training programs are abruptly cancelled as well as where the worker suffers injury or illness preventing participation in training, as described in TEGL No. 11-02, Section D.2.

“Enrolled in training” continues to mean that the worker’s application for training has been approved by the CSA and that the training institution has furnished written notice to the CSA that the worker has been accepted into the approved program, which is to begin within 30 days of such approval, as described in TEGL No. 11-02, Section D.2.

#### **C.4. Eligibility for Additional TRA Requires an Application for TAA Training within 210 days**

Reversion 2014 reinstates the requirements for an application for TAA training within 210 days for Additional TRA eligibility as provided under TAARA. Reversion 2014 requires that a worker file a bona fide application for TAA training within 210 days after the date the worker is covered by a TAA certification or, if later, within 210 days after the date of the worker’s total or partial separation. Eligibility for Additional TRA requires the enrollment in TAA training by the deadlines established at C.3.2. and those explained in this section.

#### **C.5. Training Benchmarks to Meet Completion TRA Eligibility Requirements**

The TAAEA training benchmark requirements described in TEGL No. 10-11, Section C.3.1., must be applied to Completion TRA under Reversion 2014. All other Completion TRA provisions described in TEGL No. 10-11, including Changes 1 and 2, continue to apply.

#### **C.6. Maximum Number of Weeks of TRA and Duration**

Under Reversion 2014, the maximum number of weeks of TRA for which a worker may be eligible is 130 weeks.

#### **Basic TRA**

Basic TRA is payable for up to 52 times the individual’s weekly benefit amount (WBA) during the first Unemployment Insurance (UI) benefit period following the TRA qualifying separation. This maximum amount of Basic TRA payable is reduced by the amount of the worker’s full UI entitlement (or the amount the worker would have been entitled if the worker had applied) in the first benefit period, as described in TEGL No. 11-02, Section D.1. Basic TRA is payable to workers who are enrolled in or participating in TAA-approved training, or who completed TAA training following a qualifying separation, or have received a timely waiver of the training requirement as described below in Section C.7.

## **Additional TRA**

Additional TRA is payable for up to 65 weeks after exhaustion of Basic TRA. Additional TRA is payable in the 78 week period that follows the last week of entitlement to Basic TRA or beginning with the first week of approved TAA training if the training begins after the last week of entitlement to Basic TRA, as described in TEGL No. 10-11, Section C.2.

## **Completion TRA**

Completion TRA is payable for up to 13 weeks to assist a worker in completing TAA training after exhaustion of Additional TRA. Completion TRA is payable during a 20 consecutive week eligibility period that begins with the first week in which the training participant files a claim for Completion TRA and seeks compensation for such given week. The 20 consecutive week eligibility period to receive up to 13 weeks of Completion TRA allows for the flexibility of a break in training of up to 7 weeks, but no more, as explained in TEGL No. 10-11, Section C.2.

## **C.7. Reduction in Types of Waivers of the Training Requirement**

Waivers of the training requirement apply to eligibility for Basic TRA only. Reversion 2014 retains the waivers available under the TAAEA. States may continue to issue waivers based on the following: 1) Health, 2) Enrollment Unavailable, and 3) Training Not Available.

**Statute:** Section 212 of TAAEA amended section 231(c) of the Trade Act of 1974 (19 U.S.C. § 2291), Waivers of Training Requirements, to read:

### *(C) WAIVERS OF TRAINING REQUIREMENTS.—*

*(1) ISSUANCE OF WAIVERS—The Secretary may issue a written statement to an adversely affected worker waiving the requirement to be enrolled in training described in subsection (a)(5)(A) if the Secretary determines that it is not feasible or appropriate for the worker, because of 1 or more of the following reasons:*

*(A) HEALTH—The worker is unable to participate in training due to the health of the worker, except that a waiver under this subparagraph shall not be construed to exempt a worker from requirements relating to the availability for work, active search for work, or refusal to accept work under Federal or State unemployment compensation laws.*

*(B) ENROLLMENT UNAVAILABLE.—The first available enrollment date for the approved training of the worker is within 60 days after the date of the determination made under this paragraph, or, if later, there are extenuating circumstances for the delay in enrollment, as determined pursuant to guidelines issued by the Secretary.*

*(C) TRAINING NOT AVAILABLE—Training approved by the Secretary is not reasonably available to the worker from either governmental agencies or private sources (which may include area vocational education schools, as defined in section 3 of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2302), and employers), no training that is suitable for the worker is available at a reasonable cost, or no training funds are available.*

**Administration:** Basic TRA is only payable if an individual is enrolled in TAA approved training, participating in TAA approved training, has received a waiver of the requirement to participate in training, or has completed TAA approved training. Waivers available under Reversion 2014 are explained in TEGl No. 10-11, Section C.5.

