EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION Office of Trade Adjustment Assistance
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ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 24-20

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

FROM: SUZAN G. LEVINE
Principal Deputy Assistant Secretary

SUBJECT: Operating Instructions for Implementing the Reversion Provisions of the Amendments to the Trade Act of 1974 Enacted by the Trade Adjustment Assistance Reauthorization Act of 2015

1. **Purpose.** To assist State Workforce Agencies or agencies designated by Governors as "Cooperating State Agencies" (CSAs or "states") to implement the Trade Adjustment Assistance (TAA) Program reversion provisions of the Trade Adjustment Assistance Reauthorization Act of 2015 (TAARA 2015) by providing operating instructions that apply to the program benefits applicable to adversely affected workers covered by petitions filed on or after July 1, 2021, and by identifying prior guidance that remains applicable to CSAs. Employment and Training Administration (ETA) refers to this version of the TAA Program, described in these operating instructions set out in Attachment A, as "Reversion 2021."

2. **Action Requested.** CSAs are to implement the guidance set forth in these operating instructions for workers covered under petitions filed on or after July 1, 2021. Additionally, CSAs must continue to administer the 2002 Program, the 2009 Program, the 2011 Program, and the 2015 Program, in accordance with existing regulations and, where applicable, prior guidance. States must inform all appropriate staff of the contents of these instructions. Although the TAARA 2015 program expiration provision requires that the Department will no longer accept petitions for Trade Adjustment Assistance as of July 1, 2022, States are expected to continue serving those adversely affected workers from worker groups certified prior to that date.

RESCISSIONS None	EXPIRATION DATE Continuing

3. **Summary and Background.**

- Summary – The TAA Program is a federal entitlement program that assists U.S. workers who lost their jobs as a result of foreign trade. The TAA Program, established by the Trade Act of 1974, has been amended a number of times over the past 46 years. The latest amendments, enacted in 2015, include reversion and sunset provisions effective July 1, 2021, and July 1, 2022, respectively. Currently, trade-affected workers covered by a certified TAA petition are covered and eligible to apply for TAA benefits and services under one of the versions of the TAA Program based upon the date of the relevant TAA certified Petition: the 2002 Amendments, the 2009 Amendments, the 2011 Amendments, or the 2015 Amendments. Workers receiving TAA Program benefits and services under any of these versions of the TAA program will continue to receive the applicable benefits and services provided under their applicable versions of the program. Any workers covered under a Petition for Trade Adjustment Assistance filed on or after July 1, 2021, will be covered under Reversion 2021.

- Background – TAARA 2015, at Section 406, includes a provision that creates a modified version of the TAA Program, Reversion 2021, effective for all petitions filed on or after July 1, 2021. This section 406 also provides that the TAA Program will expire (or sunset) on June 30, 2022. Guidance on the impacts of the sunset provision will be issued separately in Fiscal Year 2022, if needed. The TAA Program has previously reverted, in 2011 and 2014. In both instances, ETA issued Operating Instructions to administer reversion, and is doing the same for Reversion 2021.

4. **Operating Instructions.** The Operating Instructions set out at Attachment A to this Training and Employment Guidance Letter (TEGL) constitute controlling program guidance for Reversion 2021, which the states may not deviate from absent prior approval, pursuant to the terms and conditions of the *Agreement Between the Governor and Secretary of Labor, United States Department of Labor, to Carry Out the Provisions of Subchapters A, B, and C of Chapter 2 of Title II of the Trade Act of 1974, as amended by the Trade Adjustment Assistance Reauthorization Act of 2015* (Governor-Secretary Agreement). As explained in the attached Operating Instructions, the TAA Program regulations, codified at 20 CFR part 618, apply to Reversion 2021 unless otherwise indicated in the Operating Instructions. To that end, the Operating Instructions in the attachment to this guidance include statutory, regulatory, and administrative guidance references.

5. **Inquiries.** Please direct inquiries to the appropriate Regional Office.

6. **References.**
   - Chapter 2 of Title II of the Trade Act of 1974, as amended (Pub. L. 93-618) (Trade Act) (codified at 19 U.S.C. §§ 2271 et seq.);
   - Pub. L. 114-27, Trade Adjustment Assistance Reauthorization Act of 2015 (TAARA 2015)
   - Pub. L. 112-40, Trade Adjustment Assistance Extension Act of 2011 (TAAEA)
   - Pub. L. 111-5, Trade and Globalization Adjustment Assistance Act of 2009 (TGAAA)
   - Pub. L. 107-210, Trade Adjustment Assistance Reform Act of 2002 (TAARA 2002)

- TAA Final Rule, 20 CFR Part 618, 85 FR 51896 (August 21, 2020);
- Agreement Between the Governor and Secretary of Labor, United States Department of Labor, to Carry Out the Provisions of Subchapters A, B, and C of Chapter 2 of Title II of the Trade Act of 1974, as amended by the Trade Adjustment Assistance Reauthorization Act of 2015
- TEGL No.: 11-02 and Changes 1, 2, and 3 - *Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade Act of 2002*
- TEGL No.: 22-08 and Change 1 - *Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade and Globalization Adjustment Assistance Act of 2009*

7. <u>Attachment(s)</u>.

- A - Operating Instructions for the Reversion 2021 TAA Program
- B - Unofficial Version of the Trade Act, incorporating Reversion 2021 Provisions
- C - List of Nations for Shift in Production Determinations

ATTACHMENT A

Operating Instructions of Reversion 2021
Trade Adjustment Assistance for Workers

A. APPLICABLE ADMINISTRATIVE GUIDANCE / REGULATIONS

The TAA Program regulations, codified at 20 CFR 618, apply under Reversion 2021 unless otherwise directed in this guidance.

Set out below are the applicable regulations and guidance documents that will apply to each version of the TAA program.

Petition Series	Applicable Trade Act Amendment	Guidance
I. TA-W-69,999 and below	TAARA (2002 Amendments)[1]	TEGL No. 11-02 and Changes 1, 2, and 3; this TEGL
II. TA-W-70,000 through TA- W-79,999	TGAAA (2009 Amendments)[2]	TEGL No. 22-08 and Change 1;
III. TA-W-80,000 through TA- W-80,999	TAARA (2002 Amendments, under sunset provisions of TGAAA) –or- TAAEA (2011 Amendments), based on one-time selection under TAAEA one-time worker "choice" provision	TEGL No. 11-02 and Changes 1, 2, and 3; 20 CFR 618
IV. TA-W-81,000 through TA- W-84,999	TAAEA (2011 Amendments)	20 CFR 618
V. TA-W-85,000 through TA-W-97,999	TAARA (2015 Amendments)	20 CFR 618
VI. TA-W-98,000 +	Reversion 2021	20 CFR 618; this TEGL

B. GROUP ELIGIBILITY

Under Reversion 2021, limited group eligibility requirements, including petition investigation criteria (explained below) apply to all petitions for adjustment assistance that are filed on or after July 1, 2021. Workers whose impacted work is in the service sector will no longer be eligible under petitions filed on or after July 1, 2021. Furthermore, workers petitioning on or after July 1, 2021, will not be able to access TAA benefits and services prior to separation. Benefits and services may only be provided for these workers after layoffs occur; Adversely Affected

[1] Trade Adjustment Assistance Reform Act of 2002, (TAARA 2002) Pub.L. 107-210.
[2] Trade and Globalization Adjustment Assistance Act of 2009 (TGAAA), Pub.L. 111-5.

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Trade Adjustment Assistance for Workers

Incumbent Workers (AAIW) are not eligible for services under Reversion 2021. There is no impact for workers certified under petitions filed on or before June 30, 2021. The TAA Program regulations, codified at 20 CFR 618, apply under Reversion 2021 unless otherwise directed in this guidance.

TAA Version	Manufacturing	Services	AAIW	Shift in Production / Secondary
2015	Yes	Yes	Yes	Any Country
Reversion 2021	Yes	No	No	Limited Countries

B.1. Certification Criteria

1. First criterion: A significant number or proportion of the workers in the workers' firm, or an appropriate subdivision of such firm, must have become totally or partially separated or be threatened with total or partial separation.
2. Second criterion: The second criterion is satisfied if either A or B below is true:
   - A. (i) Sales or production, or both, at the petitioning workers' firm or subdivision must have decreased absolutely, and
     (ii) Imports of articles like or directly competitive with articles produced by the petitioning workers' firm or subdivision have increased, and
     (iii) The increase in imports described in (ii) contributed importantly to the petitioning workers' separation or threat of separation and to the decline in sales or production at the firm or subdivision.
   - B. (i) There has been a shift of production by the petitioning workers' firm or subdivision to a foreign country of articles like or directly competitive with the articles which are produced by the firm or subdivision; and
     (ii) One of the following conditions applies:
       a. the country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States; or
       b. the country to which the workers' firm has shifted production of the articles is a beneficiary country under the Andean Trade Preference Act, the African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or
       c. there has been or is likely to be an increase in imports of the articles that are like or directly competitive with articles which are or were produced by the firm or subdivision.[3]

B.2. Shift in Production – Changes in Applicable Nations

Under Reversion 2021, worker group eligibility based on the "shift in production" criteria is limited to petitions where the shift was to certain specified nations noted in B.1. Those nations

[3] Note: The term "contributed importantly" as used in these worker eligibility criteria is defined in the Trade Act. The statutory definitions applicable to eligibility are set out below at the end of subsection B.3. of these instructions.

are the ones that are, "a party to a free trade agreement with the United States," or, "a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act,"[4] respectively. Attachment C of this TEGL provides the list of current eligible shift in production nations as of the date of issuance of this guidance.

B.3. Secondary Workers

Reversion 2021 provides for the certification of secondarily impacted workers; see statutory text below, from Sec. 222(b) of the Trade Act, as amended, for important definitions of secondary workers and other terms. Under Reversion 2021, eligibility for downstream producers are limited to those firms affected by increased imports from or a shift in production to Canada or Mexico.

Statute:

(b) ADVERSELY AFFECTED SECONDARY WORKERS.—A group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) shall be certified by the Secretary as eligible to apply for trade adjustment assistance benefits under this chapter pursuant to a petition filed under section 221 if the Secretary determines that—

(1) a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility under subsection (a), and such supply or production is related to the article that was the basis for such certification (as defined in subsection (c) (3) and (4)); and

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss of business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation determined under paragraph (1).

(c) Definitions - FOR PURPOSES OF THIS SECTION.—

(1) The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

(2)(A) Any firm, or appropriate subdivision of a firm, that engages in exploration or drilling for oil or natural gas shall be considered to be a firm producing oil or natural gas.

(B) Any firm, or appropriate subdivision of a firm, that engages in exploration or drilling for oil or natural gas, or otherwise produces oil or

[4] See Section 222(a)(2)(B)(ii) (I) and (II) of the Trade Act, as amended.

natural gas, shall be considered to be producing articles directly competitive with imports of oil and with imports of natural gas.

(3) DOWNSTREAM PRODUCER.—The term "downstream producer" means a firm that performs additional, value-added production processes for a firm or subdivision, including a firm that performs final assembly or finishing, directly for another firm (or subdivision), for articles that were the basis for a certification of eligibility under subsection (a) of a group of workers employed by such other firm, if the certification of eligibility under subsection (a) is based on an increase in imports from, or a shift in production to, Canada or Mexico.

(4) SUPPLIER.—The term "supplier" means a firm that produces and supplies directly to another firm (or subdivision) component parts for articles that were the basis for a certification of eligibility under subsection (a) of a group of workers employed by such other firm.

Administration:

There are two groups of workers that can be certified as eligible to apply for adjustment assistance because the workers are secondarily affected – workers who supply components (upstream) to a firm whose workers are certified (primary), or workers who perform additional, value-added production and finishing operations (downstream) for a firm whose workers are certified (primary). A significant change from TAARA 2015 is that impacts on downstream workers are limited to Canada and Mexico; the remainder of 1 and 2 are unchanged from the current regulations.

1. 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. Secondary-worker coverage applies only to workers employed by firms in the first tier. The components supplied to the primary firm by the upstream workers must either account for at least 20 percent of the production or sales of the upstream firm, 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. For upstream workers to be certified as secondarily affected, the impact on the primary firm from imports can come from increased imports from any country or a shift of production to any of the countries that qualify under the shift-of-production criteria.
2. Downstream workers must directly perform additional, value-added production processes, including final assembly or finishing, on the products of the primary firm. Downstream workers can only be certified as secondarily affected if the workers of the primary firm are certified based on increased imports from Canada or Mexico or a shift of production to Canada or Mexico. Also, the downstream workers' firm must have suffered a loss of business with the primary firm that contributed importantly to the workers' separations or threat of separations.

B.4. Impact of Reversion 2021 on Subpart B of 20 CFR 618

The Reversion 2021 changes identified above mean that some parts of the TAA Program regulations do not apply or are otherwise impacted by the change in statute. This table summarizes the impact of Reversion 2021 on group eligibility regulations.

