Trade Adjustment Assistance Program under the Trade Adjustment Assistance Extension Act of 2011 Policy

References:

The Trade Adjustment Assistance Extension Act of 2011; Trade and Globalization Assistance Act of 2009; The Trade Act of 2002; the Trade Act of 1974, as amended; the Workforce Investment Act of 1998; Omnibus Trade Act of 2010; State Plan; 20 CFR part 617 and 618; 29 CFR part 90; 41 CFR part 301-11; TEGL 21-00; TEGL 11-02; TEGL 2-03; TEGL 13-05; TEGL 22-08; TEGL 15-10; TEGL 16-10; TEGL 8-11; and TEGL 10-11; TEGL 14-14; and TEGL 16-14; TEN 2-13; and TEN 15-13.

Background:

The Trade Adjustment Assistance Extension Act of 2011 (TAAEA) was signed into Law on October 21, 2011. It amends the Trade Adjustment Assistance (TAA) program restoring (with some exceptions) the expanded certification criteria and benefits and services provided under the Trade and Globalization Adjustment Assistance Act of 2009 (TGAAA). The TAA program was first established at the U.S. Department of Labor (USDOL) under title II of the Trade Act of 1974. The TAA program has a two-step process for workers to obtain program benefits. First, a group of workers, or other specified entities, must file a petition for certification of eligibility to apply for TAA benefits and services with Office of Trade Adjustment Assistance (OTAA) in the Department's Employment and Training Administration (ETA) and the state in which the workers' firm is located. A petition will be certified by a Certifying Officer in OTAA after finding the statutory criteria that test whether the group of workers was adversely affected by international trade have been met. Second, workers who are part of a group covered under a certified petition may apply individually to a state for TAA benefits and services. States administer the TAA program as agents of the Secretary of Labor through a state agency or agencies designated as the CSA in an agreement between the Governor and the Secretary. In Nebraska, the Nebraska Office of Employment and Training (OE&T) of the Nebraska Department of Labor (NDOL) is responsible for the determination of worker eligibility to receive TAA services, and the Office of Unemployment Insurance determines the eligibility for Trade Readjustment Allowances (TRA) to TAA-eligible workers.

The 1974 Act has been amended numerous times. The Trade Adjustment Assistance Reform Act of 2002 reauthorized and expanded the scope of the TAA program and increased benefit amounts, repealed the North American Free Trade Agreement Transitional Adjustment Assistance (NAFTA-TAA) program, added to the TAA program in 1993 to provide benefits to workers who lost their jobs because of trade with Mexico and Canada after NAFTA, created the Health Coverage Tax Credit (HCTC), and initiated a pilot program for Alternative Trade Adjustment Assistance for older workers (ATAA program). The TGAAA reauthorized the TAA program through December 31, 2010, and expanded its scope to cover additional categories of Trade-Affected Workers, increased benefit amounts, and added employment and case management services to the categories of TAA benefits. The Omnibus Trade Act amended the TGAAA to provide a six-week extension of the December 31, 2010 termination date of the program in effect under the 2009 Amendments, and the resumption of the program in effect before the 2009 Amendments (the 2002 Program). As referenced in TEN 15-13, HCTC expires on January 1, 2014. Beginning January 1, 2014, every eligible TAA recipient will be responsible for paying their full health coverage premiums without HCTC; and all individuals will have a range of options in Health Insurance

Marketplaces and may be eligible for new tax credits for health insurance or expanded Medicaid options.

The authorization for the TAA program was set to expire on December 31, 2014. However, Congress took action on December 13, 2014, by passing the FY 2015 Omnibus Appropriations Act, which was signed into law by President Obama on December 16, 2014. Termination provisions relating to the operation of the TAA program, as provided in TEGL 14-14, do not apply to the operation of TAA in FY 2015 (through September 30, 2015).

Application of the 2011 Amendments:
The sections below describe how the 2011 Amendments apply to three distinct cohorts of workers:

A. Workers covered by petitions filed before February 13, 2011, with petition numbers below TA-W-80,000;

The TAAEA does not change the benefits and services available to workers covered by certifications of petitions filed before February 13, 2011 (interpreted in TEGL 16-10, Change 1, to mean petitions received on or before February 14, 2011). These workers are and will continue to be served as described below:

i. Workers covered by certifications of petitions filed on or before May 17, 2009, identified by a petition number lower than TA-W-70,000. These workers are subject to the provisions of the 2002 Amendments.
ii. Workers covered by petitions filed on or after May 18, 2009, and on or before February 14, 2011, identified by petition numbers between TA-W-70,000 and TA-W-79,999. These workers are subject to the provisions of the 2009 Amendments.

B. Workers covered by petitions filed after February 13, 2011 and before October 21, 2011, with petition numbers ranging from TA-W-80,000-80,999;

Several provisions of the TAAEA address workers covered by certifications of petitions filed after February 13, 2011 (actually, February 14, 2011), and before the Enactment Date, October 21, 2011. These workers are covered by petitions with numbers ranging from TA-W-80,000-80,999.

The 2011 Amendments provide that, for any petition filed after February 13, 2011 (February 14, 2011) and on or before October 21, 2011 (petitions with numbers ranging from TA-W-80,000-80,999), for which an investigation is still pending, a determination will be issued based on the group eligibility provisions of the 2011 Act. OTAA's investigation of these petitions under the provisions of the 2011 Act does not require any action on the part of the petitioners or the state.

The 2011 Amendments require OTAA to reopen investigations of any petitions filed after February 13, 2011 (February 14, 2011) and on or before October 21, 2011, identified by a petition number between TA-W-80,000 and 80,999, that resulted in a denial of a certification by OTAA before October 21, 2011. This includes petitions that were denied after reconsideration before October 21, 2011 or were under a reconsideration investigation on or before October 21, 2011. This action is necessary to determine worker group eligibility under the new provisions of the 2011 Act. Neither states nor petitioners need take any action to reopen these investigations. OTAA will investigate and decide these petitions based on the group eligibility criteria of the 2011 Amendments. Workers covered under certifications of these petitions will be eligible for benefits and services under either the 2002 Program or the 2011 Program if they are receiving benefits under the 2002 Program before December 19,

2011. There are no changes to the appeal procedures applicable to determinations denying certification of these petitions.

No separate group eligibility certification is required for a worker to apply for Reemployment Trade Adjustment Assistance (RTAA) under the 2011 Amendments. Therefore, OTAA does not need to reopen investigations of petitions in the range of TA-W-80,000-80,999 where the worker group was certified for TAA, but denied group eligibility to apply for ATAA. In these cases, workers covered under certifications of petitions numbered TA-W-80,000-80,999 who are eligible for benefits under the 2011 Program will automatically be eligible to apply for RTAA beginning on December 20, 2011.

In general, the benefits and services available under the 2011 Amendments will be available beginning December 20, 2011, the date that is 60 days after October 21, 2011, to workers covered under certifications of petitions numbered TA-W-80,000-80,999.

Program Benefits Available Between October 21, 2011 and December 20, 2011
Until December 20, 2011, workers covered under certifications of petitions numbered TA-W-80,000-80,999 will be eligible to apply for only the benefits and services available under the 2002 Program. The state must notify these workers that if they begin receiving benefits services available under the 2002 Program before that date, they will be given a choice to switch to the 2011 Program after December 20, 2011.

Program Benefits Available On or After December 20, 2011
Workers covered under certifications of petitions numbered TA-W-80,000-80,999 who first apply for benefits and services on or after December 20, 2011 (the end of the 60-day period following enactment of the 2011 Amendments), are only eligible to apply for the benefits and services available under the 2011 Program. States must provide these workers timely notice that they are eligible to apply for the 2011 Program benefits and services.

Notice of 2011 Program Benefits Available on or After December 20, 2011 to Adversely Affected Incumbent Workers
Training is a benefit available to "adversely affected incumbent workers" under both the 2009 Program and the 2011 Program. Certifications of petitions numbered TA-W- 80,000-80,999 issued before October 21, 2011, do not include adversely affected incumbent workers because those certifications were made under the 2002 Amendments that were in effect at the time of certification. Under the 2011 Amendments, adversely affected incumbent workers become eligible for training as provided under the 2009 Amendments, beginning 60 days after enactment. OTAA will not amend these certifications issued before October 21, 2011, to expressly include adversely affected incumbent workers. However, states must contact the employers of workers covered by certifications of petitions in the 80,000-80,999 series, obtain an expanded list of workers in the worker group who are threatened with separation but have not been separated from employment, determine which workers are adversely affected incumbent workers, and provide information to them about the availability of the training benefit under the 2011 Amendments beginning on December 20, 2011.

Notice of 2011 Program Benefits Available After December 20, 2011 to Older Workers
RTAA is a benefit available to older workers under the 2011 Program. States must automatically review determinations denying a worker covered under a certification of a petition numbered TA-W-80,000-80,999 individual eligibility for ATAA. If the denial was based on an eligibility criterion that does not apply to eligibility for RTAA (e.g., did not obtain full time employment by the 26th week after separation), then the state must notify the worker that the option to apply for benefits under the RTAA program may be available. States may provide information to the worker in a separate notice.

Workers Receiving Benefits under the 2002 Program Continue to Receive Benefits under the 2002 Program Unless They Elect to Change

Workers Eligible to Choose the 2002 Program or the 2011 Program
Beginning December 20, 2011, workers who are covered under the certification of a petition numbered TA-W-80,000-80,999 and have not received benefits or services under the 2002 program as of this date will automatically become eligible for the 2011 Program. These workers will not be eligible for the 2002 Program.