### **C.8. Limitations on TRA**

Basic TRA may be payable only during the 104 week period beginning with a worker's most recent total qualifying separation. States must continue to apply this eligibility period under Reversion 2014.

**Statute:** Section 233 of TAAEA reads in pertinent part:

*(a) APPLICATION OF PRIOR LAW.—Subject to subsection (b), beginning on January 1, 2014, the provisions of chapters 2, 3, 5, and 6 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), as in effect on February 13, 2011, shall apply, except that in applying and administering such chapters—*

*(1) paragraph (1) of section 231(c) of that Act shall be applied and administered as if subparagraphs (A), (B), and (C) of that paragraph were not in effect;*

*(2) section 233 of that Act shall be applied and administered—*

*(A) in subsection (a)*

*(i) in paragraph (2), by substituting “104-week period” for “104-week period” and all that follows through “130-week period”;*and

*(ii) in paragraph (3) –*

*(I) in the matter preceding subparagraph (A), by substituting “65” for “52”;* and

*(II) by substituting “78-week period” for “52-week period” each place it appears*

**Administration:** The 104 week eligibility period for Basic TRA begins with the first week following the week in which the worker was most recently totally separated from adversely affected employment within the period covered by the certification. This period is fixed unless the worker has experienced a subsequent total qualifying separation within the certification period,

- The 78 week eligibility period for Additional TRA is fixed and begins with the week that follows the last week of entitlement to Basic TRA or beginning with the first week of approved TAA training if the training begins after the last week of entitlement to Basic TRA,
- The 20 week eligibility period for Completion TRA is fixed and begins with the first week in which the training participant files a claim for Completion TRA and seeks compensation for such given week, as explained in TEGl No. 10-11, Change 2.

## **C.9. Elimination of the Special Rules for Calculating Separations**

The TGAAA introduced and TAAEA extended certain special rules and provisions that impact timeframes for TRA, as described in TEGL No. 22-08, Section C. 6., and TEGL No. 10-11, Section C.6. Reversion 2014 does not include these special rules because they were not allowable under the 2002 Program and the sunset provisions of the TAAEA did not retain them.

### **C.9.1. Elimination of Federal and State Good Cause Provisions for Waiving Certain Time Limits**

Reversion 2014 eliminates the Federal or State “good cause” provisions that allowed for a waiver for good cause of the deadlines relating to time limitations on filing an application for TRA or enrolling in training as provided under section 212(b) of TAAEA which amended section 234(b). While these statutory waiver provisions are no longer available, states may apply the doctrine of Equitable Tolling, consistent with the guidance provided at TEGL No. 08-11, to extend benefit deadlines in egregious circumstances.

### **C.9.2. Elimination of Judicial or Administrative Appeal**

Reversion 2014 eliminates the Special Rule under TGAAA which allowed for the 104 week eligibility period for Basic TRA to begin with the week following the week in which the certification was issued in cases where a judicial or administrative appeal delayed the certification.

The 104 week eligibility period for Basic TRA begins with the first week following the week in which the worker was most recently totally separated from adversely affected employment within the period covered by the certification. If the 104 week eligibility period expires before a certification is issued under Reversion 2014 and the delay is the result of a judicial or administrative appeal, the eligibility period will not automatically begin with the date of certification.

### **C.9.3. Elimination of Justifiable Cause to Extend the Period**

Reversion 2014 eliminates the Special Rule under TGAAA which allowed for the extension of the period in which a worker could receive Basic TRA and Additional TRA for justifiable cause, as described in TEGL No. 22-08, Section C.6.2.

### **C.9.4. Elimination of the Special Rule for Military Service**

Reversion 2014 eliminates the Special Rule for the Military under TGAAA which allowed states to extend any deadlines for any TAA benefit if the worker’s military service precluded meeting such deadlines, as described in TEGL No. 22-08, Section C.6.3.

### **C.9.5. The First Week of TRA Eligibility is Changed**

Reversion 2014 eliminated the requirement under TGAAA and TAAEA that the first week of TRA eligibility is the first week following the TAA certification date. Under Reversion 2014, the first week of TRA eligibility is the week that begins more than 60 days after the date on which the petition that resulted in such certification was filed.

