U. S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION TAA
	CORRESPONDENCESYMBOL TWT
	DATE March 29, 1996

DIRECTIVE : GENERAL ADMINISTRATION LETTER NO 7-94, Ch. 1

TO : ALL STATE EMPLOYMENT SECURITY AGENCIES

FROM : BARBARA ANN FARMER
Administrator
for Regional Management

SUBJECT : Trade Adjustment Assistance (TAA) Program
Revised Applicant Processing Procedures

1. Purpose. To amend operating instructions issued in GAL 7-94 that address applicant processing procedures for workers certified as eligible to apply for benefits under both subchapters A (the regular TAA program), and D (the NAFTA-TAA program), of Chapter II, Title II of the Trade Act of 1974, as amended.

2. References. The Trade Act of 1974, as amended; Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182), 20 CFR Part 617; GAL 6-94; and GAL 7-94.

3. Background. The Trade Adjustment Assistance program provides reemployment services, including training, job search and relocation allowances and trade readjustment allowances (TRA) to individuals whose unemployment is linked to increased imports, or, in the case of the NAFTA-TAA program, to a shift in production to Mexico or Canada. Chapter II, Title II of the Trade Act of 1974, as amended, requires the Secretary of Labor to implement and carry out the specified worker adjustment assistance provisions. The Secretary has executed agreements with each State to administer adjustment services.

In response to inquiries from the States, this GAL contains amended Employment and Training Administration (ETA) operating instructions for the States. It requires States to provide every dual eligible worker (that is, a worker whose separation is covered by certifications under both the regular and NAFTA-TAA programs), at the point where they become eligible under the second Trade

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program, with the information necessary to make a fully informed choice regarding the Trade program under which they wish to permanently participate.

4. Nonduplication of Assistance. Section 249A (19 U.S.C. § 2322) of the Trade Act of 1974, as amended, addresses nonduplication of assistance:

> No worker may receive assistance relating to a separation pursuant to certifications under both subchapters A and D of this chapter.

The intent of this section is to prevent a worker from receiving duplicate benefits under both the regular TAA and NAFTA-TAA programs.

General Administration Letter (GAL) 7-94 contains operating instructions to State agencies for implementing the amendments to the Trade Act contained in the NAFTA Implementation Act. GAL 7-94, page 16 contains instructions pertinent to the "Non-duplication of Assistance" provision of the Law. The "Administration" portion of this instruction states:

> This new section is intended to eliminate duplication of assistance and benefits to a worker in situations where a worker group is certified concurrently for both regular TAA and NAFTA-TAA. These situations should be uncommon. However, should this occur, the worker will be provided benefits under one or the other certification. The worker is to make the decision regarding which certification will apply. Once a decision is made by the worker, it cannot be changed. Also, State agency staff must explain the difference between programs so workers can make an informed choice.

5. Revised Operating Instructions. The instructions to the States pertaining to Nonduplication of Assistance are revised to read as follows:

> The intent of this section is to prevent duplication of assistance to workers who are eligible to receive assistance pursuant to certifications issued under both the regular and NAFTA-TAA programs (dual eligible workers). In order to fairly administer this section, State agency staff must fully explain the difference between programs to dual eligible workers. This will assure that the affected workers are provided with the ability to make a completely informed choice regarding the application of benefits under both programs. A dual eligible worker who has entered, or is otherwise receiving benefits under one program, may elect to

switch after being certified as eligible to apply under the second program. Under such circumstances, the State may allow the worker's benefits to continue to be paid by the first program until the first convenient break in training as determined by the State. This approach is currently used with Trade eligible workers who are also enrolled under the Job Training Partnership Act (JTPA) Title III program. In order to minimize the administrative burden on the States, once a decision is made by the worker after becoming eligible for the second program, it may not be changed. This election will also stand in the case of a subsequent separation covered by the same two certifications.

6. Applicant Processing. States are encouraged to implement applicant tracking and reporting procedures that will ensure States' compliance with these instructions and allow the States to evaluate Trade program effectiveness.

Section 225 (19 U.S.C. § 2275) of the Trade Act requires that workers be provided with full information about benefits. Therefore, when workers become certified as eligible to apply for benefits UNDER THE SECOND PROGRAM, Trade staff are to fully explain the difference between the programs so that workers can make a completely informed choice as to the program under which the workers elect to receive benefits. States are to counsel workers who are receiving benefits under one program and later become eligible to receive benefits under a second certification. States are to determine the workers' choice of the program under which they wish to permanently participate within 15 working days from the date the second certification is signed by the National Office. Workers are also to be clearly informed about eligibility requirements for TRA under both programs. Once the worker has made a decision it may not be changed. This election will also stand in the case of a subsequent separation covered by the same two certifications.

A change from one program to the other can never result in increasing the amount of benefits for training, job search, and relocation allowances that a claimant may receive. However, some claimants may become eligible for TRA by changing from the NAFTA-TAA program to the regular program. The reason for this is that the regular program does not require, as a condition of eligibility for TRA, that a worker enter a training program within a fixed period. In any event, such claimants would never be entitled to more than one full round of TRA benefits on the basis of the two certifications.

In order to minimize the administrative burden on the States, when a worker receiving benefits under one program elects to switch after becoming eligible for the second program, the State may, as is current practice with Trade eligible workers who are dual enrolled under the JTPA Title III program, allow the workers' benefits to continue to be paid by the first program until the first convenient break (e.g., the end of a semester/quarter) in training as determined by the State.

Since the Trade program will often depend upon the local Job Service office staff to "counsel" a claimant to choose between NAFTA and regular Trade benefits, written instructions are to be provided by the State to all local Office staff who counsel trade applicants. The instructions provided by the State must continue to encourage workers to enter training as quickly as possible after they are initially certified as eligible to receive benefits, regardless of which program they are certified under.

7. Action Required. States are required to implement the revised administrative procedures for ensuring non-duplication of assistance as set forth in this document as of April 1, 1996. States are advised to inform all appropriate State staff of the contents of this document and ensure that staff have the management information system (MIS) capability to effectively track and report on benefits and services provided to dual eligible workers to avoid duplication of services.

8. Inquiries. States are to direct all inquiries to the appropriate ETA Regional Office.