For the 90-day period beginning December 20, 2011, workers who are covered under the certification of a petition filed after February 13, 2011 (February 14, 2011) and on or before October 21, 2011, and are "receiving TAA benefits" (as defined below) on December 20, 2011, are eligible to choose to continue in the 2002 Program, or move to the 2011 Program. These workers have a one-time opportunity, beginning on day 60 (December 20, 2011) and continuing through day 150 (March 19, 2011) after the Enactment Date (October 21, 2011), to choose coverage under either the 2002 Program or the 2011 Program. Therefore, workers eligible to choose must make this choice on or after December 20, 2011 and no later than March 19, 2012. [Although Nebraska has no workers covered under certifications of petitions numbered TA-W-80,000-80,999 at this time, case workers must be prepared under Agent Liable situations to serve these individuals and document the appropriate choices if an individual from another state seeks services in Nebraska.] Unless they make the choice discussed in this paragraph within the statutory time period, workers who are covered by petitions numbered TA-W-80,000-80,999 who have received benefits under the 2002 Program will continue to receive benefits under the 2002 Program.

The requirement that such workers must be offered a choice between the 2002 Program and the 2011 Program means states must offer workers who have received a first TAA-funded benefit or service before the 60th day after the Enactment Date the choice of continuing with their existing 2002 Program benefits and services, or changing to the 2011 Program level of benefits and services. States must determine whether a worker "is receiving benefits under chapter 2 of title II of the Trade Act of 1974 as of the 60th day after enactment," which is December 20, 2011.

A worker is "receiving TAA benefits" under one or more of the following circumstances:

1. **Training Waiver:** A training waiver is in effect for the worker on December 20, 2011; or
2. **Training:** The worker has an approved training plan and is enrolled in training, participating in training, or has completed training by December 20, 2011; or
3. **Job Search and Relocation Allowances:** The worker has been approved for a job search or relocation allowance, even if the payment has not yet occurred on or before December 20, 2011; or
4. **Trade Readjustment Allowances (TRA) and ATAA:** The worker has received a payment of either TRA or ATAA for a week before, or for the week that includes, December 20, 2011. Workers who fall into this category will be allowed to exercise a one-time election to either continue to receive benefits and services under the 2002 Program; or choose to apply for benefits and services available under the 2011 Program. States are required to notify eligible TAA enrollees of this one time election option and document their choice of program in a document, which must be retained in the worker's case file. States must provide workers with information on the benefits and services available under the 2002 Program and the 2011 Program and make available counseling services to discuss the pros and cons of each option as it applies to the worker's individual situation. States must develop an internal process to track

under which program the worker is being served. This may include adding a suffix to the certification number in state case management systems to identify a worker who originally began receiving benefits and services under the 2002 Amendments, and later elected to begin receiving benefits and services under the 2011 Amendments.

Note that, HCTC is not a TAA-funded benefit and, under the 2002 Program, neither were employment and case management services. Therefore, workers who have received only HCTC or initial employment and case management services through the One-Stop system, and who have not received one or more of the benefits and services listed above, will not be eligible to choose to receive benefits and services under the 2002 Program. These workers will automatically receive benefits under the 2011 Program.

Workers Who Elect to Receive Benefits Under the 2011 Program- Computation of Maximum Benefits

Workers who elect to receive benefits under the 2011 Program on or after December 20, 2011 and before March 20, 2012, will transition from the 2002 Program to the 2011 Program beginning with the first week following the date on which the state documents that the worker made the choice. Any benefits or services received by the worker before the choice apply toward the maximum benefits the worker may receive under the 2011 Amendments. In particular, this includes both weeks of TRA and weeks of training received. In general, for workers receiving benefits under the 2002 Program who have not enrolled in training and choose to move to the 2011 Program, the applicable training enrollment deadlines will be those described in this policy. Such workers who were approved for a waiver of the training requirement under the 2002 Act based on Recall, Marketable Skills, or Retirement, who choose to move to the 2011 Program will no longer be eligible for that waiver. States must revoke those waivers, after the choice is made and the worker must be enrolled in training to continue to be eligible for TRA (or the state must issue a waiver under one of the reasons allowable under the 2011 Amendments). For workers whose waiver was revoked, the applicable deadline for training enrollment is the later of: the last day of the 26th weeks after the worker's most recent total separation or the last day of the 26th week after the date of the certification, or the Monday of the first week occurring 30 days after the date on which the state revoked the waiver. When applicable, training plans must be amended for workers who have enrolled in training and choose to move to the 2011 Program. This allows for the establishment of benchmarks necessary for states to determine whether those workers are eligible for Completion TRA.

Eligible Workers Who Fail to Make an Election between December 20, 2011 and before March 19, 2012

The window for exercising this one-time choice option closes on March 19, 2012, the date that is 150 days after enactment, and eligible workers who fail to make this choice will continue to receive benefits and services under the provisions in the 2002 Amendments. As appropriate, a worker who appeals the denial of a benefit under the 2011 Program based on a state's alleged failure to provide timely or complete notice of the choice option and deadline, may assert that equitable tolling applies to that deadline. This policy provides guidance on the application of the equitable tolling principle to TAA deadlines.

C. Workers covered by petitions filed on or after October 21, 2011, with petition numbers beginning with TA-W-81,000.

2011 Program Benefits Available to Workers Covered by Certifications of Petitions filed on or after October 21, 2011

Workers covered by certifications of petitions filed on or after October 21, 2011 are subject only to the provisions of the 2011 Amendments. OTAA has begun a new TA-W numbering

series for petitions filed under the 2011 Amendments, beginning with TA-W-81,000. Workers covered by petitions filed on or after October 21, 2011, identified by a petition number greater than TA-W-81,000 are subject to the provisions of the 2011 Amendments, as implemented in TEGL 10-11 and this policy, as well as regulations codified at 20 CFR parts 617 and 618, and 29 CFR part 90, to the extent that those regulations have not been superseded by the 2011 Amendments.

Extended Impact Date for Certifications of Petitions Filed Within 90 Days of October 21, 2011

In general, certifications cover workers separated from employment up to one year before the date of the petition. This date is known as the "impact date" of the certification. The 2011 Amendments provide that all certifications of petitions filed within 90 days of the date of enactment of the 2011 Amendments, which is January 19, 2012, include workers separated on or after February 13, 2010, instead of the one-year impact date that applies to certifications of all other petitions. For example, since the date of enactment is October 21, 2011, if the date of the petition is January 1, 2012, which is fewer than 90 days after October 21, 2011, a certification of that petition will cover workers separated on or after February 13, 2010. When a petition dated more than 90 days after the date of enactment (January 19, 2012) is certified, the one-year impact date will apply, and the certification will no longer cover workers separated more than one year before the petition date. The determination documents certifying petitions clearly identify the impact date and expiration date for each certification, and will use the impact date of February 13, 2010, where appropriate. This means that workers covered by certifications of petitions filed between October 21, 2011 and January 19, 2012 will have an earlier impact date than certifications of petitions dated between February 14, 2011 and October 20, 2011. This could cause confusion and complaints when workers who were denied eligibility for TAA because they were laid off more than a year before the date of the petition, learn there are other workers who were laid off more than a year before the date of the petition, who were determined to be eligible. This difference in treatment was directed by the statute.

Action:

After the 10 day public review period, this policy is considered final. Questions and comments should be submitted in writing to Stan Odenthal, Policy Coordinator, stan.odenthal@nebraska.gov.
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Policy:

As a required partner in the One-Stop service delivery system under WIA, the TAA program is required to be accessible through American Job Centers.

Purpose of TAA Funding Source

American workers whose jobs are lost as a result of increased imports or from a shift of production or services to any foreign country may apply for Trade Adjustment Assistance (TAA) under the Trade Act of 1974, as amended**.** TAA is federal assistance for U.S. Workers who are significantly harmed by foreign trade. TAA benefits are to help workers adjust to the employment problems resulting from increased foreign imports of products or services which directly compete with, or are like, those produced by the workers' company, causing a significant loss of U.S. jobs.

Full Operation of TAA Program in FY 2015

The FY 2015 Omnibus Appropriations Act has the effect of continuing the full operation of the TAA program through September 30, 2015. Full operation of the TAA program means:

- Cooperating State Agencies (CSA) Will continue to file and assist workers and others in filing a Petition for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA), Form ETA-9042 (or Form ETA-9042A), Rev. January 2014.

- The Office of Trade Adjustment Assistance (OTAA) will continue to conduct investigations of petitions filed with the Department of Labor (Department) before and after December 31, 2014.

- OTAA will issue determinations of group eligibility for workers covered by petitions filed from January 1, 2014, through September 30, 2015, based on the requirements of section 222 of the Trade Act under the Reversion 2014 program.

- Certifications of petitions filed after December 31, 2014, will allow those new groups of workers to apply for TAA benefits and services under the Reversion 2014 program.

- CSAs must continue to administer benefits (including ATAA and RTAA) and services to eligible workers under the 2002 program, the 2009 program, the 2011 program, and Reversion 2014.

Establishing Group Eligibility

Who May File A Petition

Petitions for TAA may be filed by a group of three or more workers from the same firm at the same job location, a company official, a union or other duly authorized representative, or an American Job Center Operator or American Job Center partner. Contact information should be provided for each petitioner. The contact information should include the home address of each petitioner. This will allow the USDOL to contact each petitioner even if the facility is closed or the petitioner is no longer working there. Submission of a completed Petition Form signifies a desire to file for both the TAA and Reemployment Trade Adjustment Assistance Program.

If three workers complete the petition, they must all work at the same location. Additionally, all three workers must be sure to sign the petition form. If workers who complete the form are not from the same location, or if they do not all sign the form, the petition will be considered invalid and returned to petitioners.

Time Limit For Filing A Petition

You must date and submit the Petition Form within **1 YEAR** from the date on which the workers were separated or had their hours or wages reduced.

Where To Get Petition Form

The TAA form is available at all American Job Centers, at the Nebraska Department of Labor (NDOL), Office of Employment and Training (OE&T) in Lincoln at (402) 471-9883, from the Unemployment Insurance TRA benefit staff in Lincoln at (402) 471-9896, or direct from the Employment and Training web site at http://www.doleta.gov/tradeact.

Where the Petition Form Is Filed

The state shall be prepared to assist petitioners in completing and filing petitions. The **TAA** petition must be filed simultaneously with both the USDOL in Washington, DC and the TAA Coordinator of the state where the firm is located. If the Petition Form includes firms in different states, copies of the completed Petition Form must be filed in each state where firms are located.

