

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION Trade Adjustment Assistance (TAA)
	CORRESPONDENCE SYMBOL OTAA
	DATE June 10, 2022

ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 13-21

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: BRENT PARTON /s/
Acting Assistant Secretary

SUBJECT: Trade Adjustment Assistance (TAA) for Workers and Alternative Trade Adjustment Assistance (ATAA) and Reemployment Trade Adjustment Assistance (RTAA) Program Operations after June 30, 2022

- Purpose.** To advise State Workforce Agencies or agencies designated by Governors as “Cooperating State Agencies” (CSAs or “States”) that the authorization of appropriations for the TAA Program expires 11:59 PM Eastern Daylight Time (EDT) on June 30, 2022, and absent congressional action to reauthorize or continue the program, termination provisions will take effect beginning on July 1, 2022.
- Action Requested.** Effective immediately, CSAs must familiarize staff with this guidance and implement the activities set forth in these operating instructions. Additionally, CSAs must continue to administer the 2002 Program, the 2009 Program, the 2011 Program, the 2015 Program, and the Reversion 2021 Program, in accordance with existing regulations and, where applicable, prior administrative guidance. States must inform all appropriate staff of the contents of these instructions. Although the program expiration provision requires that the Department will no longer certify petitions for TAA as of July 1, 2022, States are still required to continue serving trade-affected workers from worker groups certified prior to that date subject to the limitations below.

RESCISSIONS None	EXPIRATION DATE Continuing
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3. Summary and Background.

- a. Summary – The TAA Program is a federal entitlement program that assists U.S. workers who lose their jobs or are threatened with job loss as a result of foreign trade. The TAA Program, established by the Trade Act of 1974, has been amended eleven times over the past 48 years. The most recent amendments, enacted in 2015, include reversion and sunset (termination) provisions effective July 1, 2021, and July 1, 2022, respectively. TEGL No. 5-15 and TEGL No. 5-15, Change 1 guidance provides operating instructions to the States for operation of the TAA Program after June 30, 2022.
- b. Background – The Trade Adjustment Assistance Reauthorization Act of 2015 (TAARA 2015) (Pub. L. 114-27), at Section 406, terminates the TAA Program on July 1, 2022. Termination follows a one-year period from July 1, 2021, to June 30, 2022, known as Reversion 2021, which limited group eligibility, reduced program funding, and restricted benefits available to workers. Program termination means the Department will no longer certify petitions for TAA after June 30, 2022. Section 4. below of this guidance provides specific information States must follow to assist the Department in carrying out the termination provisions of the TAARA.

4. Operating Instructions.

Section 285 Provision: On July 1, 2022, absent the enactment of legislation that reauthorizes the TAA Program, the termination provision under Section 285(a) of the Trade Act of 1974, as amended, will take effect.

However, under this provision, CSAs must continue after June 30, 2022, to determine individual worker eligibility and provide benefits and services for workers covered under certified petitions. In order to be entitled to TAA benefits and services on and after July 1, 2022, a worker must:

- (1) be covered by a petition filed and determined to be certified on or before June 30, 2022;
- (2) be an “adversely affected worker” as defined in 20 CFR 618.110, who because of lack of work in adversely affected employment has been totally or partially separated from such employment on or before June 30, 2022; and
- (3) meet or continue to meet the individual eligibility requirements for TAA benefits and services in accordance with relevant operating instructions and federal regulations at 20 CFR part 618, including any applicable deadlines.

For the 2015 Program, this includes “adversely affected incumbent workers,” as defined in 20 CFR 618.110, who were threatened with total or partial separation on or before June 30, 2022. CSAs must continue to provide TAA benefits and services to these workers after June 30, 2022. Adversely affected incumbent workers are not eligible for services under Reversion 2021.

Operating Instructions for administering the benefits and services to workers under the TAA Program are as follows:

- 2002 Program - TEGL No. 11-02 and its Changes 1, 2 and 3, unless modified by 20 CFR part 618;
- 2009 Program - TEGL No. 22-08 and its Change 1, unless modified by 20 CFR part 618;
- 2011 and 2015 Program - 20 CFR part 618; and,
- Reversion 2021- 20 CFR part 618 and TEGL No. 24-20

Workers who were included in groups certified by the Secretary as eligible to apply for TAA benefits, but who are not adversely affected workers or adversely affected incumbent workers on or before June 30, 2022, are not entitled to TAA benefits and services as they did not become eligible for those benefits and services prior to termination of the program. A CSA may issue an individual determination on eligibility after June 30, 2022, but the worker's separation or threat of separation must be on or before June 30, 2022, regardless of which version of the TAA Program they were certified under, and regardless of the expiration date indicated on the certification.