Citation	Title	Impact of Reversion 2021
618.200	Scope	No change.
618.205	Petitions.	618.205(e) no longer applies.
618.210	Investigation.	No change.
618.215	Public hearings.	No change.
618.220	Use of subpoena.	No change.
618.225	Criteria for certification of a group of workers.	Certifications based on shift in production limited. No automatic certifications for International Trade Commission (ITC) determinations. Service sector worker groups ineligible.
618.230	Evidence.	No change.
618.235	Determinations.	No change.
618.240	Termination of certifications.	No change.
618.245	Reconsideration of termination of an investigation, denial, or termination or partial termination or certification.	No change.
618.250	Amendments of certifications.	No change.
618.255	Judicial review of determinations.	No change.
618.260	Study regarding certain affirmative determinations by the Commission.	No change.
618.265	Availability of information to the public.	No change.

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

TRA eligibility and subsequent benefits available under the TAARA 2015 are generally extended into Reversion 2021. The maximum number of weeks of income support for adversely affected workers (AAW) is 130. Due to the complexity related to TRA, requirements for Reversion 2021 are explained below in detail. The TAA Program regulations, codified at 20 CFR 618, apply under Reversion 2021 unless otherwise directed in this guidance.

C.1. Eligibility for TRA – Enrollment in TAA Training Deadlines

Reversion 2021 requires that the AAW be enrolled in TAA training by the TAARA 2002 deadlines. These deadlines require enrollment no later than the later of: 1) last day of the **8th** week following the date in which the certification covering the AAW was issued by the Secretary, or 2) the **16th** week following the day in which the AAW was most recently totally separated from adversely affected employment.

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Operating Instructions of Reversion 2021
Trade Adjustment Assistance for Workers

Statute: Under Reversion 2021, section 231(a)(5)(A) of the Trade Act reads:

(5) Such worker
(A)(i) is enrolled in a training program approved by the Secretary under Section 236(a) of this title, and
(ii) the enrollment required under clause (i) occurs no later than the latest of
(I) the last day of the 16th week after the worker's most recent total separation from adversely affected employment which meets the requirements of paragraphs (1) and (2),
(II) the last day of the 8th week after the week in which the Secretary issues a certification covering the worker,
(III) 45 days after the later of the dates specified in subclause (I) or (II), if the Secretary determines that there are extenuating circumstances that justify an extension in the enrollment period, or
(IV) the last day of a period determined by the Secretary to be approved for enrollment after the termination of a waiver issued pursuant to subsection (c).

Administration: Under Reversion 2021, AAWs must be enrolled in training or have been issued a waiver from training by certain deadlines to be eligible for TRA. These deadlines apply for eligibility for Basic TRA – which then impacts Additional TRA and Completion TRA. A State may extend the enrollment deadlines by 45 days where the State determines that there are extenuating circumstances justifying the extension.

"Extenuating circumstances," continue to be situations beyond the AAW's control. This includes situations where training programs are abruptly cancelled as well as where the AAW suffers injury or illness preventing enrollment or participation in training, as described in 20 CFR 618.730.

"Enrolled in training" continues to mean that the AAW's application for training has been approved by the State and that the training institution has furnished written notice to the State that the AAW has been accepted into the approved program, which is to begin within 30 days of such approval, as described in 20 CFR 618.110.

C.1.1. Eligibility for Additional TRA Requires an Application for TAA Training within 210 days

Under Reversion 2021, AAWs must apply for TAA training within 210 days for Additional TRA, as provided under TAARA 2002. Reversion 2021 requires that an AAW file a bona fide application for TAA training within 210 days after the date the AAW is first certified as eligible to apply for TAA or, if later, within 210 days after the date of the AAW's total or partial separation.

C.1.2. Training Benchmarks to Meet Completion TRA Eligibility Requirements
The training benchmark requirements must be applied to Completion TRA under Reversion 2021. All Completion TRA provisions in 20 CFR 618 continue to apply.

C.1.3. Maximum Number of Weeks of TRA and Duration
Under Reversion 2021, the maximum number of weeks of TRA for which an AAW may be eligible is 130 weeks.

Basic TRA
The maximum amount of Basic TRA payable is 52 multiplied by the individual's weekly benefit amount (WBA) during the first Unemployment Insurance (UI) benefit period following the TRA qualifying separation. This maximum amount of Basic TRA payable is reduced by the amount of the AAW's full UI entitlement (or the amount the AAW would have been entitled if the AAW had applied) in the first benefit period, as described in 20 CFR 618.750. Basic TRA is payable to AAWs who are enrolled in or participating in TAA-approved training, or who completed TAA training following a qualifying separation, or have received a timely waiver of the training requirement as described below in Section C.4. An AAW who does not meet the eligibility criteria for Basic TRA is not eligible for Additional TRA or Completion TRA either.

Additional TRA
Additional TRA is payable for up to 65 weeks after exhaustion of Basic TRA. Additional TRA is payable in the 78 week period that follows the last week of entitlement to Basic TRA or beginning with the first week of approved TAA training if the training begins after the last week of entitlement to Basic TRA, as described in 20 CFR 618.760.

Completion TRA
Completion TRA is payable for up to 13 weeks to assist an AAW in completing TAA training after exhaustion of Additional TRA. Completion TRA is payable during a 20 consecutive week eligibility period that begins with the first week in which the training participant files a claim for Completion TRA and seeks compensation for such given week. The 20 consecutive week eligibility period to receive up to 13 weeks of Completion TRA allows for the flexibility of a break in training of up to 7 weeks, but no more, as explained in 20 CFR 618.765.

C.2. Weeks of Additional TRA
The TAAEA 2011 changed the maximum number of available weeks of Additional TRA to 65 weeks. TAARA 2015 includes the 65 weeks of Additional TRA as well. Reversion 2021 also retains this change to 65 weeks.

Statute: Under Reversion 2021, section 233(a)(3) of the Trade Act provides:

(3) Notwithstanding paragraph (I), in order to assist the adversely affected

worker to complete a training program approved for the worker under section 236, and in accordance with regulations prescribed by the Secretary, payments may be made as trade readjustment allowances for up to 65 additional weeks in the 78-week period that --

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

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

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

Administration: Under the TAARA 2015, a maximum of 65 weeks of Additional TRA were available to assist the AAW to complete TAA training, which was payable to AAWs over a 78 consecutive calendar week eligibility period. Under Reversion 2021, these provisions continue to apply and the AAW must actually be participating in TAA training during the weeks in order for the AAW to be eligible to receive Additional TRA.

C.3. Availability of Completion TRA

Reversion 2021 retains Completion TRA. Up to 13 weeks are available to assist an AAW to complete TAA training after exhausting the maximum amount payable of Additional TRA.

Statute: Under Reversion 2021, section 233(g) of the Trade Act provides:

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

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

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

(3) the worker—

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

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

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

Administration: Under TAARA 2015, an AAW who has exhausted the maximum 65 weeks of Additional TRA and who requires a longer period of income support to complete an approved training program and who meets training benchmarks may be eligible to receive up to 13 weeks of Completion TRA, as described in 20 CFR 618.710. Reversion 2021 retains this benefit and it continues to be available under the same conditions. Completion TRA is payable after exhaustion of Additional TRA, provided the individual meets all other eligibility requirements of the Act, as amended, and will be governed by the applicable provisions of 20 CFR 618.765.

The five eligibility criteria for Completion TRA are unchanged and remain as follows: 1) the requested weeks are necessary for the AAW to complete a training program that leads to completion of a degree or industry-recognized credential; 2) the AAW is participating in training in each such week; 3) the AAW has substantially met the performance benchmarks established in the approved training plan; 4) the AAW is expected to continue to make progress towards the completion of approved training; and, 5) the AAW will complete training during the period authorized for receipt of Completion TRA.

C.4. Waivers of the Training Requirement

Waivers of the training requirement apply to eligibility for Basic TRA only. Reversion 2021 retains the three waivers available under TAARA 2015. States may continue to issue waivers based on the following: 1) Health, 2) Enrollment Unavailable, and 3) Training Not Available.

Statute: Under Reversion 2021, section 231(c) of the Trade Act of 1974 (19 U.S.C. § 2291), Waivers of Training Requirements, reads:

(C) WAIVERS OF TRAINING REQUIREMENTS.—

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

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

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

(C) TRAINING NOT AVAILABLE—Training approved by the Secretary is not reasonably available to the worker from either governmental agencies or

private sources (which may include area vocational education schools, as defined in section 3 of the Carl A. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2302), and employers), no training that is suitable for the worker is available at a reasonable cost, or no training funds are available.

Administration: Basic TRA is only payable if an individual is enrolled in TAA approved training, participating in TAA approved training, has received a waiver of the requirement to participate in training, or has completed TAA approved training. Waivers available under Reversion 2021 are explained in 20 CFR 618.735. States may not waive the enrollment in training requirement after the deadlines have passed. After a termination or expiration of a waiver, AAWs must be enrolled in training by the Monday of the first week occurring 30 days after the date on which the waiver terminated, as explained in 20 CFR 618.725.

C.5. Limitations on TRA

Basic TRA may be payable only during the 104-week period beginning with an AAW's most recent total qualifying separation from adversely affected employment. States must apply this eligibility period under Reversion 2021.

Statute: Under Reversion 2021, section 233 of the Trade Act reads, in pertinent part:

(a)(2) A trade readjustment allowance shall not be paid for any week occurring after the close of the 104-week period that begins with the first week following the week in which the adversely affected worker was most recently totally separated from adversely affected employment--…

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

(g) PAYMENT OF TRADE READJUSTMENT ALLOWANCES TO COMPLETE TRAINING.—Notwithstanding any other provision of this section, in order to assist an adversely affected worker to complete training approved for the worker under section 236 that leads to the completion of a degree or industry-recognized credential, payments may be made as trade readjustment allowances for not more than 13 weeks within such period of eligibility as the Secretary may prescribe to account for a break in training or for justifiable cause that follows the last week for which the worker is otherwise entitled to a trade readjustment allowance under this chapter if… [see benchmarks at D.1.]

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

total qualifying separation within the certification period,

- The 78-week eligibility period for Additional TRA is fixed and begins with the week that follows the last week of entitlement to Basic TRA or beginning with the first week of approved TAA training if the training begins after the last week of entitlement to Basic TRA,

- The 20-week eligibility period for Completion TRA is fixed and begins with the first week in which the training participant files a claim for Completion TRA and seeks compensation for such given week, as explained in 20 CFR 618.765.

C.6. Elimination of Special Rules for Calculating Separations and Applying Deadlines
The TGAAA 2009 introduced and TAAEA 2011 extended – under Section 234(b) of the Trade Act, as amended – certain special rules and provisions, as described below, that impact timeframes for TRA eligibility. Reversion 2021 does ***not*** include these special rules on calculating separations and applying deadlines.

C.6.1. Elimination of Federal and State Good Cause Provisions for Waiving Certain Time Limits / Equitable Tolling
Reversion 2021 eliminates the "good cause" provisions that allowed a State to waive deadlines for enrolling in training or applying for TRA benefits. This means that 20 CFR 618.730 does not apply under Reversion 2021.

While these statutory waiver provisions are no longer available, States may continue to apply the doctrine of Equitable Tolling, consistent with the regulations at 20 CFR 618.888, to extend benefit deadlines in egregious circumstances.

C.6.2. Elimination of Special Rule for Judicial or Administrative Appeal
Reversion 2021 eliminates the Special Rule established by TGAAA 2009 that allowed for the 104-week eligibility period for Basic TRA to begin with the week following the week in which the certification was issued in cases where a judicial or administrative appeal delayed the certification. This means that 20 CFR 618.755(b) does not apply under Reversion 2021.

The 104-week eligibility period for Basic TRA begins with the first week following the week in which the AAW was most recently totally separated from adversely affected employment within the period covered by the certification. If the 104-week eligibility period expires before a certification is issued under Reversion 2021 and the delay is the result of a judicial or administrative appeal, the eligibility period will not automatically begin with the date of certification. Instead, under Reversion 2021, the 104-week period begins the first week following the week in which the adversely affected worker was most recently totally separated from adversely affected employment.

C.6.3. Elimination of Justifiable Cause to Extend the Eligibility Period
Reversion 2021 eliminates the Special Rule at Sec. 233(h) of TAARA 2015 that allowed for the extension of the period in which an AAW could receive Basic TRA and Additional TRA for justifiable cause. This means that 20 CFR 618.770 does not apply and no extension for justifiable cause is available under Reversion 2021.

C.6.4. Elimination of the Special Rule for Military Service
Reversion 2021 eliminates the Special Rule for Military Service at Sec. 233(i) of TAARA 2015 that allowed States to extend any deadlines for any TAA benefit if the AAW's military service precluded meeting such deadlines. This means that 20 CFR 618.884 does not apply and no extension of deadlines due to military services is available under Reversion 2021. This also means that the training duration exception at 20 CFR 618.615(d)(4) does not apply under Reversion 2021.

C.7. The First Week of TRA Eligibility is Changed
Reversion 2021 eliminates the requirement that the first week of TRA eligibility is the first week following the TAA certification date. Under Reversion 2021, the first week of TRA eligibility is the week that begins more than 60 days after the date on which the petition that resulted in such certification was filed.

Statute: Under Reversion 2021, Sec. 231(a) of the Trade Act will read, in part:

> *(a) Payment of a trade readjustment allowance shall be made to an adversely affected worker covered by a certification under subchapter A who files an application for such allowance for any week of unemployment which begins more than 60 days after the date on which the petition that resulted in such certification was filed under section 221…*

Administration: Reversion 2021 reinstates the requirement that the first week of TRA eligibility is the one that begins more than 60 days after the date when the petition covering the AAW was filed. AAWs who have exhausted their UI entitlement before 60 days following the filing of a petition will have to wait up to 60 days from the petition filing date to be eligible to receive TRA. This does not change 20 CFR 618.715(d)(1) through (3) as promulgated, but does add the additional restriction on timing of first payments.