Fax the completed Petition Form to **202-693-3585, OR**

Mail the completed Petition Form to both USDOL and NDOL at:

U.S. Department of Labor
Office of Trade Adjustment Assistance
200 Constitution Avenue N.W.
Room N-5428
Washington, D.C. 20210

Nebraska Department of Labor
Office of Employment and Training
Attention: TAA Coordinator
550 South 16th Street
P.O. Box 94600
Lincoln, NE 68509-4600

If a petition is not received on the same day by both the USDOL and the NDOL, it will be considered to be filed on the date on which the petition was received by the Office of Trade Adjustment Assistance at the USDOL.

Criteria for Certification of Eligibility

The petition must satisfy three criteria:

1. A significant number or proportion of the workers in the workers' firm must have become totally or partially separated or be threatened with total or partial separation.
2. The second criterion is satisfied if either A or B below are satisfied:
   (A) (i) sales or production, or both, at the petitioning workers' firm must have decreased absolutely, and
   (ii)(a) imports of articles or services like or directly competitive with articles produced or services supplied by the petitioning workers' firm have increased; or (b) imports of articles like or directly competitive with articles into which the component part produced by the workers' firm was directly incorporated have increased; or (c) imports of articles like or directly competitive with articles which are produced directly using the services supplied by the workers' firm have increased; or (d) imports of articles directly incorporating component parts not produced in the U.S. that are like or directly competitive with the article into which the component part produced by the workers' firm was directly incorporated have increased.
   (B)(i)(I) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm; or (II) there has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm.
3. The increase in imports or shift/acquisition must have contributed importantly to the workers' separation or threat of separation.

Adversely Affected Secondary Workers

Workers of a firm can be certified as eligible to apply for adjustment assistance because the workers are secondarily affected – workers who supply components parts for articles, or services, used in the production of articles or in the supply of services (upstream) to a firm whose workers are certified (primary) or workers who perform additional, value-added production processes or services including finishing operations (downstream) for a firm whose workers are certified (primary). The 2009 Amendments allow for secondary worker coverage based on certifications of workers in service sector firms. In all cases, there must have been a loss of sales to the certified firm.

Upstream workers must directly supply the primary firm. The articles produced by upstream workers must be directly incorporated into the articles that were the basis for the certification of the primary firm's workers. Supplier chains are often categorized according to "tiers." Firms in the first tier supply components directly to the producer of the final product. Firms in the second tier supply components to firms in the first tier, and so forth. The secondary-worker coverage applies only to workers employed by firms in the first tier. The component parts or services the supplier supplied to the primary firm must either account for at least 20% of the production or sales of the supplier or the loss of business with the primary firm by the upstream firm must have contributed importantly to the upstream workers' separations or threat of separations.

The term "downstream producer" means a firm that performs additional, value-added production processes or services directly for another firm for articles or services with respect to which a group of workers in such other firm has been certified. Value-added production processes or services include final assembly, finishing, testing, packaging, or maintenance or transportation services. The term "supplier" means a firm that produces and supplies directly to another firm component parts for articles, or services, used in the production of articles or in the supply of services that were the basis for a certification of eligibility of a group of workers employed by such other firm.

Firms Identified by the International Trade Commission

A group of workers covered by a petition filed under section 221 shall be certified as eligible to apply for adjustment assistance if:

1. The workers' firm is publicly identified by name by the International Trade Commission (ITC) as a member of a domestic industry in an investigation resulting in a finding of injury or market disruption under section 202(b)(1), section 421(b)(1), section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930.
2. The petition is filed within one year after the date on which a summary of the ITC's report to the President, or the ITC's affirmative finding, is published in the Federal Register.
3. The workers of the firm identified in 1 (above) have become totally or partially separated from the workers' firm no more than one year before the publication date of the Federal Register notice described in 2 (above) and no later than one year after that date.

Petition Fact-Finding Process

When the TAA petition is received, the USDOL's Trade Adjustment Assistance Program conducts a fact-finding investigation. The OE&T shall assist the Secretary in the review of the petition by verifying such information and providing other assistance as the Secretary may request. This investigation determines whether a significant number or proportion of the workers of the firm have become totally or partially separated or are threatened to become totally or partially separated, and whether imports or a shift in production or services to a foreign country contributed importantly to these actual or threatened separations and to a decline in sales or in production of articles or supply of services. It is USDOL's responsibility to investigate the facts. They are required to make an eligibility determination within 40 days after a petition is filed. If the petition is approved and the workers are certified as eligible to participate in the TAA program, workers covered by a certification may contact their state workforce agency to apply for individual services and benefits. These benefits are provided at no expense to employers.

When a decision has been made by USDOL, the certification or denial is sent to the Nebraska Commissioner of Labor and the Trade Unit. The Secretary of Labor publishes a summary of the determination in the Federal Register and on the USDOL website (http://www.doleta.gov/tradeact/taa/taa_search_form.cfm) together with the Secretary's reasons for making such determination.

Establishing Individual Eligibility

The Trade Unit in the OE&T upon notice of a certification shall provide each affected worker covered by a TAA certification with written notice of the certification, what TAA program benefits and services are available, and how to apply for those services as soon as possible. The state shall obtain from the firm, or other reliable source, the names and addresses of all workers who were or became totally or partially separated before the state received the certification and within the certification period, as well as workers subsequently separated during the certification period. Because of the statutory expansion of the TAA training benefit to adversely affected incumbent workers, the Secretary/Governor Agreement requires the OE&T to notify these workers of their possible entitlement to TAA-training as soon as possible before their partial or total separations. Thus, the OE&T must identify, through the firm or other reliable source, the names and addresses of all adversely affected incumbent workers to permit the OE&T to determine whether a worker is individually threatened with separation. Accordingly, OE&T must request a separate list of workers who are threatened with separation at the same time they request the list of adversely affected workers from the employer.

In most cases, a certification shall not apply to any worker whose last total or partial separation from the firm before the workers' application for trade readjustment allowance occurred more than one year before the date of the petition on which such certification was granted. Each certification contains an "impact date," which identifies when layoffs or reduction in work schedules began. Certifications also contain a "termination date." Generally, the certification covers all members of the worker group who are laid off or threatened with layoff during the three-year period beginning one year before the petition was filed and ending two years after the date of the certification. However, the 2011 Amendments extend the impact date for all certifications of petitions filed between October 21, 2011 and January 19, 2012 to February 13, 2010 to determine if the worker is eligible for TAA.

The OE&T shall ensure a published notice of the certification is placed in the newspaper in the areas where the certified workers reside or issue written notices to each affected individual.

There is a special rule with respect to military service. Section 233(i) makes returning service members "whole," as if the period of military service had not occurred. The provision allows workers called up for active duty military or full-time National Guard service to restart the TAA enrollment process after completion of military service. This provision will apply to any returning service member who either: (1) served on active duty in the Armed Forces for a period of more than 30 days under a call or order to active duty of more than 30 days; or (2) in the case of a member of the Army National Guard of the United States or Air National Guard of the United States, performed full-time National Guard duty under 32 U.S.C. 502(f) (regarding required drills and field exercises) for 30 consecutive days or more when authorized by the President or the Secretary of Defense for the purpose of responding to a national emergency declared by the President and supported by Federal funds. Under section 233(i)(2), this "make-whole" provision applies only if the worker's period of duty occurs before the worker completes a training program approved under section 236. However, the worker need not have already enrolled in or in fact have begun training before the worker's period of duty began for this provision to apply. Upon separation, these individuals are eligible to receive TRA, training, and other benefits in the same manner and to the same extent as if the worker had not served the period of duty.

Under section 1137(d) of the Social Security Act, states are required to initially verify the immigration status of self-reporting aliens who apply for UI through the Systematic Alien Verification for Entitlement (SAVE) program maintained by the U.S. Customs and Immigration Service. All users of the SAVE program must verify the immigration status of all non-citizen applicants in order to avoid discrimination. Participants obtain immigration status information

through the SAVE program's Verification Information System (VIS). This VIS is a Web-based application that queries an immigration database containing information on more than 60 million non-citizens. When a user agency submits a status verification request, the system provides the applicant's immigration status within seconds. The system also gives the user a way to submit additional information electronically to an Immigration Status Verifier (ISV) when further research is necessary. Under section 1137(d)(2), an alien is required to provide an alien registration document with an alien registration number, or provide "such other documents as the state determines constitutes reasonable evidence indicating a satisfactory immigration status." A system must be in place for alerting staff of the expiration of satisfactory immigration status during the time the individual is potentially eligible for benefits. This may be done by modifying case management systems for TAA recipients to track the immigration status of a worker receiving TAA who is not a citizen or national of the United States. It is important to note that this requirement applies to all benefits under the TAA program, and not just TRA benefits. It is necessary to re-verify an individual's immigration status if the documentation provided by the individual during initial verification will expire during the period in which that worker is potentially eligible to receive Trade benefits. Additionally, one of the six conditions for approval of training is that there be "a reasonable expectation of employment following completion of... training." At the time of application, a training program is not approvable if the individual is not eligible to work at least one day following completion of training.

It is recommended that all dislocated workers go to their local American Job Center even if they are awaiting a decision on TAA certification. Core services are available and will be tracked on NEworks. Eligibility may be determined for the WIA Title I Dislocated Worker program and when participants begin receiving WIA-funded intensive and training services, they shall be tracked on NEworks. Immediately beginning the process of needs assessment improves participation rates and allows individuals more time to consider all of the options available to them. This is particularly critical due to the time lapse that could occur while awaiting TAA petition determinations. It is important the individual calls their Unemployment Insurance Claim Center where their parent claim resides to file an application for an eligibility determination to receive Unemployment Insurance benefits and/or Trade Readjustment Allowances (TRA) payments.

Adversely Affected Worker

An adversely affected worker is an individual who, because of lack of work in adversely affected employment, has been totally or partially separated from such employment.