**Statute:** Section 231(a) of the Trade Act will read:

- i) Payment of a trade readjustment allowance shall be made to an adversely affected worker covered by a certification under subchapter A [19 USCS §§ 2271 et seq.] who files an application for such allowance for any week of unemployment which begins more than 60 days after the date on which the petition that resulted in such certification was filed under section 221 [19 USCS § 2271],*

**Administration:** Reversion 2014 reinstates the requirement that the first week of TRA eligibility is the one that begins more than 60 days after the date when the petition covering the worker was filed. This means that it is possible for a worker to be eligible and receive TRA for a week that occurs prior to the certification provided such worker meets all other eligibility requirements of the Act. It also means that workers who have exhausted their UI entitlement before 60 days following the filing of a petition will have to wait up to 60 days from the petition filing date to be eligible to receive TRA. The regulations explain this requirement at 20 CFR 617.11(b).

### **C.9.6. Elimination of the earnings allowance up to the TRA WBA**

Reversion 2014 eliminates the earnings allowance up to the TRA WBA when the worker is participating in full-time TAA training while working which was incorporated by TGAAA and TAAEA.

**Statute:** Section 232(a)(1) and (2) of the Trade Act will read:

- (a) Subject to subsections (b), and (c), the trade readjustment allowance payable to an adversely affected worker for a week of unemployment shall be an amount equal to the most recent weekly benefit amount of the unemployment insurance payable to the worker for a week of total unemployment preceding the workers' first exhaustion of unemployment insurance (as determined for purposes of section 231(a)(3)(B) reduced (but not below zero) by—*
- (1) any training allowance deductible under subsection (c); and*
  - (2) income that is deductible from unemployment insurance under the disqualifying income provisions of the applicable State law or Federal unemployment insurance law.*

**Administration:** Section 232(a) establishes the weekly amount of TRA a worker may receive. Section 232(a)(2) requires the deduction from that weekly amount all income that is deductible from UI under the disqualifying income provisions of State or Federal UI law. The regulations explain this requirement in 20 CFR 61713(c)(1).

### **C.9.7. Elimination of the Election of TRA or UI**

Reversion 2014 eliminates the option of filing for TRA or UI in a subsequent benefit period as provided under TGAAA and TAAEA. This option was provided under section 232(d) but no longer applies under Reversion 2014. **All TRA requires the exhaustion of all UI entitlement.**

**Statute:** Section 231(a)(3) of the Trade Act will provide that TRA eligibility is available if:

*(3) Such worker--*

*(A) was entitled to (or would be entitled to if he applied therefor) unemployment insurance for a week within the benefit period (i) in which such total or partial separation took place, or (ii) which began (or would have begun) by reason of the filing of a claim for unemployment insurance by such worker after such total or partial separation;*

*(B) has exhausted all rights to any unemployment insurance to which he was entitled (or would be entitled if he applied therefor); and*

*(C) does not have an unexpired waiting period applicable to him for any such unemployment insurance.*

**Administration:** Reversion 2014 reinstates the absolute requirement that all UI entitlement must be exhausted before the payment of any TRA. This includes Basic TRA, Additional TRA, and Completion TRA. The regulations explain this requirement at 20 CFR 617.11(a)(2) (v).

### **C.9.8. Waiver of Recovery of TAA Overpayments**

Reversion 2014 eliminates the waiver of overpayment guidance provided at TEGL 22-08, Section C.8. States must apply the requirements as provided in the regulations at 20 CFR 617.55. A CSA “may waive” repayment of any payment made in error where “the payment was made without fault” on the worker’s part and where requiring repayment “would be contrary to equity and good conscience.”

## **D. TRAINING**

Reversion 2014 applies the more limited TAARA Job Retraining requirements, explained in TEGL No. 11-02, Section E., to certifications for petitions filed on or after January 1, 2014. The broader criteria for training under the TGAAA and TAAEA will no longer apply. Training may only be approved on a full-time basis as required by 20 CFR 617.22(f)(4), and certified workers may not begin approved training until they have been totally or partially separated from adversely affected employment, as defined in Section 247(2) of the TAARA .

### **D.1. Establishing Training Benchmarks to Meet Completion TRA Eligibility Requirements**

To implement Completion TRA under Reversion 2014, CSAs must establish training benchmarks for a worker when a worker enrolls in training to be able to monitor the worker's progress toward completing the approved training within the 130 week maximum duration of training, as described in TEGL 10-11, and its Changes 1 and 2. CSAs must evaluate that each training participant has met the following two benchmarks at intervals of no more than 60 days, beginning with the start of the training plan, to determine whether the worker is:

1. maintaining satisfactory academic standing (e.g. not on probation or determined to be "at risk" by the instructor or training institution), and
2. on schedule to complete training within the timeframe identified in the approved training plan.