C.8. Elimination of the Earnings Disregard up to the TRA Weekly Benefit Amount (WBA)
Reversion 2021 eliminates the earnings disregard up to the TRA WBA when the AAW is participating in full-time TAA training while working.

Statute: Under Reversion 2021, Secs. 232(a)(1) and (2) of the Trade Act will read:

> *(a) Subject to subsections (b), and (c), the trade readjustment allowance payable to an adversely affected worker for a week of total unemployment*

shall be an amount equal to the most recent weekly benefit amount of the unemployment insurance payable to the worker for a week of total unemployment preceding the worker's first exhaustion of unemployment insurance (as determined for purposes of section 231(a)(3)(B) reduced (but not below zero) by—

(1) any training allowance deductible under subsection (c); and

(2) income that is deductible from unemployment insurance under the disqualifying income provisions of the applicable State law or Federal unemployment insurance law.

Administration: Section 232(a) establishes the weekly amount of TRA an AAW may receive. Section 232(a)(2) requires the deduction from that weekly amount of all income that is deductible from UI under the disqualifying income provisions of State or Federal UI law. There is no TRA-specific earnings disregard under Reversion 2021. Applicable State law applies. This partially impacts the regulations at 20 CFR 618.745(c)(1), as they implement the earnings disregard under TAARA 2015.

C.9. Elimination of the Election of TRA or Unemployment Insurance

Reversion 2021 eliminates the option to file for TRA or UI in a subsequent benefit period. This option was provided under TAARA 2015, but no longer applies under Reversion 2021. Therefore, all TRA requires the exhaustion of all of the AAW's UI entitlement.

Statute: Under Reversion 2021, section 231(a)(3) of the Trade Act will provide that TRA eligibility is available if:

(3) Such worker--

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

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

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

Administration: Reversion 2021 reinstates the absolute requirement that all UI entitlement must be exhausted before the payment of any TRA. This includes Basic TRA, Additional TRA, and Completion TRA. There is no TRA election provision under Reversion 2021. This means that the provisions at 20 CFR 618.720(e)(2) through (6) do not apply under Reversion 2021.

C.10. Waiver of Recovery of TAA Overpayments

Reversion 2021 significantly revises the waiver of overpayment rules established at 20 CFR 618.832.

Statute: Under Reversion 2021, Sec. 243(a) of the Trade Act will read:

(a)Repayment; deductions

(1) If a cooperating State agency, the Secretary, or a court of competent jurisdiction determines that any person has received any payment under this part to which the person was not entitled, including a payment referred to in subsection (b), such person shall be liable to repay such amount to the State agency or the Secretary, as the case may be, except that the State agency or the Secretary may waive such repayment if such agency or the Secretary determines, in accordance with guidelines prescribed by the Secretary, that—

(A) the payment was made without fault on the part of such individual, and

(B) requiring such repayment would be contrary to equity and good conscience.

(2) Unless an overpayment is otherwise recovered, or waived under paragraph (1), the State agency or the Secretary shall recover the overpayment by deductions from any sums payable to such person under this part, under any Federal unemployment compensation law administered by the State agency or the Secretary, or under any other Federal law administered by the State agency or the Secretary which provides for the payment of assistance or an allowance with respect to unemployment, and, notwithstanding any other provision of State law or Federal law to the contrary, the Secretary may require the State agency to recover any overpayment under this chapter by deduction from any unemployment insurance payable to such person under the State law, except that no single deduction under this paragraph shall exceed 50 percent of the amount otherwise payable.

Administration: There are two significant changes impacting waiver of repayment of overpayments of TRA. First, Reversion 2021 changes the, "must waive," provision to, "may waive." Second, it reestablishes the previous standard, from TAARA 2002, for determining whether to waive repayment where requiring repayment, "would be contrary to equity and good conscience." Under Reversion 2021, a State may waive repayment if it determines that the payment was made without fault of the person or individual and that requiring repayment would be contrary to equity and good conscience. The remainder of 20 CFR 618.832 remains in place and applicable under Reversion 2021.

C.11. Impact of Reversion 2021 on Subpart G of 20 CFR 618

The Reversion 2021 changes above mean that some parts of the TAA Program regulations related to TRA do not apply or are otherwise impacted by the changes in statute. This table summarizes the impact of Reversion 2021 on TRA.

ATTACHMENT A

Operating Instructions of Reversion 2021
Trade Adjustment Assistance for Workers

Citation	Title	Impact of Reversion 2021
618.700	Scope	No change.
618.705	Definitions.	No change.
618.710	Categories of Trade Readjustment Allowances.	No change.
618.715	Applications for Trade Readjustment Allowances and payment.	Adds a 60-day waiting period after a petition is filed before TRA can be paid.
618.720	Qualifying requirements for Basic Trade Readjustment Allowances.	No election provision. Sections 618.720(e)(2) – (5) do not apply.
618.725	Training enrollment deadlines.	8 weeks from certifications OR 16 weeks from separation No exception to deadlines for military service. No exceptions for good cause.
618.730	Good cause	Good cause not applicable. Definition used for justifiable cause and extenuating circumstances.
618.735	Waiver of training requirement for Basic Trade Readjustment Allowances.	No change.
618.740	Evidence of qualification for Basic, Additional, and Completion Trade Readjustment Allowances.	No change.
618.745	Weekly amounts of Basic, Additional, and Completion Trade Readjustment Allowances.	Reverts to applicable State law.
618.750	Maximum amount of Basic Trade Readjustment Allowances.	No change.
618.755	Eligibility period for Basic Trade Readjustment Allowances.	No extension for judicial or administrative appeals. 618.755(b)(2) does not apply.
618.760	Qualifying requirements for, and timing and duration of, Additional Trade Readjustment Allowances.	No change.
618.765	Qualifying requirements for, and timing and duration of, Completion Trade Readjustment Allowances.	No change.
618.770	Special rule for justifiable cause	Does not apply.
618.775	Payment of TRA during breaks in training	No change.
618.780	Disqualifications	Payment of TRA while in part-time training is allowable.

D. TRAINING

The regulations, codified at 20 CFR part 618, governing training apply to Reversion 2021 unless otherwise indicated here.

Reversion 2021 applies requirements similar to the more limited TAARA 2002 program to AAWs certified under petitions filed on or after July 1, 2021. Training may continue to be approved on a full-time or part-time basis as allowed under 20 CFR 618.615(b).

Reversion 2021 does not permit providing services to Adversely Affected Incumbent Workers (AAIW). Therefore, certified AAWs may not begin approved training until they have been totally or partially separated from adversely affected employment.

Under Reversion 2021, insofar as possible, States shall provide or assure the provision of such training through work-based training.

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

The requirements for Completion TRA and related benchmarks are unchanged under Reversion 2021. For more details about these training benchmark requirements, see 20 CFR 618.660.

For AAWs covered under Reversion 2021, only TAA administrative funds are available to establish training benchmarks and track the AAW's progress. States must rely on State programs or other partner programs to provide case management services. Refer to Section G of this document for further guidance on employment and case management services.

D.2. Length of Training

Under Reversion 2021, the maximum length of training is 130 weeks, subject to the two exceptions below.

D.2.1. On-the-Job Training

Under Reversion 2021, the maximum duration limit of 104-weeks for OJT at 618.635(a)(3)(ii) continues to apply. There are no changes to OJT under Reversion 2021.

D.2.2. Apprenticeship

Apprenticeship remains an allowable form of training under the Reversion 2021 TAA Program. The regulations at 618.635(c)(1) limiting the period of reimbursement for the work-based learning portion of an apprenticeship to 130-weeks continues to apply under Reversion 2021. The related instruction of an apprenticeship may continue to be supported by the TAA Program for the entire duration of the apprenticeship. There are no changes to apprenticeship under Reversion 2021.

D.3. Part-Time Training

Reversion 2021 does not explicitly prohibit part-time training. During previous program reversions, it was the regulations at 20 CFR 617 that prohibited part-time training, not the various versions of the Trade Act. Under Reversion 2021, participants may be enrolled in full-

time or part-time training – as provided in 20 CFR 618.615(b). ***Unlike TAARA 2015, participants enrolled in part-time training remain otherwise eligible for TRA.*** However, because Reversion 2021 does not contain the "earnings disregard" provision, any wages earned by participants in part-time training will likely negatively affect their TRA benefits.

D.4. Impact of Reversion 2021 on Subpart F of 20 CFR 618

The Reversion 2021 changes above mean that some parts of the TAA Program regulations related to TAA approved training do not apply or are otherwise impacted by the changes in statute. This table summarizes the impact of Reversion 2021 on TAA approved training.

Citation	Title	Impact of Reversion 2021
618.600	Scope	AAIWs are not eligible for services.
618.605	General procedures	States are still required to provide initial assessments. However, comprehensive and specialized assessments may only be provided by partner programs.
618.610	Criteria for approval of training	No change.
618.615	Limitations on Training Approval	TRA is payable during part-time training but may be reduced based on an individual's income. Exception for Uniformed Services does not apply.
618.620	Selection of training program.	Work-based learning is the preferred method of training.
618.625	Payment restrictions for training programs	No change.
618.630	Training of reemployed trade-affected workers	No change.
618.635	Work-based training	AAWs in OJT or apprenticeship are not eligible for ATAA. AAIWs no longer eligible for services.
618.640	Supplemental assistance	No change.
618.645	Voluntary withdrawal from a training program	No change.
618.650	State standards and procedures for establishing reasonable cost of training	No change.
618.655	Training for adversely affected incumbent workers	Does not apply. AAIWs are not eligible for services.
618.660	Training benchmarks	No change.
618.665	Amending approved training	No change.

E. JOB SEARCH ALLOWANCES

Under Reversion 2021, all of the Job Search Allowance provisions at 20 CFR 618, Subpart D, continue to apply. The maximum benefit for Job Search Allowances is $1,250. The TAA Program will still cover 90 percent of allowable costs up to that amount. The Federal Travel Regulations still apply. There are no changes from TAARA 2015.

F. RELOCATION ALLOWANCES

Under Reversion 2021, all of the Relocation Allowance requirements at 20 CFR 618, Subpart D, continue to apply. The maximum lump sum payment for Relocation Allowances is $1,250. The TAA Program will still cover 90 percent of allowable costs associated with a relocation, in addition to the lump sum payment. The Federal Travel Regulations still apply. There are no changes from TAARA 2015.

G. EMPLOYMENT AND CASE MANAGEMENT SERVICES / COORDINATION WITH PARTNER PROGRAMS

Under Reversion 2021, training and other activities (TaOA) funds may not be used to provide Employment and Case Management Services to AAWs covered under petitions filed on or after July 1, 2021, with the exception of the initial assessment required under 20 CFR 618.330 and 618.335. For AAWs covered under Reversion 2021, the Trade Act requires States to, "make every reasonable effort," to secure for adversely affected workers counseling, testing, and placement services, and supportive and other services, provided for under any other Federal law, including the services provided through American Job Center delivery systems described in section 134(c) of the Workforce Innovation and Opportunity Act 29 U.S.C. 3174(2)(A). Because section 235 of the Trade Act for Reversion 2021 only requires States to make every reasonable effort to provide these services and does not authorize the use of TAA funds for these services, the Department's longstanding position is that States may not use TAA funds to provide employment and case management services. Therefore, States must coordinate the provision of such services through its other programs such as the Wagner-Peyser Act Employment Services and the WIOA dislocated worker program, including programs supported by National Dislocated Worker Grants (DWG).

The requirement to co-enroll TAA Program participants who are eligible for the WIOA dislocated worker program continues to apply under Reversion 2021. (See 20 CFR 618.325.) DWGs, as described in Sec. 170 of WIOA, are also available to States to provide these services.

Initial assessments during the intake process are still required during Reversion 2021. Regulations at 20 CFR 618.330 require States to conduct an assessment that, "forms the basis for determining which TAA Program benefits and services, including training, are appropriate," to help an AAW become re-employed. Section 20 CFR 618.335 requires States to conduct an initial assessment for each AAW as part of the intake process described in section 239(g) of the Act. Since these activities are required under Section 239 of the Act, and provide the basis for

determinations of training suitability and availability under Section 236 of the Act, States may use TAA funds to pay for the costs of providing an initial assessment.

G.1. Impact of Reversion 2021 on Subpart C of 20 CFR 618

The Reversion 2021 changes above mean that some parts of the TAA Program regulations related to the provision of employment and case management services do not apply or are otherwise impacted by the changes in statute. This table summarizes the impact of Reversion 2021 on employment and case management services under the TAA Program.