Utilization of TAA Program Funds on or after July 1, 2022: Training and Other Activities (TaOA) funds issued in FY 2020, FY 2021, and FY 2022 remain available for expenditure under the terms and condition of their awards and subject to the regulations and Operating Instructions (described above) of the TAA Program under which an individual worker is certified. This means states may use TaOA funds for employment and case management services for workers covered under certifications from the 2009, 2011, and 2015 programs. TaOA funding cannot be used to provide employment and case management services other than the initial assessment, as provided in TEGL No. 24-20, for workers covered by certifications under the 2002 Program or Reversion 2021. States may refer to their Trade Adjustment Assistance TaOA Notice of Awards for expenditure periods for FY 2020, 2021, and 2022 TaOA funds.

The Department distributes TaOA funds to carry out TAA Program activities: (1) under the Reversion 2021 Program currently in effect; (2) under the termination provisions under Section 285 of the Trade Act of 1974, that absent the enactment of other legislation will take effect on June 30, 2022; and, (3) and for eligible members of worker groups covered by a certification under the 2002 Program, the 2009 Program, the 2011 Program, and the 2015 Program. States must use TaOA funds to cover the costs of the set of benefits and services available to adversely affected workers in accordance with the requirements of the TAA law in effect at the time of filing of such petition for certification. Funds provided under the FY 2022 FUBA appropriation for TaOA are available for expenditure for three fiscal years (i.e., FY 2022, FY 2023, and FY 2024). The expenditure period for funds provided under the FY 2022 FUBA appropriation for TRA, ATAA, and RTAA is one fiscal year (i.e., through September 30, 2022). States may refer to the FY 2022 TAA Program Annual Funding Agreement and Notice of Award for additional information on the expenditure period for TaOA funds and the UI Annual Funding Agreement for additional information on TRA, ATAA, and RTAA expenditure periods.

Section 246 Provision: The termination provision under Section 246(b) of the Trade Act of 1974, as amended, addresses ATAA administered under the 2002 Program, Reversion 2014, and Reversion 2021, and RTAA administered under the 2009, 2011, and 2015 programs. The termination provision, which is applicable to only ATAA and RTAA, limits the receipt of those benefits after the termination date to workers, “receiving payments under the program.” This provision provides that only workers who have already begun receiving payments under these programs as of June 30, 2022, may continue to receive payments under the respective program after that date. Therefore, workers who have met all the other eligibility requirements for ATAA or RTAA by June 30, 2022, but who have not yet been issued a determination approving an application to receive at least one ATAA or RTAA payment by June 30, 2022, will not be eligible to receive any payments under these programs. CSAs shall not approve applications for ATAA or RTAA on or after July 1, 2022, for such workers.

Petition Filing and the June 30, 2022 Deadline: Only petitions that are filed *and certified* on or before 11:59 PM EDT Thursday, June 30, 2022, may allow a worker in the covered group to be eligible for TAA after June 30, 2022, as described above. The Department advises the workforce system that potential petitioners, who wish to be certified under Reversion 2021, file a complete petition as soon as possible and consider using the on-line petition filing to ensure prompt receipt by the Department, as explained on the TAA website at www.dol.gov/agencies/eta/tradeact. The Department will issue additional guidance, if needed, after July 1, 2022.

Pending Petitions, Reconsiderations, and Amendments:

No determinations will be made for pending, uncertified petitions after 11:59 PM Eastern EDT, Thursday, June 30, 2022. In addition, Applications for Reconsideration (ETA-9185) filed on or before June 30, 2022, will be considered; however, determinations on these requests will cease. Amendment petitions in relation to petitions certified on or before June 30, 2022, will continue to be processed and determinations will continue to be issued, where appropriate. Updates to amendment requests for petitions certified on or before June 30, 2022, may be provided. No updates will be provided regarding administrative reconsiderations on pending petitions-after that time unless the TAA Program is subsequently restored. Petitions for worker group certification pending before the Court of International Trade after June 30, 2022, will be treated as pending petitions if no certification has been issued on or before that date.

At that time, the statutory language contained in any reauthorizing legislation will determine the status and handling of these pending petitions and requests.

Notifications for Worker Groups and Individual Workers: Worker group and worker notification practices will not change for petitions certified on or before June 30, 2022. After making a determination on group eligibility, the Department’s Office of Trade Adjustment Assistance will notify the petitioners, the workers’ firm, and the appropriate CSA of the determination. In addition, the determination will be posted on the TAA website. Once a determination is made, CSAs will notify individual workers of the certification, provide information about the benefits and services available under the TAA Program, assist workers

in applying for and accessing those benefits and services through the American Job Center Network, and inform them of the termination provisions described in this directive.

Reporting Requirements on and after July 1, 2022: There are no changes to the reporting requirements under the TAA Program on or after July 1, 2022. This includes the submission of Participant Individual Record Layout (PIRL), ETA-9130 Financial Reports, UI-3 Trade Reports, Trade Adjustment Assistance Data Integrity (TAADI), Efforts to Improve Outcomes, and Trade Adjustment Assistance Administrative Collection of States (TAAACS).

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*;
- TEGL No. 24-20 - *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*.

7. **Attachment(s).** None.