For more details about these training benchmark requirements, see TEGL No. 10-11, Section C.3.1. For workers covered under Reversion 2014, TAA funds may not be used to provide the Employment and Case Management Services necessary to establish training benchmarks and track the worker's progress. Refer to Section G of this document for further guidance.

### **D.2. Length of Training**

Under Reversion 2014, the maximum length of training is 130 weeks. Remedial and prerequisite training may be part of an approved training plan and included within the 130 weeks.

### **D.3. Cap on Funding for TAA Training, Other Benefits and Services, and Administration**

Further guidance will be provided about the financial reporting requirements for fiscal year 2014.

## **E. JOB SEARCH ALLOWANCES**

The TAARA Job Search Allowance requirements apply and should be administered as provided in TEGL No. 11-02, Section F.

## **F. RELOCATION ALLOWANCES**

The TAARA Relocation Allowance requirements apply and should be administered as provided in TEGL No. 11-02, Section G.

## **G. COORDINATION WITH PARTNER PROGRAMS FOR EMPLOYMENT SERVICES**

TAA funds may not be used to provide Employment and Case Management Services to workers covered under Reversion 2014, as is the case with respect to workers covered under the 2002 Program. States are to use these funds to provide these services to workers covered under the 2009 Program and the 2011 Program, using merit staff as required by 20 CFR 618.890.

For workers covered under Reversion 2014 and the 2002 Program, Section 235 of the TAARA and TEGL No. 11-02, Section I., explain that CSAs are required to, “make every reasonable effort” to secure adversely affected workers with counseling, testing, and placement services, and supportive and other services, provided for under any other Federal law, including the services provided through American Job Center delivery systems described in section 134(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(c)). CSAs are directed to coordinate the provision of such services through its partner programs, including the Workforce Investment Act and Wagner-Peyser Act. Merit staffing requirements described in 20 CFR Part 618.890 are still applicable to TAA-funded activities.

## **H. ATAA**

ATAA is the wage subsidy benefit for older workers applicable under Reversion 2014. Eligibility requirements and operational guidelines for ATAA are described in TEGL No. 11-02, Section L, and TEGL No. 2-03 and its Change 1. TEGL No. 2-03 and TEGL No. 10-11, Question 8, explains that the operational interpretation of the statutory eligibility requirement for ATAA is that workers must be “aged 50 or over” which is interpreted as being age 50 at the point of ATAA eligible reemployment, and not turning 50 during the 26 week period from separation within which the worker must become reemployed to be eligible for ATAA.

## **I. TERMINATION OF HEALTH COVERAGE TAX CREDIT (HCTC)**

The Health Coverage Tax Credit (HCTC) expires on January 1, 2014, and TAA recipients will no longer receive HCTC to assist them in paying their health coverage premiums.

It is important that CSAs continue to transmit individual HCTC eligibility records for eligible TAA recipients to the Internal Revenue Service (IRS) via the UC Interstate Connection (ICON) network through April 2014 because the IRS requires these 2013 individual HCTC eligibility records to verify who is eligible to claim the HCTC on 2013 federal income tax returns. The IRS will disregard any individual HCTC eligibility records for months in 2014, but will retain any backdated or other eligible updates or deletions, to manage Yearly HCTC during the 2013 tax year filing season. The necessary infrastructure within the ICON network will not be available to support the HCTC program after April 15, 2014. **More clarification on the HCTC expiration will be provided in separate guidance.**

For inquiries about HCTC, please visit the IRS Web site at:

[http://www.irs.gov/Individuals/The-Health-Coverage-Tax-Credit-\(HCTC\)-Program](http://www.irs.gov/Individuals/The-Health-Coverage-Tax-Credit-(HCTC)-Program)

7. **Sunset Provisions.** Reversion 2014 is authorized to be in effect from January 1, 2014, through December 31, 2014, at which time the TAA program expires. Absent legislative action to reauthorize the TAA program, guidance will be provided, as necessary, for activities occurring after December 31, 2014.
8. **Action Requested.** CSAs are required to implement guidance set forth in these Operating Instructions for workers certified under petitions filed on or after January 1, 2014. Additionally, CSAs must continue to administer the 2002 Program, the 2009 Program, and 2011 Program as they apply to workers covered under petitions filed before the effective date of Reversion 2014, in accordance with prior guidance. States must inform all appropriate staff of the contents of these instructions.
9. **Inquiries.** States should direct all inquiries to the appropriate ETA regional office.