Citation	Title	Impact of Reversion 2021
618.300	Scope.	No longer applies.
618.305	The Trade Adjustment Assistance Program as a one-stop partner.	No change.
618.310	Responsibilities for the delivery of employment and case management services.	618.325(a) and (b) still apply.
618.325	Integrated service strategies and Workforce Innovation and Opportunity Act co-enrollment.	No change.
618.330	Assessment of trade-affected workers.	No change; States are still required to provide an initial assessment.
618.335	Initial assessment of trade-affected workers.	No change; Initial assessments still required under Reversion 2021.
618.345	Comprehensive and specialized assessment of trade-affected workers.	States may not use TaOA funds to provide comprehensive and specialized assessments. ETA strongly recommends coordinating with other State programs and partner programs to provide these assessments.
618.350	Individual employment plans for trade-affected workers.	No longer required, but strongly recommended. Can only be funded by other State programs or partner programs.
618.355	Knowledge, skills, and abilities of staff performing assessments.	Staff providing initial assessments must have the knowledge, skills, and abilities identified in this section. Training of staff providing initial assessments may be provided using TAA administrative funds or partner programs. States may not use TAA funds to provide

		comprehensive and specialized assessments.
618.360	Employment and case management services for trade-affected workers in training.	No longer required, but strongly encouraged. Can only be funded by other State programs or partner programs.

H. ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE (ATAA)

Under Reversion 2021, ATAA replaces the Reemployment Trade Adjustment Assistance (RTAA) benefit for older workers. All previous guidance on ATAA has been rescinded. The regulations, codified at 20 CFR part 618, apply to Reversion 2021 unless otherwise directed here.

H.1. Petition Process

AAWs who seek the benefits and services available under the ATAA program must file a regular TAA petition which includes a request that the worker group be considered for eligibility to apply for the ATAA program. A revised Petition for Trade Adjustment Assistance will be available on July 1, 2021. Under the revised form, all worker groups will automatically be considered for ATAA.

H.2. Investigation Process

In order to establish that petitioning AAWs are eligible to apply for the ATAA program, DOL must first determine that all of the criteria for a regular TAA certification are met. In addition, DOL must find that three additional criteria are met for ATAA certification. These additional criteria are:

1. A significant number of the group of workers in the petitioning workers' firm are 50 years of age or older;
2. The group of workers in the petitioning workers' firm possess job skills that are not easily transferable to other employment; and
3. The competitive conditions within the affected workers' industry are adverse.

Obtaining data and other information necessary to determine that all three of these criteria are satisfied will be part of the normal petition investigation process.

For criterion 1, information will be obtained by communication with the appropriate company official from the subject firm as part of the petition investigation. For this purpose, the term "significant number" means five percent of the adversely affected workforce or 50 workers, whichever is less, or at least three workers in a firm with less than 50 adversely affected workers.

For criterion 2, the necessary information will also be obtained through communication with the appropriate company official at the subject firm. Specifically, the company official will be asked to confirm that the worker group for whom a petition has been filed possesses job skills that are not easily transferable to other employment, with a focus on what skills the worker possesses. Should the company official be unable to provide information as to whether the skills are easily

transferable, the State (e.g., Rapid Response or other appropriate unit) will be asked to furnish the assessment.

For criterion 3, information will be collected from government and industry association sources as part of the petition investigation process. Specifically, the information collected will be used to determine if: (a) the number of firms in the industry is declining; or (b) the conditions (such as declining production and/or employment) in the industry are such that the affected workers are not likely to find new employment within the industry; or (c) aggregate U.S. imports of products like or directly competitive with those produced in the industry are increasing.

H.3. Determinations

The determination document issued at the conclusion of the investigation will clearly state whether or not the petitioning group of workers are eligible to apply for the ATAA program. This statement will appear directly after the statement of eligibility to apply for the regular TAA Program. Determinations of eligibility to apply for ATAA and for TAA, reached under the same petition, will be issued together in the same determination document. Determinations of eligibility to apply for TAA and for ATAA, issued under the same petition, will apply to the same identifiable worker group.

H.4. Receipt of ATAA Prohibits Access to TRA, Training Benefits, and Job Search Allowances

After the issuance of a certification of eligibility to apply for TAA and ATAA and when the adversely affected worker is fully informed of the benefits and services available under the TAA and ATAA programs, the AAW will need to consider the choice of benefits and services under one program or the other. Unlike RTAA, ATAA represents a choice between training and the wage insurance benefit. If the AAW's preferred option is the ATAA program, the AAW should be encouraged to take advantage of reemployment services and assistance available to them with the goal of returning to work within 26 weeks of their qualifying separation in order to be eligible for ATAA. In making this choice, AAWs should avail themselves of assistance from career counselors at their local American Job Center.

H.5. Individual Eligibility

To be eligible for ATAA, an adversely affected worker must meet the following conditions:

1. Be at least age 50. The individual's age can be verified with a driver's license, birth certificate, or other appropriate documentation. A worker denied by virtue of being 49 years old at initial reemployment, may reapply when they turn 50 years old. However, the worker must reach age 50 by the last day of the 26th week described in 2. below.

2. Obtain reemployment by the last day of the 26th week after the worker's qualifying separation from the adversely affected employment. This reemployment may be verified with a copy of the job offer letter or a check stub. The worker must obtain reemployment by the last day of the 26th week after the worker's qualifying separation from TAA/ATAA certified employment. This means that the worker's first day of employment must have occurred during the 26-week period.

3. Must not be expected to earn more than $50,000 annually in gross wages from the reemployment. If a paycheck has not been issued at the time of application, the employer must submit a supporting statement indicating that annual wages will not exceed $50,000. If the individual is issued a determination denying eligibility for an ATAA wage supplement based on the first reemployment because the reemployment did not meet the conditions to qualify for an ATAA wage supplement, and if the individual is subsequently separated and finds a new job that does meet the conditions for ATAA, then a new ATAA application will have to be submitted. In this case, since the first reemployment did not qualify the individual for ATAA it cannot be used to establish qualifying reemployment within 26 weeks. Therefore, the subsequent full-time employment must occur within the 26 weeks from the qualifying separation to be considered for the ATAA subsidy.

4. Be reemployed full-time as defined by the State law where the worker is employed. The verification will be conducted in the same manner as is used for determining UI benefits. The agent State and liable State responsibilities at 20 CFR 618.824 continue to apply.

5. Cannot return to the employment from which the worker was separated. Thus, the worker cannot return to the same division/facility that they were separated from nor can the worker do the same or similar work for the employer that they were separated from in another division/facility.

The worker's application for ATAA must be filed within two years of the first day of qualifying reemployment. For purposes of this application, and in order to establish the ATAA payment, wages at separation are defined as the annualized hourly rate at the time of the most recent separation, which is set forth in Section H.7. of this TEGL, "ATAA Payments." Wages at reemployment are defined as the annualized hourly rate at the time of reemployment, which is also set forth in Section H.7. This is unchanged from the regulations at 20 CFR 618.520. In addition, the worker must indicate that a "choice" has been made and that the worker understands that they cannot subsequently switch to the TAA program once the worker begins receiving the ATAA supplement. Receipt of the initial ATAA payment represents the individual's decision with respect to choosing ATAA and voids the participant's rights to retraining, allowances and TRA. Correspondingly, once a worker has enrolled in training, they forfeit their right to ATAA participation.

The State will issue a written determination informing the ATAA applicant of eligibility for ATAA payments within 5 working days of receiving the worker's application for such benefits. If approved, the State will also notify the appropriate State payment unit and other appropriate component offices within the State. The ATAA applicant has the right to appeal a State determination which denies ATAA benefits in the same manner as provided for in State law for TRA determinations.

For purposes of ATAA, the eligibility determination date, which establishes the two-year period during which ATAA benefits can be paid, will be the date of the first qualifying reemployment.

H.6. Continuing Eligibility

Once approved for ATAA, workers who continue to meet the eligibility criteria are paid ATAA benefits until a total of $10,000 in benefits has been received, or a period of two years has elapsed since their first qualifying reemployment, whichever occurs first. Nothing in the statute precludes an individual from working for different employers within this two-year period. Further, employment is not required to be consecutive. However, an AAW already receiving ATAA payments who has a period of unemployment will not be eligible to receive ATAA for that period, as provided in 20 CFR 618.515(a)(2). Changes in employment that do not encompass a period of unemployment will be handled during the State's ongoing review of each worker's ATAA status, as described below. In the event of a period of unemployment, workers will need to complete a new individual application for ATAA upon reemployment. The worker would be eligible for the remaining ATAA benefits to which they are entitled. The two-year eligibility period continues to run from the date of first qualifying reemployment.

In the event a worker has more than one job, the employment must, at a minimum, meet the definition of full-time work as defined by State law. If additional job(s) are obtained, 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.

If the individual is determined to be eligible for ATAA, the State will need to assess continuing eligibility for the ATAA program. The worker will need to provide verification of employment and wages that will be used to determine continuing eligibility for ATAA benefits on at least a monthly basis. The State can choose to have the worker come to the local office and provide documentation to the staff, or the State has the option to accept proof of continuing eligibility by another method, including: an online portal, email, mail, or fax, to verify proof of employment and wages.

In either alternative, the State must have documented verification of the individual worker's employment and wage status on at least a monthly basis. Once the State approves the information, the State payment unit, local office, and worker will be notified and the worker will receive equivalent payment for the preceding month on a weekly, biweekly, or other basis (as long as payments are at least made monthly) as determined by the State as long as the calculated monthly allotment is not exceeded. The worker will receive at least a minimum monthly payment. Because the worker will receive the ATAA wage subsidy for the preceding period for which they have demonstrated eligibility, the worker will not receive payment until after the initial month has been verified by the State.

H.7. ATAA Payments

Section 246(a)(2)(A) of the Trade Act, as amended, provides that a State shall use the funds provided under section 241 to pay to a worker described in Section 246(a)(3)(B), for a period not to exceed two years, 50 percent of the difference between:

(i) The wages received by the worker from reemployment; and
(ii) The wages received by the worker at the time of separation.

An individual receiving this benefit may receive TAA relocation benefits and the Health Coverage Tax Credit (HCTC), but is not eligible to receive any other benefits, including training, TRA payments, and job search allowances. The ATAA supplement shall cease in the event of one of the following:

- The individual's annualized wage, excluding the ATAA wage subsidy, is projected to exceed $50,000 a year.
- The individual has received $10,000 in ATAA benefits.
- The worker has reached the end of the two-year eligibility period.

The choice of payment unit for paying the ATAA wage supplement is a State responsibility. However, the organizational placement of this payment by the State must meet Governmental Accounting Standards Board requirements. It is the responsibility of the State when calculating the ATAA payment to annualize the recipient's wages on a monthly basis to assure that the recipient's annual wages do not exceed $50,000. Annual wage calculations will include all jobs in which the worker is employed and constitute at least full-time employment as defined by the State. This may include any combination of full- and part-time work that meets or exceeds full-time employment.

Annualized wages at separation are defined as the annualized hourly rate at the time of the most recent qualifying separation. The annualized wages are computed by multiplying the worker's hourly rate received during the last full week of the worker's employment by the number of hours the individual worked during the last full week of employment and multiplying that number by 52. (See 20 CFR 618.520(a)(2)(i) for more information.)

Annualized wages at reemployment are defined similarly to annualized wages at separation, except that the hourly rate and hours worked must reflect those of the first full week of reemployment. (See 20 CFR 618.520(a)(2)(ii) for more information.)

H.7.1. Wage Calculation Methodology

Annualized Separation Wages minus *Annualized Reemployment Wages* divided by 2 equals 50 percent of the difference between the two periods of wages.

50 percent of the difference between the two periods of wages divided by 12 equals the monthly ATAA wage supplement.

If, as a result of the monthly verification exercise, the participant's hourly wage and/or hours are determined to have changed in such a way as to affect the ATAA wage supplement, the State will repeat the above calculation and adjust the ATAA payment accordingly.

The ATAA wage supplement will be paid on a weekly, biweekly, or other payment frequency not to exceed monthly, as established by the State, ensuring that the total payment does not exceed the $10,000 maximum over a two-year period.

States will follow the current interstate arrangement for the regular UI program regarding the agent/liable State relationship for the filing of ATAA claims.

H.7.2. ATAA Overpayments

The determination of "annualized wages" is made prospectively. An individual is deemed to have met the, "earns not more than $50,000 a year in wages from reemployment," requirement set forth in section 246 for a given month if the monthly determination of annualized wages is accurate and complete at the time it is made. No overpayment determinations need be made for that month based on projections for the yearly annual wage that later changed based on information that was not available at the time that the monthly determination was made. Monthly payments derived from the annualized wage projection based on complete and accurate information at the time will be considered valid payments that the individual was entitled to, and are not considered overpayments.

In instances where there are overpayments, due to error or fraud, for example, the State should adhere to the overpayment provisions of Section C.10. of this TEGL.

H.8. Impact of Reversion 2021 on Subpart E of 20 CFR 618

The Reversion 2021 changes above mean that some parts of the TAA Program regulations related to ATAA (RTAA in the regulations) do not apply or are otherwise impacted by the changes in statute. This table summarizes the impact of Reversion 2021 on ATAA.

Citation	Title	Impact of Reversion 2021
618.500	Scope.	No change.
618.505	Individual eligibility.	Must be part of a worker group certified as eligible for ATAA. Must be employed full-time. Does not return to employment from which they were separated.
618.510	Eligibility period for payments of Reemployment Trade Adjustment Assistance and application deadline.	Must be reemployed within 26 weeks of separation from adversely affected employment.
618.515	Continuing eligibility and timing of payments.	618.515(a)(4) does not apply.
618.520	Benefits available to eligible adversely affected workers.	ATAA recipients are not eligible for any other benefit under the TAA Program other than relocation allowances and the HCTC.