A voluntary quit can, under some circumstances, be a "lack of work" separation for purposes of qualifying as an adversely affected worker who may apply for Trade Adjustment Assistance.

Adversely Affected Incumbent Worker

Under TAAEA, training may be approved before separation for adversely affected incumbent workers. [**Note**: Incumbent workers with petitions numbered 80,000-80,999 are also eligible to apply for these benefits.] This provision defines an adversely affected incumbent worker as a worker who: (1) is a member of a group of workers that has been certified as eligible to apply for TAA benefits, (2) has not been totally or partially separated from employment and thus does not have a qualifying separation, and (3) is determined to be individually threatened with total or partial separation. This includes individuals who have received a notice of termination or layoff from employment as a result of any permanent closure or any substantial layoff at a plant, facility or enterprise. Nebraska's "Eligibility for Dislocated Workers" policy defines "substantial layoff" as any reduction in force which is not the result of a plant closure, and which results in an employment loss at a single site of employment during any 30 day period for at least 50 employees (excluding employees regularly working less than 20 hours per week). Nebraska's "Eligibility for Dislocated Workers" policy defines a general announcement of a planned closure as any document or statement, released by an official of the company, which specifies intent to close

any employment site. A general announcement can be substantiated by a copy of the company document, a confirmed news/press release, or confirmed newspaper/magazine article. Confirmation must include the name and title of the company official, location of the facility, and the planned closure date. A WARN notice of planned closure may be considered a general announcement. This documentation of a threat of total separation from the firm is useful in making a determination that a worker is an adversely affected incumbent worker entitled to pre-separation training.

Workers threatened with total or partial separation from adversely affected employment may begin TAA-approved training before the date of that separation. TAA pre-separation training is intended to allow earlier intervention where layoffs are planned in advance and the employer can specifically identify which workers will be affected. Adversely affected incumbent workers may begin training prior to layoff, thereby lessening the amount of time needed to complete the training program after the separation occurs, and lessening the worker's overall length of unemployment. The criteria and limitations for approval of training for adversely affected incumbent workers are the same as they are for adversely affected workers, except for on-the-job training or customized training (unless such training is for a position other than the worker's adversely affected employment.) Adversely affected incumbent workers, like adversely affected workers, are entitled to employment and case management services to ensure they have the same assistance in developing a reemployment plan and choosing training. OE&T will ensure the training being provided is for a different position than the worker's current position if the training is being provided under agreement with the worker's current employer. An incumbent worker may receive pre-separation training for another position with the worker's current employer, but only if the position is not similarly threatened by trade, i.e. the new position is outside of a subdivision with a trade-certified worker group.

The OE&T must evaluate whether the threat of total or partial separation continues to exist for the duration of the pre-layoff training. This can be accomplished by verifying with the employer the threat of separation still exists before each subsequent portion of the training is funded. If the threat of separation is removed during a training program, funding of the training must cease. The worker would be eligible to complete any portion of the training program where TAA funds have already been expended, but would not be eligible for further TAA funding of the training program in the absence of a threatened or actual separation from the adversely affected employment. The worker may resume the approved training program upon the resumption of the threat or in the event of a total qualifying separation, if the six criteria for approval of the training under Section 236(a)(1) are still met.

In accordance with 20 CFR Section 617.22(f)(2), a worker is permitted to have approval of one training program per certification. A training program begun prior to separation counts as that one training program, and the training plan should be designed to meet the long-term needs of the worker based on the expectation they will be laid off. The training program should also take into account the availability of up to 130 weeks of training. Thus, while a pre-separation training program may be resumed, a worker who has participated in pre-separation training will not be eligible for a new and different training program.

Early Intervention Services

Early intervention services including rapid response assistance and appropriate core and intensive services, as described in Section 134 of WIA, shall be made available to the workers covered by the petition to the extent authorized under the WIA and other Federal laws. Early intervention services that will be beneficial to potential trade-affected workers may include, but are not limited to, orientation, surveying the workers, initial assessment of skill levels, aptitudes, and abilities, the provision of labor market information, job search assistance, stress management, and financial management workshops. The staff that provides these services may come from a variety of funding sources, particularly Wagner-Peyser or WIA Title I. In most instances, the Rapid Response informational meeting(s) shall be held in the city where the affected workers worked. These meetings outline the TAA services available.

Co-enrollment (Concurrent Participation)

Co-enrollment means enrollment in more than one program at a time, such as, concurrent enrollment in the WIA Dislocated Worker program and the TAA program. Since most trade-impacted workers are by definition dislocated workers for the purposes of WIA Title I, it is recommended these individuals enter the One-Stop service delivery system immediately following the announcement of a layoff. Once the certification has been issued, workers shall be informed that they are covered by this certification and they are eligible to apply for TAA benefits. Since NEworks is an integrated Management Information System, one record is established for each participant and multiple program services (including Wagner-Peyser, WIA, Rapid Response, WIA Dislocated Worker, and Trade Adjustment Assistance) shall be attached to that record in an integrated manner, as needed. For co-enrolled individuals receiving WIA-funded intensive services and training exclusively funded by TAA, there is no requirement to use providers certified as eligible providers. All partner staff shall continue to work together and use the systems and processes in place to serve the adult and dislocated worker populations, rather than using a parallel process that duplicates services available through the One-Stop system. Memoranda of Understanding between Local Boards and the Trade Act programs may serve as vehicles for articulating opportunities for coordination among programs. By concurrently enrolling these workers in multiple programs, a broader range of resources are available to the dislocated worker.

Benefits and Services

Reemployment Services

Reemployment services are available to assist unemployed or partially unemployed workers at the local American Job Center. These reemployment services may include counseling, vocational testing, labor market information, job seeking assistance, job placement and supportive services.

Employment and Case Management

The Trade Adjustment Assistance Extension Act of 2011 requires that not more than 10% of a state's allocation may be used for administration of the TAA program (including processing waivers of training requirement; collecting, validating, and reporting data; and providing RTAA), and at least 5% must be used to provide case management and employment services.

The following employment and case management services must be offered to all adversely affected workers and adversely affected incumbent workers covered by a certification:

- Comprehensive and specialized assessment of skill levels and service needs, including diagnostic testing and use of other assessment tools and in-depth interviewing and evaluation to identify employment barriers and appropriate employment goals.
- Development of an individual employment plan (IEP) to identify employment goals and objectives, and appropriate training to achieve these goals and objectives.

- Information on training available in local and regional areas, information on individual counseling to determine which training is suitable training, and information on how to apply for such training.
- Information on how to apply for financial aid, including referring workers to educational opportunity centers described in section 402F of the Higher Education Act of 1965, where applicable, and notifying workers they may request financial aid administrators at institutions of higher education to use the administrators' discretion under section 479A of such Act to use current year income data, rather than preceding year income data, for determining the amount of need of the workers for federal financial assistance under Title IV of such Act.
- Short-term prevocational services, including development of learning skills, communications skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct to prepare individuals for employment or training.
- Individual career counseling, including job search and placement counseling, during the period in which the individual is receiving a trade adjustment allowance or training, and for purposes of job placement after receiving such training.
- Provision of employment statistics information, including the provision of accurate information relating to local, regional, and national labor market areas, including: job vacancy listings in such labor market areas; information on jobs skills necessary to obtain jobs identified in job vacancy listings; information relating to local occupations that are in demand and earnings potential of such occupations; and skills requirements for local occupations in demand.
- Information relating to the availability of supportive services, including services relating to child care, transportation, dependent care, housing assistance, and need-related payments that are necessary to enable an individual to participate in training.

These services must be made available to workers over the course of their participation in the TAA program, in an integrated manner that suits their individual needs at a particular time. The OE&T should minimize the extent to which they establish new or stand-alone employment and case management structures for TAA program participants where these services are available within the workforce development system. Rather, OE&T should fully integrate TAA participants and resources into the One-Stop system, thereby maximizing and enhancing existing employment and case management structures. OE&T must demonstrate it has provided or offered these services either in a paper-based case file or in an electronic case management system, which must be available for review. Additionally, the case management file of each participant must demonstrate the OE&T notified each worker of his/her enrollment in training deadlines.

Job Search Allowances

Job search allowances are payments made to TAA certified workers who are totally laid off and cannot obtain suitable employment within their commuting area. Under TAAEA, states are allowed to use their discretion to determine whether to offer workers the opportunity to apply for Job Search. At this time, Nebraska has enough funding to provide this benefit. The allowance for reimbursement may equal not more than 90% of necessary job search expenses, based on a per diem rate (transportation, hotel, meals), up to a maximum of $1,250. This reimbursement to affected workers is paid for expenses incurred, while participating in a pre-approved job search program.

The cost allowable for lodging and meals shall not exceed the **lesser** of the actual cost to the individual of lodging and meals while engaged in the job search; or 50 percent of the prevailing per diem allowance rate authorized under the Federal travel regulations (see 41 CFR part 101-7) for the locality where the job search is conducted. [20 CFR § 617.34(a)(2)].

There are time limits for job search allowances. The application for the allowance must be filed before the later of the 365th day after the date of the certification or the 365th day after the date of the last total separation or the date that is the 182nd day after the date on which the worker concluded training. The TAA certified worker must apply (file an application) before beginning their search for work. The participant must supply a mapquest.com printout from a web-based mapping service such as MapQuest of the route traveled to the TAA case manager because travel must be outside the commuting distance of 25 map miles (one way) to be reimbursed. Authorization for the job search allowance is only for travel within the United States.

Relocation Allowances

If the certified worker is successful in obtaining employment outside their normal commuting area, the TAA program offers financial assistance for the individual to relocate to their new area of employment. Outside the normal commuting area is defined as more than 25 miles one way using a web-based mapping service such as MapQuest from current address to new address. Under TAAEA, states are allowed to use their discretion to determine whether to offer workers the opportunity to apply for relocation allowances. At this time, Nebraska has enough funding to provide this benefit.