		Receipt of ATAA prohibits eligibility for other benefits.
618.525	Determinations, redeterminations, and appeals.	No change.
618.530	Reductions of Reemployment Trade Adjustment Assistance payments; priority of payments.	No change.

I. Health Coverage Tax Credit (HCTC)

There are no changes to the operation or availability of HCTC under Reversion 2021. As of the date of this guidance, HCTC is authorized through December 31, 2021. States must continue reporting the list of potentially eligible recipients to the IRS as previously instructed via Unemployment Insurance Program Letter (UIPL) No. 01-17, *Health Coverage Tax Credit (HCTC) for Eligible Trade Adjustment Assistance (TAA) Recipients and Alternative TAA (ATAA) and Reemployment TAA (RTAA) Recipients.*

J. Definitions

Most of the definitions contained in Subpart A of 20 CFR 618 are unaffected by Reversion 2021. Additional definitions impacting petitioning worker groups are found in Section B of this TEGL.

J.1. Impact of Reversion 2021 on Subpart A of 20 CFR 618

Citation	Title	Impact of Reversion 2021
618.100	Purpose and scope.	No change.
618.110	Definitions.	
	Adversely affected incumbent worker	No longer applies.
	Eligible RTAA recipient	Now ATAA.
	Period of duty	No longer applies.
	Reemployment Trade Adjustment Assistance	Now ATAA.
	Service	No longer applies.
	Trade-affected worker	No longer applies.
618.120	Severability.	No change.

K. General Program Administration

In general, all of Subpart H of 20 CFR 618 continues to apply under Reversion 2021. The table below provides an overview of the differences. The differences noted below are addressed in other sections of this TEGL.

K.1. Impact of Reversion 2021 on Subpart H of 20 CFR 618

Citation	Title	Impact of Reversion 2021
618.800	Scope	No change.
618.804	Agreements with the Secretary of Labor	No change.

618.808	State rulemaking	No change.
618.812	Subpoenas	No change.
618.816	Trade Adjustment Assistance Program benefit information and provision of services to workers.	618.816(c)(1)(i), related to employment and case management, does not apply.
618.820	Determinations of eligibility; notices to individuals.	No change.
618.824	Liable State and agent State responsibilities.	No change.
618.828	Appeals and hearings.	No change.
618.832	Overpayments; penalties for fraud.	"May waive" instead of "shall waive." Recovery based on "equity and good conscience" instead of "financial hardship."
618.836	Recovery of debts due the United States or to others by Trade Adjustment Assistance offset.	No change.
618.840	Uniform interpretation and application of this part.	No change.
618.844	Inviolate rights to Trade Adjustment Assistance or Reemployment Trade Adjustment Assistance.	No change. (RTAA is ATAA.)
618.848	Veterans' priority of service.	No change.
618.852	Recordkeeping and disclosure of information requirements.	No change.
618.856	Information, reports, and studies.	No change.
618.860	General fiscal and administrative requirements and cost classification.	No change.
618.864	Trade Adjustment Assistance Program performance.	No change.
618.868	Unemployment Insurance.	No change.
618.872	Travel under the Trade Adjustment Assistance Program.	No change.
618.876	Verification of eligibility for program benefits.	Does not apply.
618.884	Special rule with respect to military service.	Does not apply.
618.888	Equitable tolling.	No change.
618.890	Staffing flexibility.	No change.
618.894	Nondiscrimination and equal opportunity requirements.	No change.
618.898	Applicable State law.	No change.

L. Allocation of Funds

Reversion 2021 affects the availability of funding under the TAA Program by reducing the cap on Training and Other Activities (TaOA) funding from $450 million per year to $220 million per year. Additionally, Reversion 2021 no longer authorizes the Department to recapture and redistribute funds as provided in 20 CFR 618.950.

ATTACHMENT A

Operating Instructions of Reversion 2021
Trade Adjustment Assistance for Workers

L.1. Impact of Reversion 2021 on Subpart I of 20 CFR 618

Citation	Title	Impact of Reversion 2021
618.900	Annual cap on funds available for Training and Other Activities.	Cap reduced to $220 million per year.
618.910	Initial allocation of funds.	No change.
618.920	Reserve fund distributions.	No change.
618.930	Second distribution.	No change
618.940	Insufficient funds.	No change.
618.950	Recapture and reallocation of Training and Other Activities funds.	Does not apply.

ATTACHMENT B

UNOFFICIAL – FOR TECHNICAL ASSISTANCE PURPOSES ONLY

Trade Act of 1974 – Reversion 2021

Contents

Source: Trade Act of 1974, as amended by the Trade Reform Act of 2002, as amended by the reversion clause of the Trade Adjustment Assistance Reauthorization Act of 2015
NOTE: Edits in brackets represent corrections to outdated references, spelling errors, or non-substantive changes for readability.

ATTACHMENT B

UNOFFICIAL – FOR TECHNICAL ASSISTANCE PURPOSES ONLY

Trade Act of 1974 – Reversion 2021

Subpart A - Petitions and Determinations

SEC. 221. (19 U.S.C. 2271) PETITIONS.

(a) Filing of petitions; assistance; publication of notice

(1) A petition for certification of eligibility to apply for adjustment assistance for a group of workers under this chapter may be filed simultaneously with the Secretary and with the Governor of the State in which such workers' firm or subdivision is located by any of the following:

(A) The group of workers (including workers in an agricultural firm or subdivision of any agricultural firm).

(B) The certified or recognized union or other duly authorized representative of such workers.

(C) Employers of such workers, one-stop operators or one-stop partners (as defined in [section 3 of the Workforce Innovation and Opportunity Act 29 U.S.C. 3151(b)]), including State employment security agencies, or the State dislocated worker unit established under title I of such Act, on behalf of such workers.

(2) Upon receipt of a petition filed under paragraph (1), the Governor shall—

(A) ensure that rapid response assistance and appropriate [career services] (as described in [section 134 of the Workforce Innovation and Opportunity Act 29 U.S.C. 3174(2)(A)]) authorized under other Federal laws are made available to the workers covered by the petition to the extent authorized under such laws; and

(B) assist the Secretary in the review of the petition by verifying such information and providing such other assistance as the Secretary may request.

(3) Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that the Secretary has received the petition and initiated an investigation.

(b) Hearing - If the petitioner, or any other person found by the Secretary to have a substantial interest in the proceedings, submits not later than 10 days after the date of the Secretary's publication under subsection (a) a request for a hearing, the Secretary shall provide for a public hearing and afford such interested persons an opportunity to be present, to produce evidence, and to be heard.

SEC. 222. (19 U.S.C. 2272) GROUP ELIGIBILITY REQUIREMENTS.

(a) IN GENERAL.—A group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) shall be certified by the Secretary as eligible to apply for adjustment assistance under this chapter pursuant to a petition filed under section 221 if the Secretary determines that—

(1) a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated; and

(2)(A)(i) the sales or production, or both, of such firm or subdivision have decreased absolutely;

(ii) imports of articles like or directly competitive with articles produced by such firm or subdivision have increased; and

(iii) the increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm or subdivision; or

(B)(i) there has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

(ii)(I) the country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States[1];

(II) the country to which the workers' firm has shifted production of the articles is a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act[2]; or

(III) there has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

(b) ADVERSELY AFFECTED SECONDARY WORKERS.—A group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) shall be certified by the Secretary as eligible to apply for trade adjustment assistance benefits under this chapter pursuant to a petition filed under section 221 if the Secretary determines that—

(1) a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility under subsection (a), and such supply or production is related to the article that was the basis for such certification (as defined in subsection (c) (3) and (4)); and

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss of business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation determined under paragraph (1).

(c) Definitions - FOR PURPOSES OF THIS SECTION.—

(1) The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

(2)(A) Any firm, or appropriate subdivision of a firm, that engages in exploration or drilling for oil or natural gas shall be considered to be a firm producing oil or natural gas.

(B) Any firm, or appropriate subdivision of a firm, that engages in exploration or

[1] See Attachment C for the list of nations that are a party to a free trade agreement with the United States.
[2] See Attachment C for a list of the nations covered by these three statutes.

drilling for oil or natural gas, or otherwise produces oil or natural gas, shall be considered to be producing articles directly competitive with imports of oil and with imports of natural gas.

(3) DOWNSTREAM PRODUCER.—The term "downstream producer" means a firm that performs additional, value-added production processes for a firm or subdivision, including a firm that performs final assembly or finishing, directly for another firm (or subdivision), for articles that were the basis for a certification of eligibility under subsection (a) of a group of workers employed by such other firm, if the certification of eligibility under subsection (a) is based on an increase in imports from, or a shift in production to, Canada or Mexico.

(4) SUPPLIER.—The term "supplier" means a firm that produces and supplies directly to another firm (or subdivision) component parts for articles that were the basis for a certification of eligibility under subsection (a) of a group of workers employed by such other firm.

SEC. 223. (19 U.S.C. 2273) DETERMINATIONS BY SECRETARY OF LABOR.

(a) Certification of eligibility - As soon as possible after the date on which a petition is filed under section 221, but in any event not later than 40 days after that date, the Secretary shall determine whether the petitioning group meets the requirements of section 222 and shall issue a certification of eligibility to apply for assistance under this subchapter covering workers in any group which meets such requirements. Each certification shall specify the date on which the total or partial separation began or threatened to begin.

(b) Workers covered by certification - A certification under this section shall not apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm before his application under section 231 occurred—

(1) more than one year before the date of the petition on which such certification was granted, or
(2) more than 6 months before the effective date of this chapter.

(c) Publication of determination in Federal Register - Upon reaching his determination on a petition, the Secretary shall promptly publish a summary of the determination in the Federal Register together with his reasons for making such determination.

(d) Termination of certification - Whenever the Secretary determines, with respect to any certification of eligibility of the workers of a firm or subdivision of the firm, that total or partial separations from such firm or subdivision are no longer attributable to the conditions specified in section 222, he shall terminate such certification and promptly have notice of such termination published in the Federal Register together with his reasons for making such determination. Such termination shall apply only with respect to total or partial separations occurring after the termination date specified by the Secretary.

SEC. 224. (19 U.S.C. 2274) STUDY BY SECRETARY OF LABOR WHEN INTERNATIONAL TRADE COMMISSION BEGINS INVESTIGATION.

(a) Subject matter of study - Whenever the International Trade Commission (hereafter referred to in this chapter as the "Commission") begins an investigation under section 202 with respect to an industry, the Commission shall immediately notify the Secretary of such investigation, and the Secretary shall immediately begin a study of—

(1) the number of workers in the domestic industry producing the like or directly competitive article who have been or are likely to be certified as eligible for adjustment assistance, and

(2) the extent to which the adjustment of such workers to the import competition may be facilitated through the use of existing programs.

(b) Report; publication - The report of the Secretary of the study under subsection (a) shall be made to the President not later than 15 days after the day on which the Commission makes its report under section 202(f). Upon making his report to the President, the Secretary shall also promptly make it public (with the exception of information which the Secretary determines to be confidential) and shall have a summary of it published in the Federal Register.

SEC. 225. (19 U.S.C. 2275) BENEFIT INFORMATION TO WORKERS.

(a) The Secretary shall provide full information to workers about the benefit allowances, training, and other employment services available under this subchapter and about the petition and application procedures, and the appropriate filing dates, for such allowances, training and services. The Secretary shall provide whatever assistance is necessary to enable groups of workers to prepare petitions or applications for program benefits. The Secretary shall make every effort to insure that cooperating State agencies fully comply with the agreements entered into under section 239(a) and shall periodically review such compliance. The Secretary shall inform the State Board for Vocational Education or equivalent agency and other public or private agencies, institutions, and employers, as appropriate, of each certification issued under section 223 and of projections, if available, of the needs for training under section 236 as a result of such certification.

(b)(1) The Secretary shall provide written notice through the mail of the benefits available under this subchapter to each worker whom the Secretary has reason to believe is covered by a certification made under subchapter A of this chapter—

(A) at the time such certification is made, if the worker was partially or totally separated from the adversely affected employment before such certification, or

(B) at the time of the total or partial separation of the worker from the adversely affected employment, if subparagraph (A) does not apply.

(2) The Secretary shall publish notice of the benefits available under this chapter to workers covered by each certification made under subchapter A in newspapers of general circulation in the areas in which such workers reside.

Subpart B – Program Benefits

SEC. 231. (19 U.S.C. 2291) QUALIFYING REQUIREMENTS FOR WORKERS.

(a) Trade readjustment allowance conditions - Payment of a trade readjustment allowance shall be made to an adversely affected worker covered by a certification under subchapter A who files an application for such allowance for any week of unemployment which begins more than 60 days after the date on which the petition that resulted in such certification was filed under section 221, if the following conditions are met:

(1) Such worker's total or partial separation before his application under this chapter occurred—

(A) on or after the date, as specified in the certification under which he is covered, on which total or partial separation began or threatened to begin in the adversely affected employment,

(B) before the expiration of the 2-year period beginning on the date on which the determination under section 223 was made, and before the termination date (if any) determined pursuant to section 223(d).