When it is determined no suitable work is available in the certified worker's normal commuting area, a relocation allowance application may be approved if:

- the certified worker has obtained employment of long-term duration or a bona fide offer of such work in another area (must be in the United States); and
- the individual has not previously received a relocation allowance under the same certification; and
- the individual is totally separated from certified employment at the time of relocation. (Partially separated workers may apply in anticipation of total layoff.)

A relocation allowance pays not more than 90% of the reasonable and necessary expenses of moving the certified worker, their family, and their household goods (not to exceed the weight limit authorized in Federal travel regulations) to the new location. Additionally, the certified worker will receive a lump sum payment equal to three times their average weekly wage, up to a maximum of $1,250, to help them get settled.

A bona fide offer must be verified by a letter from the new employer.

There are time limits for filing an application for relocation allowances. The application for relocation allowance must be filed within 425 days after the date of certification or last total layoff, whichever is later or the date that is the 182nd day after the date on which the worker concluded training. The individual must relocate within 182 days after applying for a relocation allowance, or within 182 days after completing approved training.

The cost allowable for lodging and meals for an individual or each member of the individual's family shall not exceed the **lesser** of the actual cost to the individual for lodging and meals while in travel status; or 50 percent of the prevailing per diem allowance rate authorized under the Federal travel regulations (see 41 CFR part 101-7) for the locality to which the relocation is made. [20 CFR § 617.46(a)(2)].

Waivers

Waivers of training are a result of a finding that it is not feasible or appropriate to approve a training program for a worker because of one or more of the following reasons:

1. **Health** - The worker is unable to participate in training due to his/her health. A waiver of training due to health reasons shall not be construed to exempt the 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.
2. **Enrollment Unavailable** - The first available enrollment date for the approved training of the worker is within 60 days after the date of the "enrollment unavailable" determination, or, if later, there are extenuating circumstances for the delay in enrollment, as determined under guidelines issued by the Secretary.
3. **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, and employers), no training suitable for the worker is available at a reasonable cost, or no training funds are available.

A preliminary assessment of each trade affected worker's skills must be carried out to identify workers for whom immediate enrollment in training is appropriate. The completed assessment of pre-training skills must be included in each worker's case file. The IEP must be developed before a waiver is issued. In Nebraska, all waivers shall be reevaluated every 28 days for the duration of the waiver period. Information related to waiver status shall be shared with the TRA benefit payment staff since changes may impact continued receipt of weekly benefits, if available.

Waivers are limited to a maximum duration of six months unless an extension is authorized by the State Trade Unit. This means a waiver issued during a worker's UI period often will not cover the worker's entire entitlement to basic TRA. In cases where it is necessary to cover the worker's full entitlement to basic TRA, the state may extend a worker's waiver beyond six months.

TAAEA eliminated the waivers for recall, marketable skills, and retirement.

Federal Good Cause Provision for Waiving Certain Time Limits
The TAAEA establishes a new Federal "good cause" provision that allows for a waiver for good cause of deadlines relating to time limitations on filing an application for TRA or enrolling in training. This provision supersedes the state good cause provision applicable to these deadlines under the 2009 Amendments.

Under the 2011 Amendments, states must waive the time limitations with respect to an application for a trade readjustment allowance or enrollment in training at any time after making a determination there is good cause for issuing a waiver, in accordance with the federal standard. The federal standard requires states to consider the following factors, if relevant, before waiving these time limitations. These factors are:

1. Whether the worker acted in the manner a reasonably prudent person would have acted under the same or similar circumstances.
2. Whether the worker received timely notice of the need to act before the deadline passed.
3. Whether there were factors outside the control of the worker that prevented the worker from taking timely action to meet the deadline.
4. Whether the worker's efforts to seek an extension of time by promptly notifying the state were sufficient.
5. Whether the worker was physically unable to take timely action to meet the deadline.
6. Whether the worker's failure to meet the deadline was because of the employer warning, instructing or coercing the worker in any way that prevented the worker's timely filing of an application for TRA or to enroll in training.
7. Whether the worker's failure to meet the deadline was because the worker reasonably relied on misleading, incomplete, or erroneous advice provided by the state.

8. Whether the worker's failure to meet the deadline was because the state failed to perform its affirmative duty to provide advice reasonably necessary for the protection of the worker's entitlement to TRA.
9. Whether there were other compelling reasons or circumstances which would prevent a reasonable person under the circumstances presented from meeting a deadline for filing an application for TRA or enrolling in training including:
    - neglect, a mistake, or an administrative error by the state;
    - illness or injury of the worker or any member of the worker's immediate family;
    - the unavailability of mail service for a worker in a remote area;
    - a natural catastrophe such as an earthquake or a fire or flood;
    - an employer's failure or undue delay in providing documentation, including instructions, a determination or notice or pertinent and important information;
    - compelling personal affairs or problems that could not reasonably be postponed such as an appearance in court or an administrative hearing or proceeding, substantial business matters, attending a funeral, or relocation to another residence or area;
    - the state failed to effectively communicate in the worker's native language and the worker has limited understanding of English;
    - loss or unavailability of records due to a fire, flood, theft or similar reason. Adequate documentation of the availability of the records includes a police, fire or insurance report, containing the date of the occurrence and the extent of the loss or damage.

In cases where the cause of the worker's failure to meet the deadline for applying for TRA or enrolling in training was the worker's own negligence, carelessness, or procrastination, a state may not find that good cause exists to allow the state to waive these time limitations.

Training

If there are no suitable jobs in the area and training would improve the chances of getting a job, the adversely affected worker or an adversely affected incumbent worker may be eligible for full-time or part-time TAA funded training, although full-time training is required for TRA eligibility. Training opportunities may include: employer-based training including on the job training (OJT), customized training (except OJT and customized training may not be approved for affected incumbent workers unless such training is for a position other than the worker's adversely affected employment), and registered apprenticeship programs; any training program provided by a state pursuant to Title I of WIA; any local board approved training; any program of remedial education or program of prerequisite education or coursework required to enroll in training; any federal or state funded training program; any training program or coursework at an accredited institution of higher education (including training to obtain or complete a degree or certificate program); and any other training program approved by the Secretary.

When a petition has been certified, funded training may be approved using TAA resources if the following six conditions are met:

- There is no suitable employment available.
- The worker would benefit from training and has the capabilities to successfully complete the training.
- There is a reasonable expectation of employment following training completion.
- Approved training is reasonably available within the worker's commuting area.
- The worker is qualified to start and complete training successfully considering the worker's overall financial resources.

- Training is suitable and available at a reasonable cost. Training may not be approved when the costs of the training are unreasonably high in comparison with the average costs of training other workers in similar occupations at other providers. If the worker volunteers to use other funds to supplement the TAA training funds when the cost of training is otherwise not reasonable, the training program will be approved, if the other training approval criteria are met. However, personal funds of the participant shall not be used to pay for any portion of their training program.

Suitable employment is defined for this criterion as work of a substantially equal or higher skill level than the worker's past adversely affected employment, and wages for such work at not less than 80% of the worker's average weekly wage.

Each trade-affected worker must be provided the necessary information to enable them to make an informed choice among approvable training options, regardless of the worker's language or educational abilities. When a worker's education and language abilities are limited, careful case management at the training selection stage and during training is essential.

Workers who qualify for Trade Act training must be provided general information about available training programs, including access to labor market information, wage information and web sites which may inform participants of the types of training available. Documentation to demonstrate all of these requirements have been satisfied must be kept in the case file.

20 CFR 617.22(f)(2) limits the maximum length of approvable training to 104 weeks (during which training is conducted) so a training program would not extend too far beyond the worker's TRA. The 2011 Act provides up to 130 weeks of income support for workers enrolled in full-time training, the last 13 of which are only available if needed for completion of a training program and training benchmarks are met. Training may extend beyond the weeks of TRA available to the individual worker, if the worker demonstrates a financial ability to complete the training after the expiration of the worker's TRA eligibility period. Most workers will not have 130 weeks of income support available at the beginning of training; rather most workers will have used some weeks of income support, such as 26 weeks or more of UI.

If the approved training meets all of the requirements of the Trade Act and regulations, including the requirement for the training to be available at a reasonable cost, a worker has a right to choose to enroll in more expensive training that is of demonstrably higher quality or that may be expected to produce better results for the worker in quickly returning to suitable employment even when lower cost training is available to the worker. The approved training program must be a program that provides the necessary skills to return the participant to work. Prior to training approval, each worker's case file must identify what occupation the worker is being trained to enter.

In approving training, the OE&T must consider cost, suitability for the worker, and quality and results. If training is approved, payment will be made through an Individual Training Accounts (ITA) voucher or directly to the school, unless training costs are paid or are reimbursable under another federal law. Locals are encouraged to select training providers that have met the qualifications necessary to be included in the statewide Eligible Training Provider List. However, the amendment of Section 236(a)(5) of the 2002 Act expressly provides that training options available under the TAA program are not limited to training programs available under Title I of WIA. Personal funds of the participant shall not be used to pay for any portion of their training program. Duplicate payment of training cost is prohibited.

When individuals are enrolled in a TAA program, the maximum amount of funds expended for training costs shall not exceed $14,000 per eligible participant. However, training options shall not be based solely on the state training cap. Exceptions to the limitation may be considered when the training requested is available at a reasonable cost and particularly suitable for the individual situation as demonstrated by back-up documentation provided by the case manager. When an exception is being requested by the local area, the request and back-up documentation should be sent to the OE&T, Attention: Trade Unit, 550 S. 16th, Lincoln, NE 68509. The final decision for either approval or disapproval of an exception is determined by the Nebraska Commissioner of

Labor. This limitation also applies when co-enrollment is involved. Although through co-enrollment additional resources may be available, the total training costs shall not exceed $14,000 per eligible participant. The cost of other services, i.e., allowable travel, relocation, job search assistance, etc., shall not be applied to the training costs.

It is not appropriate to use Trade Act funds to pay for the development of a training provider or program, curriculum development, teacher training or physical plant needs.