(2) Such worker had, in the 52-week period ending with the week in which such total or partial separation occurred, at least 26 weeks of employment at wages of $30 or more a week in adversely affected employment with a single firm or subdivision of a firm, or, if data with respect to weeks of employment with a firm are not available, equivalent amounts of employment computed under regulations prescribed by the Secretary. For the purposes of this paragraph, any week in which such worker—

(A) is on employer-authorized leave for purposes of vacation, sickness, injury, maternity, or inactive duty or active duty military service for training,

(B) does not work because of a disability that is compensable under a workmen's compensation law or plan of a State or the United States,

(C) had his employment interrupted in order to serve as a full-time representative of a labor organization in such firm or subdivision, or

(D) is on call-up for purposes of active duty in a reserve status in the Armed Forces of the United States, provided such active duty is "Federal service" as defined in 5 U.S.C. 8521(a)(1), shall be treated as a week of employment at wages of $30 or more, but not more than 7 weeks, in case of weeks described in subparagraph (A) or (C), or both (and not more than 26 weeks, in the case of weeks described in subparagraph or (D), may be treated as weeks of employment under this sentence.

(3) Such worker—

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

(B) has exhausted all rights to any unemployment insurance, except additional compensation that is funded by a State and is not reimbursed from any Federal funds, to which he was entitled (or would be entitled if he applied therefor); and

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

(4) Such worker, with respect to such week of unemployment, would not be disqualified for extended compensation payable under the Federal-State Extended Unemployment Compensation Act of 1970 by reason of the work acceptance and job search requirements in section 202(a)(3) of such Act.

(5) Such worker—

(A)(i) is enrolled in a training program approved by the Secretary under section 236(a), and

(ii) the enrollment required under clause (i) occurs no later than the latest of—

(I) the last day of the 16th week after the worker's most recent total separation from adversely affected employment which meets the requirements of paragraphs (1) and (2),

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

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

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

(B) has, after the date on which the worker became totally separated, or partially separated, from the adversely affected employment, completed a training program approved by the Secretary under section 236(a), or

(C) has received a written statement under subsection (c)(1) after the date described in subparagraph (B).

(b) Withholding of trade readjustment allowance pending beginning or resumption of participation in training program; period of applicability

(1) If—

(A) the Secretary determines that—

(i) the adversely affected worker—

(I) has failed to begin participation in the training program the enrollment in which meets the requirement of subsection (a)(5), or

(II) has ceased to participate in such training program before completing such training program, and

(ii) there is no justifiable cause for such failure or cessation, or

(B) the certification made with respect to such worker under subsection (c)(1) is revoked under subsection (c)(2), no trade readjustment allowance may be paid to the adversely affected worker under this part for the week in which such failure, cessation, or revocation occurred, or any succeeding week, until the adversely affected worker begins or resumes participation in a training program approved under section 236(a).

(2) The provisions of subsection (a)(5) and paragraph (1) shall not apply with respect to any week of unemployment which begins—

(A) after the date that is 60 days after the date on which the petition that results in the certification that covers the worker is filed under section 221, and

(B) before the first week following the week in which such certification is made under subchapter (A).

(c) WAIVERS OF TRAINING REQUIREMENTS.—

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

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

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

(C) TRAINING NOT AVAILABLE.—Training approved by the Secretary is not reasonably available to the worker from either governmental agencies or private sources (which may include area vocational education schools, as defined in section 3 of the [Carl D. Perkins Career and Technical Education Act of 2006] (20 U.S.C. 2302), and employers), no training that is suitable for the worker is available at a reasonable cost, or no training funds are available.

(2) DURATION OF WAIVERS.—

(A) IN GENERAL.—A waiver issued under paragraph (1) shall be effective for not more than 6 months after the date on which the waiver is issued, unless the Secretary determines otherwise.

(B) REVOCATION.—The Secretary shall revoke a waiver issued under paragraph (1) if the Secretary determines that the basis of a waiver is no longer applicable to the worker and shall notify the worker in writing of the revocation.

(3) AGREEMENTS UNDER SECTION 239 (19 USC 2311).—

(A) ISSUANCE BY COOPERATING STATES.—Pursuant to an agreement under section 239, the Secretary may authorize a cooperating State to issue waivers as described in paragraph (1).

(B) SUBMISSION OF STATEMENTS.—An agreement under section 239 shall include a requirement that the cooperating State submit to the Secretary the written statements provided under paragraph (1) and a statement of the reasons for the waiver.

ATTACHMENT B

UNOFFICIAL – FOR TECHNICAL ASSISTANCE PURPOSES ONLY

Trade Act of 1974 – Reversion 2021

SEC. 232. (19 U.S.C. 2292) WEEKLY AMOUNTS OF READJUSTMENT ALLOWANCE.

(a) Formula - Subject to subsections (b) and (c), the trade readjustment allowance payable to an adversely affected worker for a week of total unemployment shall be an amount equal to the most recent weekly benefit amount of the unemployment insurance payable to the worker for a week of total unemployment preceding the worker's first exhaustion of unemployment insurance (as determined for purposes of section 231(a)(3)(B)) reduced (but not below zero) by—

(1) any training allowance deductible under subsection (c); and

(2) income that is deductible from unemployment insurance under the disqualifying income provisions of the applicable State law or Federal unemployment insurance law.

(b) Adversely affected workers who are undergoing training - Any adversely affected worker who is entitled to trade readjustment allowances and who is undergoing training approved by the Secretary shall receive for each week in which he is undergoing any such training, a trade readjustment allowance in an amount (computed for such week) equal to the amount computed under subsection (a) or (if greater) the amount of any weekly allowance for such training to which he would be entitled under any other Federal law for the training of workers, if he applied for such allowance. Such trade readjustment allowance shall be paid in lieu of any training allowance to which the worker would be entitled under such other Federal law.

(c) Deduction from total number of weeks of allowance entitlement - If a training allowance under any Federal law other than this Act is paid to an adversely affected worker for any week of unemployment with respect to which he would be entitled (determined without regard to any disqualification) to a trade readjustment allowance if he applied for such allowance, each such week shall be deducted from the total number of weeks of trade readjustment allowance otherwise payable to him under section 233(a) (19 USC 2293(a)) when he applies for a trade readjustment allowance and is determined to be entitled to such allowance. If such training allowance paid to such worker for any week of unemployment is less than the amount of the trade readjustment allowance to which he would be entitled if he applied for such allowance, he shall receive, when he applies for a trade readjustment allowance and is determined to be entitled to such allowance, a trade readjustment allowance for such week equal to such difference.

SEC. 233. (19 U.S.C. 2293) LIMITATIONS ON TRADE READJUSTMENT ALLOWANCES.

(a) Maximum allowance; deduction for unemployment insurance; additional payments for approved training periods

(1) The maximum amount of trade readjustment allowances payable with respect to the period covered by any certification to an adversely affected worker shall be the amount which is the product of 52 multiplied by the trade readjustment allowance payable to the worker for a week of total unemployment (as determined under section 232(a) (19 USC 2292(a))), but such product shall be reduced by the total sum of the unemployment insurance to which the worker was entitled (or would have been entitled if he had applied therefor) in the worker's first benefit period described in section 231(a)(3)(A).

(2) A trade readjustment allowance shall not be paid for any week occurring after the close of the 104-week period that begins with the first week following the week in which the

adversely affected worker was most recently totally separated from adversely affected employment—

(A) within the period which is described in section 231(a)(1) (19 USC 2291(a)(1)), and

(B) with respect to which the worker meets the requirements of section 231(a)(2) (19 USC 2291(a)(2)).

(3) Notwithstanding paragraph (1), in order to assist the adversely affected worker to complete training approved for him under section 236 (19 USC 2296), and in accordance with regulations prescribed by the Secretary, payments may be made as trade readjustment allowances for up to 65 additional weeks in the 78-week period that—

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

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

Payments for such additional weeks may be made only for weeks in such 26-week period during which the individual is participating in such training.

(b) Limitations on additional payments for training periods - A trade readjustment allowance may not be paid for an additional week specified in subsection (a)(3) if the adversely affected worker who would receive such allowance did not make a bona fide application to a training program approved by the Secretary under section 236 (19 USC 2296) within 210 days after the date of the worker's first certification of eligibility to apply for adjustment assistance issued by the Secretary, or, if later, within 210 days after the date of the worker's total or partial separation referred to in section 231(a)(1) (19 USC 2291(a)(1)).

(c) Amounts payable to an adversely affected worker under section 231 to 234 (19 USC 2291 to 2294) of this title shall be subject to such adjustment on a week-to-week basis as may be required by section 232(b) (29 USC 2292(b)) of this title.

(d) Special adjustments for benefit years ending with extended benefit periods - Notwithstanding any other provision of this Act or other Federal law, if the benefit year of a worker ends within an extended benefit period, the number of weeks of extended benefits that such worker would, but for this subsection, be entitled to in that extended benefit period shall be reduced (but not below zero) by the number of weeks for which the worker was entitled, during such benefit year, to trade readjustment allowances under sections 231 to 234 (19 USC 2291 to 2294) of this title. For purposes of this paragraph, the terms "benefit year" and "extended benefit period" shall have the same respective meanings given to them in the Federal-State Extended Unemployment Compensation Act of 1970.

(e) Week during which worker received on-the-job training - No trade readjustment allowance shall be paid to a worker under sections 231 to 234 (19 USC 2291 to 2294) of this title for any week during which the worker is receiving on-the-job training.

(f) Workers treated as participating in training - For purposes of this chapter, a worker shall be treated as participating in training during any week which is part of a break in training that does not exceed 30 days if—

(1) the worker was participating in a training program approved under section 236(a) (19 USC 2296(a)) before the beginning of such break in training, and

(2) the break is provided under such training program.

(g) PAYMENT OF TRADE READJUSTMENT ALLOWANCES TO COMPLETE TRAINING.—Notwithstanding any other provision of this section, in order to assist an adversely affected worker to complete training approved for the worker under section 236 (19 USC 2296) that leads to the completion of a degree or industry-recognized credential, payments may be made as trade readjustment allowances for not more than 13 weeks within such period of eligibility as the Secretary may prescribe to account for a break in training or for justifiable cause that follows the last week for which the worker is otherwise entitled to a trade readjustment allowance under this chapter if—

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

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

(3) the worker—

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

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

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

SEC. 234. (19 U.S.C. 2294) APPLICATION OF STATE LAWS.

(a) Except where inconsistent with the provisions of this chapter and subject to such regulations as the Secretary may prescribe, the availability and disqualification provisions of the State law—

(1) under which an adversely affected worker is entitled to unemployment insurance (whether or not he has filed a claim for such insurance), or

(2) if he is not so entitled to unemployment insurance, of the State in which he was totally or partially separated,

shall apply to any such worker who files a claim for trade readjustment allowances. The State law so determined with respect to a separation of a worker shall remain applicable, for purposes of the preceding sentence, with respect to such separation until such worker becomes entitled to unemployment insurance under another State law (whether or not he has filed a claim for such insurance).

SEC. 235. (19 U.S.C. 2295) EMPLOYMENT SERVICES.

The Secretary shall make every reasonable effort to secure for adversely affected workers covered by a certification under subchapter A of this chapter counseling, testing, and placement services, and supportive and other services, provided for under any other Federal law, including the services provided through one-stop delivery systems described in [section 134(c) of the Workforce Innovation and Opportunity Act (29 U.S.C. 3174(c))]. The Secretary shall, whenever appropriate, procure such services through agreements with the States.

SEC. 236. (19 U.S.C. 2296) TRAINING.

(a) Approval of training; limitation on expenditures; reasonable expectation of employment; payment of costs; approved training programs; non-duplication of payments from other sources; disapproval of certain programs; exhaustion of unemployment benefits; promulgation of regulations

(1) If the Secretary determines that—

(A) there is no suitable employment (which may include technical and professional employment) available for an adversely affected worker,

(B) the worker would benefit from appropriate training,

(C) there is a reasonable expectation of employment following completion of such training,

(D) training approved by the Secretary is reasonably available to the worker from either governmental agencies or private sources (which may include area vocational education schools, as defined in [the Carl D. Perkins Act of 2006 (20 USC 2302)], and employers),

(E) the worker is qualified to undertake and complete such training, and

(F) such training is suitable for the worker and available at a reasonable cost,

the Secretary shall approve such training for the worker. Upon such approval, the worker shall be entitled to have payment of the costs of such training (subject to the limitations imposed by this section) paid on his behalf by the Secretary directly or through a voucher system. Insofar as possible, the Secretary shall provide or assure the provision of such training on the job, which shall include related education necessary for the acquisition of skills needed for a position within a particular occupation.

(2)(A) The total amount of payments that may be made under paragraph (1) for any fiscal year shall not exceed $220,000,000.

(B) If, during any fiscal year, the Secretary estimates that the amount of funds necessary to pay the costs of training approved under this section will exceed the amount of the limitation imposed under subparagraph (A), the Secretary shall decide how the portion of such limitation that has not been expended at the time of such estimate is to be apportioned among the States for the remainder of such fiscal year.

(3) For purposes of applying paragraph (1)(C), a reasonable expectation of employment does not require that employment opportunities for a worker be available, or offered, immediately upon the completion of training approved under this paragraph (1).

(4)(A) If the costs of training an adversely affected worker are paid by the Secretary under paragraph (1), no other payment for such costs may be made under any other provision of Federal law.

(B) No payment may be made under paragraph (1) of the costs of training an adversely affected worker if such costs—

(i) have already been paid under any other provision of Federal law, or

(ii) are reimbursable under any other provision of Federal law and a portion of such costs have already been paid under such other provision of Federal law.