If training is not within 25 miles of home [one way using map miles], supplemental assistance is available for transportation cost based on the prevailing federal per diem mileage rates, under the federal regulations. A printout from a web-based mapping service such as MapQuest of the route traveled by the participant must be included in their file to document the mileage. The mileage printout must be submitted every time a mileage request is made for supplemental assistance funds.

The cost allowable for lodging and meals for an individual attending training at a location exceeding 25 miles from their home, shall not exceed the **lesser** of the individual's actual per diem expenses for subsistence; or 50 percent of the prevailing per diem rate authorized under Federal travel regulations (see 41 CFR part 101-7) for the locale of the training. [20 CFR § 617.27(b)]

Trade Act funds may be used for a participant's "training consumables," i.e. paper, pens, calculators and other items that are training related and directly support the completion of the course. The participant will need to provide documentation of the need for the training consumables requested. This requirement may be completed by the submission of a course syllabus or email from a professor outlining needed items. The amount used to purchase training consumables may not exceed $50 per training term and must be included in, and not in addition to, the $14,000 training cap. Exceptions to the limitation may be considered with appropriate justification and documentation and must be approved by the Office/Regional Manager. For payment processing purposes all receipts must be kept and signed by the participant for of all training consumables purchased.

TAAEA eliminates Remedial TRA as a "category" of TRA, although remedial and prerequisite training may continue to be part of an approved training plan where appropriate. Prerequisite education is coursework the training institution requires for entry into the approved training program. Remedial education is defined as training in the elementary skills every worker must have in order to achieve basic re-employability. Remedial training should be considered pre-vocational; that is, it leads to occupational, on-the-job, or customized training that will equip the participant with specific job skills. Wherever practical, remedial training should be conducted concurrently with the early parts of occupational training. Examples of remedial education are basic writing and mathematical skills training, English as a Second Language (ESL), and courses leading to a G.E.D.

Training Benchmarks

The Trade Adjustment Assistance Extension Act requires benchmarks be established at the beginning of all training programs, except for very short training programs. They strengthen case management efforts and increase training completion and credential attainment. Under the 2011 Amendments, training benchmarks must be established for a worker when the 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. The benchmarks encourage early intervention and modification of unsuccessful training plans. The worker must substantially meet benchmarks to be eligible to receive Completion TRA and, therefore, benchmarks must be included in all but short-term training plans. These benchmarks must be flexible enough to allow for some variability (e.g., a single course failure or missed week of attendance should not make the worker ineligible), and both practical and measurable enough to allow administration across a broad spectrum of training scenarios and state environments. These benchmarks are related to, but differ from, the requirement that a worker "participate in training" as a condition of eligibility for TRA. "Participation in training" merely requires that a worker must attend scheduled classes, required events or otherwise follow the rules of the training program in accordance with the requirements documented by the training institution, while benchmarks measure satisfactory progress of the worker who is participating in training.

In order to determine that the worker has "substantially met the performance benchmarks established in the approved training plan" satisfactory progress must be evaluated against only 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 this review, the training vendor may be requested to provide documentation of the worker's satisfactory progress. The case manager may attest to the worker's satisfactory progress after consultation with the vendor and the worker. The worker may be asked to provide documentation from the vendor of his/her satisfactory progress towards meeting the training benchmarks, such as through instructor attestations.

Regardless of the mechanisms used, the training benchmarks must be described in the worker's Individual Employment Plan that is signed by the participant.

Upon one substandard review of the established benchmarks, the worker will be given a warning, while two substandard reviews must result in a modification to the training plan, or the worker will no longer be eligible for Completion TRA. In this way, the training benchmarks may be used to provide early intervention that will provide the opportunity to determine whether the training plan in place is appropriate for the individual or would be prudent to revise.

In cases where payment of Completion TRA is denied because the worker has not made satisfactory progress towards completing benchmarks, a worker may appeal the determination through the same appeal process available when other claims for TRA are denied.

Unemployment Insurance and TAA Benefits While in Training

The 2009 Amendments amended Section 236(d) of the 2002 Act to clarify that an adversely affected worker may not be determined to be ineligible or disqualified for unemployment insurance or program benefits under TAA because:

1. the worker:
    - is enrolled in TAA approved training;

- left work that was not suitable employment in order to enroll in such training; or the worker engaged in on a temporary basis during a break in such training or a delay in the commencement of such training; or
- left on-the-job training not later than 30 days after commencing such training because the training did not meet the requirements of Section 236(c)(1)(B). That section provides for the approval of OJT where the OE&T determines it can reasonably be expected to lead to suitable employment with the employer offering the OJT; is compatible with the skills of the worker; includes a curriculum through which the worker will gain the knowledge or skills to become proficient in the job for which the worker is being trained; and can be measured by benchmarks that indicate the worker is gaining the knowledge or skills; or

2. because of the application to any such week in training of the provisions of State law or Federal unemployment insurance law relating to availability for work, active search for work, or refusal to accept work.

Income Support and TRA Payments

The maximum number of weeks of TRA for which a worker may be eligible includes the maximum number of weeks payable for Basic TRA, Additional TRA and Completion TRA, or 130 weeks. Basic TRA is payable for up to 52 weeks following separation, minus any weeks of unemployment insurance (UI) to which the worker was entitled (or would have been entitled if the worker had applied) in the first benefit period, to workers who completed or are enrolled in or participating in TAA-approved training, or are covered under one of the remaining training waivers. Following Basic TRA eligibility, up to 65 weeks of 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 training if the training begins after the last week of entitlement to Basic TRA. Additional TRA remains payable to only those trade-affected workers actually participating in TAA-approved training. With the addition of Completion TRA, workers who meet eligibility requirements and who are actually participating in TAA-approved training may receive up to another 13 weeks of TRA, bringing the total maximum number of weeks of TRA payable to 130 weeks.

Additional TRA is only payable if a worker is enrolled in TAA-approved training, is participating in TAA-approved training, has received a waiver of the requirement to participate in TAA-approved training, or has completed TAA-approved training.

Individuals may be eligible for Trade Readjustment Allowances (TRA). In order to qualify for TRA, a worker must be enrolled in training (or have a waiver of training) within 26 weeks after certification or layoff, whichever is later. In determining a worker's eligibility, the requirement that workers be either enrolled in approved training or covered by a training waiver in order to receive TRA does not apply for weeks that occur prior to the training enrollment deadline. In many cases, the 26 week deadline for a worker will be reached while the worker is still receiving unemployment insurance (UI). Since some workers are not aware this deadline may apply before they exhaust their UI, workers are to be informed of these requirements and the OE&T must document its efforts to notify workers of the enrollment deadlines. [There is an exception allowed to the enrollment deadlines where the worker did not enroll by the deadlines because the OE&T failed to provide the worker with timely information regarding the training enrollment deadlines. In that event, the Secretary of Labor has determined the worker must be enrolled in training or receive a waiver by the Monday of the first week occurring 60 days after the date on which the worker was properly notified of both his/her eligibility to apply for TAA and the requirement to enroll in training absent a waiver of the training requirement.] States may grant an extension to the deadline for enrollment for up to 45 days if there are extenuating circumstances. "Extenuating circumstances" are circumstances beyond the control of the worker that could arise when training programs are abruptly cancelled, as well as in cases where a worker suffers injury or illness preventing

participation in training, or other events where the state can justify and document the application of extenuating circumstances is warranted. An extension of 45 days for extenuating circumstances shall only be granted through the OE&T. Workers who have received a training waiver 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. "Enrolled in training" means the worker's application for training has been approved by the Regional Manager and that the training institution has furnished written notice to the Regional Manager that the worker has been accepted into the approved program which is to begin within 30 days of such approval. Entitlement to unemployment insurance includes regular unemployment compensation and Extended Benefits (EB) and Temporary Extended Unemployment Compensation (TEUC). If an individual is eligible to receive EUC payments, this is received in lieu of Basic TRA benefits.

Since eligibility for TRA shall be determined by the TRA benefit staff, it is recommended that the individual going into training apply for TRA when their UI claim is filed. If the certified worker (with a qualifying separation) is not approved for TRA, they still remain eligible to apply for other TAA services.

The Unemployment Insurance staff at the Claim Center in Lincoln 402-458-2500 shall advise individuals from certified companies on how to apply for TRA benefits. The TRA payments are intended only for workers who are enrolled in approved full time training unless a waiver has been granted.

In order to receive payment of TRA for any week of unemployment, the worker must be adversely affected, be covered by a group certification, apply for TRA payments in a timely fashion; and meet all of the following requirements:

1. Their first qualifying separation from affected employment must have occurred on or after the impact date and before the expiration of the 2-year period beginning on the date of the certification.
2. During the 52 week period ending with the total or partial separation, they must have been employed at least 26 weeks at wages of $30 or more per week in an affected job.
3. The individual must have been entitled to and exhausted all UI benefits, except additional compensation that is funded by a state and is not reimbursed from any federal funds, and that the worker would not be disqualified for extended compensation payable under the Federal-State Compensation Act of 1970 by reason of its work search and job search requirements. [Note: Section 232(d) allows the worker to elect to receive TRA instead of UI for any week where the worker meets two conditions: The worker is entitled to receive UI as a result of a new benefit year based in whole or in part upon part-time or short-term employment in which the worker engaged after the worker's most recent total separation from adversely affected employment; and the worker is otherwise entitled to TRA.]
4. The individual must be enrolled in TAA approved training, be academically successful, and provide appropriate school documentation at regular intervals. A waiver of training may be granted if appropriate. [Note: In determining a worker's eligibility, the requirement that workers be either enrolled in approved training or covered by a training waiver in order to receive TRA does not apply for weeks that occur prior to the training enrollment deadline.]

For those who qualify for TRA benefits, their eligibility for **Basic TRA benefits** is the 104-week period beginning with the first week, which follows the week of their most recent total separation within the certification period. This does not mean the individual receives TRA benefits for 104 weeks. The maximum amount of TRA benefits an individual may receive during this period, is limited to 52 times their weekly TRA amount minus all UI benefits (including federal extended unemployment compensation), which they were entitled to receive.