(C) The provisions of this paragraph shall not apply to, or take into account, any funds provided under any other provision of Federal law which are used for any purpose other than the direct payment of the costs incurred in training a particular adversely affected worker, even if such use has the effect of indirectly paying or reducing any portion of the costs involved in training the adversely affected worker.

(5) The training programs that may be approved under paragraph (1) include, but are not limited to—

(A) employer-based training, including—

(i) on-the-job training, and

(ii) customized training,

(B) any training program provided by a State pursuant to [(29 U.S.C. 3101 et seq.)] [title I of the Workforce Investment and Opportunity Act],

(C) any training program approved by a [local workforce development board] established under [section 107] of such Act,

(D) any program of remedial education,

(E) any training program (other than a training program described in paragraph (7)) for which all, or any portion, of the costs of training the worker are paid—

(F) under any Federal or State program other than this chapter, or from any source other than this section, and

(G) any other training program approved by the Secretary.

(6)(A) The Secretary is not required under paragraph (1) to pay the costs of any training approved under paragraph (1) to the extent that such costs are paid—

(i) under any Federal or State program other than this chapter, or

(ii) from any source other than this section.

(B) Before approving any training to which subparagraph (A) may apply, the Secretary may require that the adversely affected worker enter into an agreement with the Secretary under which the Secretary will not be required to pay under this section the portion of the costs of such training that the worker has reason to believe will be paid under the program, or by the source, described in clause (i) or (ii) of subparagraph (A).

(7) The Secretary shall not approve a training program if—

(A) all or a portion of the costs of such training program are paid under any nongovernmental plan or program,

(B) the adversely affected worker has a right to obtain training or funds for training under such plan or program, and

(C) such plan or program requires the worker to reimburse the plan or program from funds provided under this chapter, or from wages paid under such training program, for any portion of the costs of such training program paid under the plan or program.

(8) The Secretary may approve training for any adversely affected worker who is a member of a group certified under subchapter A at any time after the date on which the group is certified under subchapter A, without regard to whether such worker has exhausted all rights to any unemployment insurance to which the worker is entitled.

(9) The Secretary shall prescribe regulations which set forth the criteria under each of the subparagraphs of paragraph (1) that will be used as the basis for making determinations under paragraph (1).

(b) Supplemental Assistance - The Secretary may, where appropriate, authorize supplemental assistance necessary to defray reasonable transportation and subsistence expenses for separate maintenance when training is provided in facilities which are not within commuting distance of a worker's regular place of residence. The Secretary may not authorize—

(1) payments for subsistence that exceed whichever is the lesser of (A) the actual per diem expenses for subsistence, or (B) payments at 50 percent of the prevailing per diem allowance rate authorized under the Federal travel regulations, or

(2) payments for travel expenses exceeding the prevailing mileage rate authorized under the Federal travel regulations.

(c) Payment of costs of on-the-job training - The Secretary shall pay the costs of any on-the-job training of an adversely affected worker that is approved under subsection (a)(1) in equal monthly installments, but the Secretary may pay such costs, notwithstanding any other provision of this section, only if—

(1) no currently employed worker is displaced by such adversely affected worker (including partial displacement such as a reduction in the hours of non-overtime work, wages, or employment benefits),

(2) such training does not impair existing contracts for services or collective bargaining agreements,

(3) in the case of training which would be inconsistent with the terms of a collective bargaining agreement, the written concurrence of the labor organization concerned has been obtained,

(4) no other individual is on layoff from the same, or any substantially equivalent, job for which such adversely affected worker is being trained,

(5) the employer has not terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created by hiring such adversely affected worker,

(6) the job for which such adversely affected worker is being trained is not being created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals,

(7) such training is not for the same occupation from which the worker was separated and with respect to which such worker's group was certified pursuant to section 222 (2272),

(8) the employer is provided reimbursement of not more than 50 percent of the wage rate of the participant, for the cost of providing the training and additional supervision related to the training,
(9) the employer has not received payment under subsection (a)(1) with respect to any other on-the-job training provided by such employer which failed to meet the requirements of paragraphs (1), (2), (3), (4), (5), and (6), and
(10) the employer has not taken, at any time, any action which violated the terms of any certification described in paragraph (8) made by such employer with respect to any other on-the-job training provided by such employer for which the Secretary has made a payment under subsection (a)(1).

(d) Eligibility for Unemployment Insurance - A worker may not be determined to be ineligible or disqualified for unemployment insurance or program benefits under this subchapter because the individual is in training approved under subsection (a), because of leaving work which is not suitable employment to enter such training, or because of the application to any such week in training of provisions of State law or Federal unemployment insurance law relating to availability for work, active search for work, or refusal to accept work. The Secretary shall submit to the Congress a quarterly report regarding the amount of funds expended during the quarter concerned to provide training under subsection (a) and the anticipated demand for such funds for any remaining quarters in the fiscal year concerned.

(e) "Suitable employment" defined - For purposes of this section the term "suitable employment" means, with respect to a worker, 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 percent of the worker's average weekly wage.

(f) "Customized training" defined - For purposes of this section, the term "customized training" means training that is—
(1) designed to meet the special requirements of an employer or group of employers; conducted with a commitment by the employer or group of employers to employ an individual upon successful completion of the training; and
(2) for which the employer pays for a significant portion (but in no case less than 50 percent) of the cost of such training, as determined by the Secretary.

SEC. 237. (19 U.S.C. 2297) JOB SEARCH ALLOWANCES.
(a) JOB SEARCH ALLOWANCE AUTHORIZED.—
(1) IN GENERAL.—An adversely affected worker covered by a certification issued under subchapter A of this chapter may file an application with the Secretary for payment of a job search allowance.
(2) APPROVAL OF APPLICATIONS.—The Secretary may grant an allowance pursuant to an application filed under paragraph (1) when all of the following apply:
(A) ASSIST ADVERSELY AFFECTED WORKER.—The allowance is paid to assist an adversely affected worker who has been totally separated in securing a job within the United States.

(B) LOCAL EMPLOYMENT NOT AVAILABLE.—The Secretary determines that the worker cannot reasonably be expected to secure suitable employment in the commuting area in which the worker resides.
(C) APPLICATION.—The worker has filed an application for the allowance with the Secretary before—
(i) the later of—
(I) the 365th day after the date of the certification under which the worker is certified as eligible; or
(II) the 365th day after the date of the worker's last total separation; or
(ii) the date that is the 182d day after the date on which the worker concluded training, unless the worker received a waiver under section 231(c) (19 USC 2291).

(b) AMOUNT OF ALLOWANCE.—
(1) IN GENERAL.—An allowance granted under subsection (a) of this section shall provide reimbursement to the worker of 90 percent of the cost of necessary job search expenses as prescribed by the Secretary in regulations.
(2) MAXIMUM ALLOWANCE.—Reimbursement under this subsection may not exceed $1,250 for any worker.
(3) ALLOWANCE FOR SUBSISTENCE AND TRANSPORTATION.—Reimbursement under this subsection may not be made for subsistence and transportation expenses at levels exceeding those allowable under section 236(b)(1) and (2) (19 USC 2296(b)(1) and (2)).

(c) EXCEPTION.—Notwithstanding subsection (b) of this section, the Secretary shall reimburse any adversely affected worker for necessary expenses incurred by the worker in participating in a job search program approved by the Secretary.

SEC. 238. (19 U.S.C. 2298) RELOCATION ALLOWANCES.
(a) RELOCATION ALLOWANCE AUTHORIZED.—
(1) IN GENERAL.—Any adversely affected worker covered by a certification issued under subpart A of this part may file an application for a relocation allowance with the Secretary, and the Secretary may grant the relocation allowance, subject to the terms and conditions of this section.
(2) CONDITIONS FOR GRANTING ALLOWANCE.—A relocation allowance may be granted if all of the following terms and conditions are met:
(A) ASSIST AN ADVERSELY AFFECTED WORKER.—The relocation allowance will assist an adversely affected worker in relocating within the United States.
(B) LOCAL EMPLOYMENT NOT AVAILABLE.—The Secretary determines that the worker cannot reasonably be expected to secure suitable employment in the commuting area in which the worker resides.
(C) TOTAL SEPARATION.—The worker is totally separated from employment at the time relocation commences.

(D) SUITABLE EMPLOYMENT OBTAINED.—The worker—
(i) has obtained suitable employment affording a reasonable expectation of long-term duration in the area in which the worker wishes to relocate; or
(ii) has obtained a bona fide offer of such employment.
(E) APPLICATION.—The worker filed an application with the Secretary before—
(i) the later of—
(I) the 425th day after the date of the certification under subchapter A of this chapter; or
(II) the 425th day after the date of the worker's last total separation; or
(ii) the date that is the 182d day after the date on which the worker concluded training, unless the worker received a waiver under section 231(c).

(b) AMOUNT OF ALLOWANCE.—The relocation allowance granted to a worker under subsection (a) includes—
(1) 90 percent of the reasonable and necessary expenses (including, but not limited to, subsistence and transportation expenses at levels not exceeding those allowable under section 236(b) (1) and (2) (19 USC 2296(b)(1) and (2)) specified in regulations prescribed by the Secretary) incurred in transporting the worker, the worker's family, and household effects; and
(2) a lump sum equivalent to 3 times the worker's average weekly wage, up to a maximum payment of $1,250.

(c) LIMITATIONS.—A relocation allowance may not be granted to a worker unless—
(1) the relocation occurs within 182 days after the filing of the application for relocation assistance; or
(2) the relocation occurs within 182 days after the conclusion of training, if the worker entered a training program approved by the Secretary under section 236(b) (1) and (2) (19 USC 2296(b)(1) and (2)).

Subpart C—General Provisions

SEC. 239. (19 U.S.C. 2311) AGREEMENTS WITH STATES.

(a) Authority of Secretary to enter into agreements - The Secretary is authorized on behalf of the United States to enter into an agreement with any State, or with any State agency (referred to in this subchapter as "cooperating States" and "cooperating States agencies" respectively). Under such an agreement, the cooperating State agency (1) as agent of the United States, will receive applications for, and will provide, payments on the basis provided in this chapter, (2) where appropriate, but in accordance with subsection (f) of this section, will afford adversely affected workers testing, counseling, referral to training and job search programs, and placement services, (3) will make any certifications required under section 231(c) [2291(c)] of this title, and (4) will otherwise cooperate with the Secretary and with other State and Federal agencies in providing payments and services under this chapter.

(b) Amendment, Suspension, and termination of agreements - Each agreement under this subchapter shall provide the terms and conditions upon which the agreement may be amended, suspended, or terminated.

(c) Unemployment Insurance - Each agreement under this subchapter shall provide that unemployment insurance otherwise payable to any adversely affected worker will not be denied or reduced for any week by reason of any right to payments under this chapter.

(d) Review - A determination by a cooperating State agency with respect to entitlement to program benefits under an agreement is subject to review in the same manner and to the same extent as determinations under the applicable State law and only in that manner and to that extent.

(e) Coordination of benefits and assistance - Any agreement entered into under this section shall provide for the coordination of the administration of the provisions for employment services, training, and supplemental assistance under sections 235 (19 USC 2295) and 236 (19 USC 2296) of this Act and under [title I of the Workforce Innovation and Opportunity Act] upon such terms and conditions as are established by the Secretary in consultation with the States and set forth in such agreement. Any agency of the State jointly administering such provisions under such agreement shall be considered to be a cooperating State agency for purposes of this part.

(f) Advising and interviewing adversely affected workers - Each cooperating State agency shall, in carrying out subsection (a)(2) of this section—

(1) advise each worker who applies for unemployment insurance of the benefits under this chapter and the procedures and deadlines for applying for such benefits,
(2) facilitate the early filing of petitions under section 221 (19 USC 2271) of this title for any workers that the agency considers are likely to be eligible for benefits under this part,
(3) advise each adversely affected worker to apply for training under section 236(a) (19 USC 2296(a)) of this title before, or at the same time, the worker applies for trade readjustment allowances under sections 231 to 234 (19 USC 2291 to 19 USC 2294) of this title, and
(4) as soon as practicable, interview the adversely affected worker regarding suitable training opportunities available to the worker under section 236 (19 USC 2296) and review such opportunities with the worker.

(g) Submission of information for coordination of workforce investment activities - In order to promote the coordination of workforce investment activities in each State with activities carried out under this part, any agreement entered into under this section shall provide that the State shall submit to the Secretary, in such form as the Secretary may require, the description and information described in [section 102(b)(2)(B)(ii) of the Workforce Investment and Opportunity Act [29 USC 2822 (b)].

SEC. 240. (19 U.S.C. 2312) ADMINISTRATION ABSENT STATE AGREEMENT.
(a) In any State where there is no agreement in force between a State or its agency under section 239 (19 USC 2311) of this title, the Secretary shall arrange under regulations prescribed by him for performance of all necessary functions under subpart B of this chapter, including provision for a fair hearing for any worker whose application for payments is denied.

(b) A final determination under subsection (a) with respect to entitlement to program benefits under subpart B of this chapter is subject to review by the courts in the same manner and to the same extent as is provided by section 205(g) of the Social Security Act (42 U.S.C. sec. 405(g)).

SEC. 241. (19 U.S.C. 2313) PAYMENTS TO STATES.
(a) Certification to Secretary of the Treasury for payment to cooperating states - The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each cooperating State the sums necessary to enable such State as agent of the United States to make payments provided for by this part.