TRA is not payable to workers participating in on-the-job training.

Additional TRA are weekly benefits paid to eligible workers to help them complete their TAA approved training program. Under the Trade Adjustment Assistance (TAA) program, individuals may be eligible to receive TRA for up to 65 additional weeks in the 78 week eligibility period that follows the last week of (basic) TRA entitlement; or begins with the first week of such training. Under the 2009 Amendments, the worker is allowed to not claim benefits during up to 13 weeks without losing any weeks of benefits. These dollars are only available if they are participating in a TAA approved training program.

The 2009 Amendments amended Section 233(h) to allow for an extension of these periods for "justifiable cause," meaning circumstances determined to be beyond the worker's control by the OE&T. In making this determination, the OE&T will apply Federal good cause. These extensions may only be made by the OE&T and the circumstances for making these decisions must be documented. Federal Good Cause is effective with the 2011 program and it supersedes the use of Nebraska's Employment Security Law provisions for good cause. Federal good cause is applicable only for waiving missed deadlines, with respect to: application for TRA, and enrollment in training.

While participating in training, individuals may experience a break in their training and still receive basic and additional benefits if:

- the break from school does not exceed 30 days; **and**
- they were in training prior to the break and returned immediately after the break; **and**
- the break was part of the school/training schedule.

TRA benefits may be denied, **IF**:

- The individual does not file an application within the specified time frame.
- The individual fails to make satisfactory progress in their training program.
- The individual no longer attends school and has not shown Federal good cause. The OE&T determines whether the Federal "good cause" provision is applicable and issues written approval or denial.
- The individual fails to report wages for any week where benefits are claimed.

Completion TRA is a new category of TRA that aligns with the USDOL's larger aim to increase the completion of recognized credentials. It provides participants with up to 13 additional weeks of TRA within a 20 week period in order to complete the training plan. The conditions of Completion TRA include:

- 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 15-10, and;
- The worker is participating in training in each such week; and
- The worker has substantially met the performance benchmarks established in the approved training plan; and
- The worker is expected to continue to make progress toward the completion of the approved training; and
- The worker will be able to complete the training during the period authorized for receipt of Completion TRA.

If the participant receives these additional 13 weeks of cash assistance beyond the general eligibility period, the participant shall receive a total of 130 weeks of training and cash assistance.

In order to account for breaks in training, the Secretary has determined the eligibility period for Completion TRA will be the 20-week period beginning with the first week in which a worker files a claim for Completion TRA.

"Justifiable cause," as used in section 233(f) of the Trade Act, is interpreted as having the same meaning as used in section 233(h) of the Act. That section provides for the extension of the eligibility periods for basic and additional TRA when the Secretary determines there is "justifiable cause." "Justifiable cause" means circumstances beyond the worker's control. Examples of justifiable cause for extending the Completion TRA eligibility period include situations where the provider changes the requirements of a training program while the program is in progress, where a course or courses are cancelled, and where required courses are not offered in accordance with the originally anticipated schedule, and the state is unable to identify an alternative that will allow for completion of the training program within the 20 week period. However, an extension will not increase the maximum number of payable Completion TRA weeks above 13.

Workers covered under certifications of petitions filed after February 13, 2011 (February 14, 2011), and on or before October 21, 2011, who receive benefits and services under the 2002 program until December 20, 2011, may choose to change to the 2011 Program. The same requirements for Completion TRA that apply to workers covered under certifications of petitions filed after the date of enactment will apply to these workers. Accordingly, where a worker changes to the 2011 Program, prompt action must be taken to review the training plan already in place for that worker. Unless the approved plan is for very short-term training, such as a 3-month certificate program, the plan must be amended to establish benchmarks to determine the worker's satisfactory progress towards meeting those benchmarks in order for the worker to receive the maximum 13 weeks of Completion TRA.

Equitable Tolling

Equitable tolling is a doctrine that permits the suspension of statutory and administrative deadlines where equity demands; it is not a statutory provision requiring a waiver of deadlines for "good cause". Unlike many statutory provisions allowing for "good cause" waiver of time limits, or for late filing of any claim, equitable tolling of a deadline may only apply in egregious circumstances where an individual acted with due diligence to meet that deadline. Federal courts have found this well-established doctrine may provide relief with respect to TAA time limits.

Equitable tolling will be applied in situations where it would be manifestly unfair to deny a worker TRA eligibility based on the worker's failure to meet the statutory deadline for enrolling in training, or to deny other TAA benefits such as Additional TRA, job search allowances or relocation allowances, based on a missed deadline. To apply equitable tolling in a particular situation, the state must determine that, whether or not the USDOL or the state was at fault, the worker exercised due diligence in meeting these TAA benefit eligibility deadlines.

Supportive Services

Supportive services include services such as transportation, child care, dependent care, housing, and needs-related payments that are necessary to enable an individual to participate in core, intensive, or training services authorized under WIA Title I. Local Boards, in consultation with the American Job Center partners and other community service providers, must develop a policy on supportive services that ensures resource and service coordination in the local area to ensure non-duplication of resources and services, as well as any limits on the amount and duration of such services.

Overpayments

If the OE&T, the U.S. Secretary of Labor, or a court of competent jurisdiction determines any person has received any payment under Trade to which the person was not entitled, including a

payment referred to in Sec. 243(b), such person shall be liable to repay such amount to the state agency or the Secretary, as the case may be, except the state agency or the Secretary shall waive such repayment if such agency or the Secretary determines that:

- The payment was made without fault on the part of such individual, and
- Requiring such repayment would cause a financial hardship for the individual (or the individual's household, if applicable) when taking into consideration the income and resources reasonably available to the individual (or household) and other ordinary living expenses of the individual (or household).

OE&T should document whether the payment was made with or without fault on the part of the individual when making decisions related to overpayments.

Appeal Rights

Regarding Petitions

Any worker, group of workers, certified or recognized union, or authorized representative of such worker or group, whose petition for TAA has been denied by the USDOL may file an application for reconsideration of the determination by USDOL within 30 days after publication of the determination in the Federal Register. The request must be in writing and include:

- Name(s), address(es), and telephone number of the applicant(s);
- Name or a description of the group of workers on whose behalf the application for reconsideration is filed;
- Name and case number of the determination complained of;
- A statement of reasons for believing the determination complained of is erroneous;
- If the application is based, in whole or in part, on facts not previously considered in the determination, such facts shall be specifically set forth.
- If the application is based, in whole or in part, on an allegation the determination complained of was based on mistake of facts which were previously considered, such mistake of facts shall be specifically set forth; and
- If the application is based, in whole or in part, on an allegation as to a misinterpretation of facts or of the law, such misinterpretation shall be specifically set forth.

Mailing address is:

U.S. Department of Labor
Division of Trade Adjustment Assistance
Employment and Training Administration
200 Constitution Avenue, N.W., Room N-5428
Washington, DC 20210

For information call (202) 693-3560.

Not later than 15 days after receipt of the application for reconsideration, the certifying officer shall make and issue a determination granting or denying reconsideration. The determination regarding application for reconsideration shall be published in the Federal Register. If the determination is negative, it shall constitute a final determination for purposes of judicial review. If the determination is affirmative regarding application for reconsideration, the group of workers or other persons showing an interest in the proceedings may make written submissions within 10 days after publication of the notice to show why the determination under reconsideration should or should not be modified. Not later than 45 days after reaching an affirmative determination regarding application for reconsideration, the certifying officer shall make a determination on the reconsideration. The determination on the reconsideration shall be published in the Federal Register.

Regarding Individual Services
When a petition has been certified, but the individual is denied a specific TAA service, such as training, travel, relocation etc., the individual has the same appeal rights as those provided under the state unemployment compensation law. Appeal rights are described on each form signed by the participant. Those rights are: "If you feel this determination is incorrect, you have a right to a hearing before an Appeal Tribunal; provided you file a timely notice of appeal by letter which must clearly state (1) that you are appealing and (2) the reasons why you believe this determination is incorrect. Your notice of appeal and such reasons must be received within 20 days after this determination is mailed." Whenever someone appeals a decision concerning their TAA benefits, they have a right to be represented by their union, lawyer, or other person to help present the facts.

Performance Measures

TAAEA provides four core indicators of performance, which take effect on October 1, 2011:

i. The percentage of workers who are employed during the first or second calendar quarters following the calendar quarter in which workers cease receiving TAA benefits;
ii. The percentage of such workers who are employed during the two calendar quarters following the earliest calendar quarter during which the worker was employed under clause (i);
iii. The average earnings of such workers who are employed during the two calendar quarters under clause (ii); and
iv. The percentage of such workers who obtain a recognized postsecondary credential, including an industry-recognized credential, or a secondary school diploma or its recognized equivalent (if combined with employment under clause (i)), while receiving benefits or during the 1-year period after such workers cease receiving benefits.

Program Evaluation and Monitoring

Nebraska will self-monitor by a file review for process improvement. Each file review will identify best practices, process deficiencies, and training needs. By creating a process improvement plan, each case manager will have the ability to correct any deficiencies before coming under a formal Federal review. Reviewing files will ensure effective and efficient operation and administration of the program. At a minimum, a random file sample of 20 cases will be reviewed quarterly. Reviews will be based on Nebraska's One-Stop system using the regions of Greater Nebraska, Lincoln, and Omaha local areas. Regions will be selected as a whole beginning with Greater Nebraska the first quarter, followed by Lincoln local area the second quarter, and Omaha local area the following quarter. The worker sample will be based on the last digit of the Social Security Number, fluctuating between using 0-5 and 6-9 every other review. The review must include files from at least two certifications and include participants that are in training, receiving ATAA or RTAA funds and those that have been relocated.

Coordination

If the TAA program funding sources for provision of employment and case management services to workers in the TAA program are insufficient to meet the requirement that these services be offered to all adversely affected workers and adversely affected incumbent workers, the OE&T must make arrangements to assure that funding under the WIA or another program is available to provide those services. In the event local WIA funds are exhausted, OE&T will apply for a National Emergency Grant to replenish funds. Multiple enrollment resources may include Wagner-Peyser activities, faith-based and community-based programs, vocational rehabilitation services, and veterans' programs.