(b) Utilization or return of money - All money paid a State under this section shall be used solely for the purposes for which it is paid; and money so paid which is not used for such purposes shall be returned, at the time specified in the agreement under this subpart, to the Secretary of the Treasury.

(c) Surety bonds - Any agreement under this subpart may require any officer or employee of the State certifying payments or disbursing funds under the agreement or otherwise participating in the performance of the agreement, to give a surety bond to the United States in such amount as the Secretary may deem necessary, and may provide for the payment of the cost of such bond from funds for carrying out the purposes of this part.

SEC. 242. (19 U.S.C. 2314) LIABILITIES OF CERTIFYING AND DISBURSING OFFICERS.
(a) Certifying officer-No person designated by the Secretary, or designated pursuant to an agreement under this subpart, as a certifying officer, shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment certified by him under this part.

(b) Disbursing officer - No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this part if it was based upon a voucher signed by a certifying officer designated as provided in subsection (a) of this section.

SEC. 243. (19 U.S.C. 2315) FRAUD AND RECOVERY OF OVERPAYMENTS.
(a)Repayment; deductions

(1) If a cooperating State agency, the Secretary, or a court of competent jurisdiction determines that any person has received any payment under this part to which the person was not entitled, including a payment referred to in subsection (b), such person shall be liable to repay such amount to the State agency or the Secretary, as the case may be, except

that the State agency or the Secretary may waive such repayment if such agency or the Secretary determines, in accordance with guidelines prescribed by the Secretary, that—

(A) the payment was made without fault on the part of such individual, and

(B) requiring such repayment would be contrary to equity and good conscience.

(2) Unless an overpayment is otherwise recovered, or waived under paragraph (1), the State agency or the Secretary shall recover the overpayment by deductions from any sums payable to such person under this part, under any Federal unemployment compensation law administered by the State agency or the Secretary, or under any other Federal law administered by the State agency or the Secretary which provides for the payment of assistance or an allowance with respect to unemployment, and, notwithstanding any other provision of State law or Federal law to the contrary, the Secretary may require the State agency to recover any overpayment under this chapter by deduction from any unemployment insurance payable to such person under the State law, except that no single deduction under this paragraph shall exceed 50 percent of the amount otherwise payable.

(b) False representation or nondisclosure of material fact - If a cooperating State agency, the Secretary, or a court of competent jurisdiction determines that an individual—

(1) knowingly has made, or caused another to make, a false statement or representation of a material fact, or

(2) knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation, or of such nondisclosure, such individual has received any payment under this part to which the individual was not entitled, such individual shall, in addition to any other penalty provided by law, be ineligible for any further payments under this part.

(c) Note of determination; fair hearing; finality - Except for overpayments determined by a court of competent jurisdiction, no repayment may be required, and no deduction may be made, under this section until a determination under subsection (a)(1) by the State agency or the Secretary, as the case may be, has been made, notice of the determination and an opportunity for a fair hearing thereon has been given to the individual concerned, and the determination has become final.

(d) Recovered amount returned to Treasury - Any amount recovered under this section shall be returned to the Treasury of the United States.

SEC. 244. (19 U.S.C. 2316) PENALTIES.

(a) Whoever makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, for the purpose of obtaining or increasing for himself or for any other person any payment authorized to be furnished under this part or pursuant to an agreement under section 239 (19 USC 2311) shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

SEC. 245. (19 U.S.C. 2317) AUTHORIZATION OF APPROPRIATIONS.
(a) IN GENERAL.—There are authorized to be appropriated to the Department of Labor, for the period beginning October 1, 2001, and ending June 30, 2022, such sums as may be necessary to carry out the purposes of this part.

(b) PERIOD OF EXPENDITURE.—Funds obligated for any fiscal year to carry out activities under sections 235 (19 USC 2295) through 238 (19 USC 2298) of this title may be expended by each State receiving such funds during that fiscal year and the succeeding two fiscal years.

SEC. 246. (19 U.S.C. 2318) DEMONSTRATION PROJECT FOR ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE FOR OLDER WORKERS.
(a) IN GENERAL.—

(1) ESTABLISHMENT.—Not later than 1 year after the date of enactment of the Trade Adjustment Assistance Reform Act of 2002, the Secretary shall establish an alternative trade adjustment assistance program for older workers that provides the benefits described in paragraph (2).

(2) BENEFITS.—

(A) PAYMENTS.—A State shall use the funds provided to the State under section 241 (19 USC 2313) of this title to pay, for a period not to exceed 2 years, to a worker described in paragraph (3)(B), 50 percent of the difference between—

(i) the wages received by the worker from reemployment; and

(ii) the wages received by the worker at the time of separation.

(B) HEALTH INSURANCE.—A worker described in paragraph (3)(B) participating in the program established under paragraph (1) is eligible to receive, for a period not to exceed 2 years, a credit for health insurance costs under section 35 of title 26, as added by section 201 of the Trade Act of 2002.

(3) ELIGIBILITY.—

(A) FIRM ELIGIBILITY.—

(i) IN GENERAL.—The Secretary shall provide the opportunity for a group of workers on whose behalf a petition is filed under section 221 (19 USC 2271) of this title to request that the group of workers be certified for the alternative trade adjustment assistance program under this section at the time the petition is filed.

(ii) CRITERIA.—In determining whether to certify a group of workers as eligible for the alternative trade adjustment assistance program, the Secretary shall consider the following criteria:

(I) Whether a significant number of workers in the workers' firm are 50 years of age or older.

(II) Whether the workers in the workers' firm possess skills that are not easily transferable.

(III) The competitive conditions within the workers' industry.

(iii) DEADLINE.—The Secretary shall determine whether the workers in the group are eligible for the alternative trade adjustment assistance program by the date specified in section 223(a) (19 USC 2273(a)).

(B) INDIVIDUAL ELIGIBILITY.—A worker in the group that the Secretary has certified as eligible for the alternative trade adjustment assistance program may elect to receive benefits under the alternative trade adjustment assistance program if the worker—

(i) is covered by a certification under subpart A of this chapter;
(ii) obtains reemployment not more than 26 weeks after the date of separation from the adversely affected employment;
(iii) is at least 50 years of age;
(iv) earns not more than $50,000 a year in wages from reemployment;
(v) is employed on a full-time basis as defined by State law in the State in which the worker is employed; and
(vi) does not return to the employment from which the worker was separated.

(4) TOTAL AMOUNT OF PAYMENTS.—The payments described in paragraph (2)(A) made to a worker may not exceed $10,000 per worker during the 2-year eligibility period.
(5) LIMITATION ON OTHER BENEFITS.—Except as provided in paragraph (a)(2)(B) [19 USC 2298(a)(2)(B)], if a worker is receiving payments pursuant to the program established under paragraph (1), the worker shall not be eligible to receive any other benefits under this title.

(b) TERMINATION.—
(1) IN GENERAL.—Except as provided in paragraph (2), no payments may be made by a State under the program established under subsection (a)(1) after June 30, 2022.
(2) EXCEPTION.—Notwithstanding paragraph (1), a worker receiving payments under the program established under subsection (a)(1) of this section on the termination date described in paragraph (1) shall continue to receive such payments if the worker meets the criteria described in subsection (a)(3)(B).

SEC. 247. (19 U.S.C. 2319) DEFINITIONS.
For purposes of this chapter—
(1) The term "adversely affected employment" means employment in a firm or appropriate subdivision of a firm, if workers of such firm or subdivision are eligible to apply for adjustment assistance under this part.
(2) The term "adversely affected worker" means an individual who, because of lack of work in adversely affected employment—
(A) has been totally or partially separated from such employment, or
(B) has been totally separated from employment with the firm in a subdivision of which such adversely affected employment exists.
(3) *Repealed*
(4) The term "average weekly wage" means one-thirteenth of the total wages paid to an individual in the high quarter. For purposes of this computation, the high quarter shall be that quarter in which the individual's total wages were highest among the first 4 of the last 5 completed calendar quarters immediately before the quarter in which occurs the week with respect to which the computation is made. Such week shall be the week in which total separation occurred, or, in cases where partial separation is claimed, an appropriate week, as

defined in regulations prescribed by the Secretary.
(5) The term "average weekly hours" means the average hours worked by the individual (excluding overtime) in the employment from which he has been or claims to have been separated in the 52 weeks (excluding weeks during which the individual was sick or on vacation) preceding the week specified in the last sentence of paragraph (4).
(6) The term "partial separation" means, with respect to an individual who has not been totally separated, that he has had—

(A) his hours of work reduced to 80 percent or less of his average weekly hours in adversely affected employment, and
(B) his wages reduced to 80 percent or less of his average weekly wage in such adversely affected employment.

(7) *Repealed*
(8) The term "State" includes the District of Columbia and the Commonwealth of Puerto Rico; and the term "United States" when used in the geographical sense includes such Commonwealth.
(9) The term "State agency" means the agency of the State which administers the State law.
(10) The term "State law" means the unemployment insurance law of the State approved by the Secretary of Labor under section 3304 of title 26.
(11) The term "total separation" means the layoff or severance of an individual from employment with a firm in which, or in a subdivision of which, adversely affected employment exists.
(12) The term "unemployment insurance" means the unemployment compensation payable to an individual under any State law or Federal unemployment compensation law, including chapter 85 of title 5, United States Code, and the Railroad Unemployment Insurance Act. The terms "regular compensation", "additional compensation", and "extended compensation" have the same respective meanings that are given them in section 205(2), (3), and (4) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).
(13) The term "week" means a week as defined in the applicable State law.
(14) The term "week of unemployment" means a week of total, part-total, or partial unemployment as determined under the applicable State law or Federal unemployment insurance law.
(15) The term "benefit period" means, with respect to an individual—

(A) the benefit year and any ensuing period, as determined under applicable State law, during which the individual is eligible for regular compensation, additional compensation, or extended compensation, or
(B) the equivalent to such a benefit year or ensuing period provided for under the applicable Federal unemployment insurance law.

(16) The term "on-the-job training" means training provided by an employer to an individual who is employed by the employer.
(17)(A) The term "job search program" means a job search workshop or job finding club.

(B) The term "job search workshop" means a short (1 to 3 days) seminar designed to provide participants with knowledge that will enable the participants to find jobs. Subjects are not limited to, but should include, labor market information, resume

writing, interviewing techniques, and techniques for finding job openings.
(C) The term "job finding club" means a job search workshop which includes a period (1 to 2 weeks) of structured, supervised activity in which participants attempt to obtain jobs.

SEC. 248. (19 U.S.C. 2320) REGULATIONS.
The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this part.

SEC. 249. (19 U.S.C. 2321) [SUBPOENA] POWER.
(a) The Secretary may require by [subpoena] the attendance of witnesses and the production of evidence necessary for him to make a determination under the provisions of this part.

(b) If a person refuses to obey a [subpoena] issued under subsection (a) of this section, a United States district court within the jurisdiction of which the relevant proceeding under this chapter is conducted may, upon petition by the Secretary, issue an order requiring compliance with such [subpoena].

ATTACHMENT C

List of Nations for Shift in Production Determinations under Reversion 2021

The following list of applicable nations for worker group eligibility is current as of the date of publication of this guidance. The Department monitors the status of these agreements. Whether or not a worker group may be determined eligible under the shift in production criteria is based on the status of the agreement on the date the Petition is filed.

1. Nations with Free Trade Agreements with the United States[1]
Sec. 222(a)(2)(B)(ii) (I)

Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Jordan, South Korea, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Singapore.

2. Andean Trade Preference Act[2]
Sec. 222(a)(2)(B)(ii)(II)

None.

3. African Growth and Opportunity Act[3]
Sec. 222(a)(2)(B)(ii)(II)

Angola, Benin, Botswana, Burkina Faso, Cabo Verde, Central African Republic, Chad, Comoros, Democratic Republic of the Congo, Republic of Congo, Côte d'Ivoire, Djibouti, Eswatini (Swaziland), Ethiopia, Gabon, The Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, São Tomé and Príncipe, Senegal, Sierra Leone, South Africa, Tanzania, Togo, Uganda, Zambia

4. Caribbean Basin Economic Recovery Act[4]
Sec. 222(a)(2)(B)(ii)(II)

Antigua and Barbuda, Aruba, The Bahamas, Barbados, Belize, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Saint Lucia, Saint Vincent and the Grenadines, Trinidad and Tobago, Montserrat, St. Kitts and Nevis, British Virgin Islands

[1] United States Trade Representative - https://ustr.gov/trade-agreements/free-trade-agreements

[2] The Andean Trade Preference Act originally included Bolivia, Columbia, Ecuador, and Peru. Columbia and Peru are now parties to individual free trade agreements with the United States. This are included in the list under item 1. As of the date of this guidance, Bolivia and Ecuador are not parties to free trade agreements with the United States. The authority of the President to provide preferential treatment under this legislation expired in 2013 and has not been renewed. https://help.cbp.gov/s/article/Article-325?language=en_US

[3] United States Trade Representative - https://ustr.gov/issue-areas/preference-programs/african-growth-and-opportunity-act-agoa/list-eligible-countries

[4] United States Trade Representative - https://ustr.gov/issue-areas/trade-development/preference-programs/caribbean-basin-initiative-cbi