The State Trade Unit and Trade Readjustment Allowance benefit staff shall work together to meet data collection, storage, and reporting requirements. To reinforce the pursuit of the program performance goals and ensure clear and uniform procedures are followed, state performance management training or meetings shall be held and include participation of State Trade Coordinator and TRA benefit staff. The State Trade Unit shall capture and report information related to a participant's ongoing participation in training or waiver status to the TRA benefit payment staff.

Merit Staffing

Under 20 CFR Part 618, the USDOL "requires that personnel engaged in TAA-funded functions undertaken to carry out the worker adjustment assistance provisions must be state employees covered by a merit system of personnel administration." In TEGL No. 01-10, the USDOL instructed states to implement the TAA program according to "new merit staffing provisions which were to become applicable to TAA-funded positions effective December 15, 2010, as codified at 20 CFR 618.890(b)." On December 29, 2010, President Obama signed into law the Omnibus Trade Act. Section 102 of the Omnibus Trade Act retroactively extended the deadline for states to implement the merit-based state personnel staffing requirements contained in 20 CFR 618.890(a) from December 15, 2010, to no earlier than February 12, 2011. This requirement is now in effect. However, as clarified in the April 2, 2010 Federal Register, "there is nothing in this rule prohibiting the delivery, in appropriate circumstances, of employment and case management services to adversely-affected workers by staff funded by WIA or other Federal programs through co-enrollment. As a partner in the One-Stop delivery system, the TAA program will continue to coordinate with the other partners in the system to ensure adversely-affected workers are provided access to a broad array of comprehensive services."

Reporting

The state shall submit quarterly Trade Act Participant Report (TAPR). The report shall include all active participants and all participants who have exited the program in the last 10 quarters. The "Program Exit" policy is applicable for participants co-enrolled in TAA and Dislocated Worker programs.

Reallotment of Funds

States may expend funds received in any fiscal year for employment and case management services, training, and job search and relocation allowances during that fiscal year and the two succeeding fiscal years. However, under TAAEA a new provision has been added allowing the Secretary of Labor to reallot any funds that remain unobligated by a state during the second or third fiscal year, according to procedures established by the Secretary.

Health Insurance Costs and Tax Credit

The HCTC program expires on January 1, 2014. At that time, every eligible TAA recipient will be responsible for paying their full health coverage premiums without HCTC. Beginning January 1, 2014, new health coverage options will be available; all individuals will have a range of options in Health Insurance Marketplaces and may be eligible for new tax credits for health insurance or expanded Medicaid options. Resources to help individuals learn about new health insurance options made available under the Affordable Care Act (ACA) can be found at www.healthcare.gov which is the U.S. Department of Health and Human Services' Health Insurance Marketplace Web site.

Reemployment Trade Adjustment Assistance

The 2009 Amendments established Reemployment Trade Adjustment Assistance (RTAA) as a wage supplement option available to older workers under the TAA program. It replaced Alternative Trade Adjustment Assistance (ATAA) which provided wage supplements as an option

for reemployed older workers as a demonstration project under the 2002 Act. [The state must automatically review denial determinations of individual eligibility for ATAA for petitions, numbered 80,000-80,999, where a worker group was certified for TAA, but denied group eligibility to apply for ATAA, since these workers will be eligible to apply for RTAA under the 2011 program.]

All TAA certifications filed between May 18, 2009, and on or before February 14, 2011, include eligibility to apply for RTAA, as well as other TAA benefits. Workers opting to participate in the wage supplement program do not surrender their eligibility for TAA-approved training. RTAA may be paid to participants working part-time, if they are enrolled in approved training. The maximum benefit the worker may receive over two years is $10,000. [**Note**: This is a maximum and may be reduced if the worker has received TRA.] An individual receiving RTAA may also receive TAA training (including OJT), employment and case management services, and job search and relocation allowances under certain conditions. However, once a worker elects RTAA, the worker cannot return to TRA.

To be eligible for RTAA, an individual must meet the following conditions at the time of reemployment:

1. Be at least age 50 at time of reemployment or effective November 20, 2009, if the worker has become employed prior to reaching the age of 50, and meets all other RTAA requirements, the worker may be determined eligible for RTAA upon the worker's 50th birthday. However if the worker received TRA, each week in which TRA was paid reduces the duration of RTAA eligibility accordingly. [TEGL No. 22-08, Change 1, Section A]. The individual's age can be verified with a driver's license or other appropriate documentation.
2. Must not be expected to earn more than $50,000 annually in gross wages, excluding overtime pay, from the reemployment. If a paycheck has not been issued at the time of application, the employer must submit a supporting statement documenting the worker's annual wages. [**Note**: This is a projection, but if later (absent fraud) it is determined the wages exceed more than $50,000, it does not create an overpayment. However, RTAA would be stopped at that point.]
3. Reemployment:
   a. Be reemployed full-time and not enrolled in a TAA-approved training program. [For RTAA purposes, Nebraska accepts the definition of the employer in determining full-time as long as it is 36 hours a week or more.] The NOE&T will verify reemployment in the same manner as it uses for ATAA eligibility;
   b. Be reemployed less than full-time, but at least 20 hours a week, and be enrolled in a TAA-approved training program. [In Nebraska, OJT is an acceptable training program for consideration of RTAA.] Similar to the requirement that TRA benefits may only be paid when enrolled in a full time training program, eligibility for RTAA benefits based on part-time employment and participation in training requires enrollment in a full time training program as well. This requirement helps ensure workers will not exhaust their limited RTAA benefit before returning to full-time employment, which is the true goal of the TAA program. The verification will be conducted in the same manner as is used for verifying employment for ATAA eligibility and for verifying participation in training; **or**
   c. Be reemployed full-time and enrolled in a full-time TAA-approved program.
4. The worker cannot return to employment at the "firm" from which the worker was separated. However, the 2009 Act defines "firm" as either the entire firm or the appropriate subdivision. Accordingly, this requirement means that if the certification is issued for a worker group in an appropriate subdivision of a firm, the worker may not return to employment with that subdivision, but may return to work at another subdivision of the firm. If, however, the certification is issued for workers in the entire firm, the worker may not return to employment in any subdivision of that firm.
5. Reimbursement amounts will be rounded up to the next whole dollar.

6. For the purpose of calculating hours, the total hours employed each week will be rounded to the nearest 1/10 of an hour. For example, a worker who is employed between 35.9 and 35.94 hours per week would have their hours **rounded down** to 35.9 hours. Whereas a worker who is employed between 35.95 and 35.99 hours per week, would have their hours **rounded up** to 36 hours per week.
7. Full-time or part-time status in an approved training program is based on the established full-time certification policy of the institution where the training is being offered.

The 2009 Act provides two separate eligibility periods for RTAA, the first for workers who have not received TRA, and the second for workers who have received TRA.

1. Worker Who Has Not Received TRA
   The eligibility period for workers who have not received TRA is a two-year period beginning the earlier of "the date on which the worker exhausts all rights to unemployment insurance based on the separation of the worker from the adversely affected employment that is the basis of the certification" or the date on which the worker obtains reemployment.
2. Worker Who Has Received TRA
   When a worker has received a trade readjustment allowance pursuant to the certification, the worker may receive RTAA benefits for a period of 104 weeks beginning on the date on which the worker obtains reemployment (as described above for RTAA eligibility) reduced by the total number of weeks for which the worker received such trade readjustment allowance.

Section 247(12) defines "unemployment insurance" as "the unemployment compensation payable to an individual under any State law or Federal unemployment compensation law," which includes EUC.

The statutory phrase "worker exhausts all rights to unemployment insurance based on the separation of the worker from…adversely affected employment..." requires some interpretation. The first point to make is that a worker may have more than one separation from adversely affected employment. Where there is more than one such separation, the relevant separation is the worker's last separation from adversely affected employment that qualifies the worker as an adversely affected worker. The last separation was chosen because that separation is the one that triggers the worker's application for RTAA. A separation that qualifies a worker as an adversely affected worker is a lack-of-work separation from adversely affected employment. The OE&T must determine the worker's last separation for lack of work from adversely affected employment before the RTAA application. This principle applies only to the determination of the eligibility period, and does not apply to the calculation of RTAA payments. Further, a separation may trigger a benefit year, occur during a benefit year, or not result in any entitlement to UI. If the worker's last separation from adversely affected employment, which qualifies the worker as an adversely affected worker, either triggers a benefit year or occurs within a benefit year, the eligibility period will begin (if earlier than the reemployment) when the worker exhausts that UI eligibility, either by collecting all benefits available on the benefit year or by the expiration of the benefit year. If the worker has no UI entitlement for his/her last separation from adversely affected employment that qualifies him/her as an adversely affected worker, the two-year period begins on the date on which the worker obtains reemployment.

The individual's application for RTAA must be filed within the applicable eligibility period as described above. Retroactive payment may be made where appropriate. RTAA benefits are not payable during periods of unemployment, but payment is allowable when the worker is on employer allowed release time, such as sick leave.

Where a worker seeks to establish RTAA eligibility based upon more than one job, the employment hours will be combined in order to determine whether the worker has the number of

hours needed to qualify for RTAA. If the worker obtains additional job(s), the wages from this employment will be included in the calculation to determine whether the worker is expected to reach the $50,000 annual limit for reemployment wages.

Qualifying employment that was commenced prior to separation from adversely affected employment may be considered RTAA qualifying employment.

The OE&T will issue a written determination on an RTAA application within five working days of its receipt. If approved, the State Trade Unit will also notify the Trade Readjustment Allowance benefit staff. The RTAA applicant has the right to appeal a state determination which denies RTAA benefits in the same manner as provided for in state UI law for all TAA determinations.

The OE&T must maintain a manual or automated benefit history for each RTAA recipient for a period of no less than three years for audit purposes. The three years begins from the most recent determination of eligibility, benefits paid or appeal decisions – whichever is later.