

Frequently Asked Questions

ITC-Related Petitions

1. What is the ITC?

The United States International Trade Commission (ITC) is an independent, quasi-judicial Federal agency with broad investigative responsibilities on matters of trade. The agency investigates the effects of dumped and subsidized imports on domestic industries and conducts global safeguard investigations. The ITC also adjudicates cases involving imports that allegedly infringe intellectual property rights. Through such proceedings, the agency facilitates a rules-based international trading system. The ITC also serves as a Federal resource where trade data and other trade policy-related information are gathered and analyzed. The information and analysis are provided to the President, the Office of the United States Trade Representative (USTR), and Congress to facilitate the development of sound and informed U.S. trade policy. The Commission makes most of its information and analysis available to the public to promote understanding of international trade issues. See https://www.usitc.gov/press_room/about_usitc.htm.

2. How do ITC affirmative (and affirmative final) determinations relate to Trade Adjustment Assistance (TAA)?

There are more than a dozen paths to TAA certification, and an ITC determination is one of those paths. When a U.S. industry has been deemed injured by the ITC in an affirmative determination of serious injury or threat thereof¹ or in an affirmative final determination of material injury or threat thereof² (preliminary determinations do not meet the Trade Act requirement), and a firm is named as a part of the domestic industry on the determination, the TAA investigator does not need to establish a foreign trade impact during the investigation of the group of workers. Because of this, ITC-related petitions often have shorter investigation periods than other types of petitions.

3. How will states & companies be notified of relevant ITC decisions?

OTAA continuously communicates with ITC officials and monitors the ITC website for new decisions indicating that a U.S. industry has been materially injured or seriously injured by foreign trade. OTAA will inform state TAA coordinators, company officials, and organized unions of these decisions and their option to file TAA petitions. State Governors will also be notified of ITC decisions affecting firms in their states. In most cases, these notifications will occur via email. If no email addresses are available, officials will be notified by postal mail.

4. What information is included in the notification email?

The body of the notification email will include:

- the deadline for filing petitions
- the range of separation dates of workers potentially eligible for assistance
- instructions for section 5 of the TAA petition (relating to filing petitions based upon the ITC determinations specified in Sec. 222(e) of the Trade Act)
- the list of states where production facilities are located.

¹ Under section 202(b)(1) of the Trade Act of 1974 (19 U.S.C. 2271)

² Under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A))

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When the ITC is able to provide company contact information, the email will include that information as an attachment. The notification letter from OTAA will also be attached.

5. What information is included in the notification letter?

The notification letter will include:

- the ITC Investigation Number(s) and Investigation Title
- the date the decision was published in the Federal Register
- the volume and page numbers of the Federal Register publication
- the petition filing deadline
- the list of affected companies with their city & state locations.

6. Are states, companies, or unions required to file ITC-related petitions?

No, but recipients of an ITC notification are highly encouraged to determine if there are separated workers that may be served by TAA and file a petition on their behalf.

7. When should an ITC-related petition be filed?

ITC-related petitions must be filed within the one-year period following the ITC's affirmative determination being published in the Federal Register; OTAA will provide this date in the notification letter. An ITC-related petition should be filed as soon as possible after this notification has been received to help prevent delays in serving workers who may be TAA eligible.

8. What are the eligibility requirements for workers?

To be eligible for TAA under an ITC-related petition, members of the worker group at the workers' firm must have been totally or partially separated from employment within one year before or one year after the publication of the ITC's determination in the Federal Register and meet the eligibility requirements for each TAA benefit or service. For example, a determination published on November 1, 2018, would cover workers separated between November 1, 2017, and November 1, 2019. *Important:* The worker group certification requirement in Section 222(e)(3) of the Trade Act is only met when there are full or partial worker separations; threats of separation do not meet this requirement. Adversely affected incumbent workers (i.e. workers threatened with separation but not yet separated) are ineligible for inclusion in an ITC-related certification.

9. Can a regular petition be filed for the same worker group after an ITC-related certification expires?

Yes. If members of an affected worker group continue to have separations after an ITC-related certification expires, a regular petition may be filed on their behalf. This petition will either be subject to a full investigation or could be a new ITC investigation.

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10. Can a regular petition be filed for the same worker group if an ITC-related certification is still active?

Yes. However, the regular petition must be filed within 90 days of the ITC-related certification expiration date.

11. If the deadline for filing an ITC-related petition has passed, can a regular petition still be filed?

Yes. The regular petition will be subject to the full investigation process. In these cases, deadlines would be dependent upon separations, impact dates, and certification dates rather than the date of the Federal Register notice.

12. What kind of petition should be filed if a company has multiple trade-affected worker groups, only some of which are covered by an ITC determination?

In this scenario, there are two options. The first option is to file a regular petition on behalf of all worker groups. This petition will require a full investigation. Alternatively, two petitions may be filed; an ITC-related petition for the covered worker group(s) and a regular petition for the other worker group(s). It may be possible for the ITC-related petition to be certified more quickly, allowing those workers covered by the petition to begin receiving benefits earlier than if a combined petition had been filed.

13. What information is necessary to file an ITC-related petition?

ITC-related petitions are filed on the [standard petition form \(OMB 1205-0342\)](#) and have the same required data elements as a regular petition. However, Section 5 “Trade Effects on Separations”, question 1, should contain the ITC investigation number. Petitioners are encouraged to include the notification letter as an attachment to their ITC-related petition.

14. Do separation dates and the number of separated workers need to be included when filing an ITC-related petition?

Yes. Separation dates and total number of workers must always be included when filing a petition, including an ITC-related petition.

15. How are ITC-related petitions different from regular petitions?

There are two major differences. First, ITC-related petitions only cover workers who have been separated from employment. Unlike other types of petitions, the investigation of an ITC-related petition does not consider workers who are threatened with separation. Second, the eligibility period for ITC-related petitions is shorter than for regular petitions. Except in the case of prior certifications or multiple Federal Register notices, the ITC eligibility period is exactly two years: from one year prior to publication of the ITC decision in the Federal Register through one year after publication. The certification period for regular petitions are typically at least three years because the certification period begins on the impact date, which is the date one year before the petition date (with certain exceptions), and usually ends two years after the certification date.

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16. What is the process for certifying an ITC-related petition? How long should/does it take?

Once the ITC-related petition has been instituted, the investigator will verify that the company is named as an affected company in the ITC determination. The investigator will then contact the company to obtain information using the Business Data Request (BDR) form. Because the adverse effects from trade have already been established through the ITC determination, the company is not required to provide as much information, information such as customer lists, sales figures, etc. that are normally required. The company must verify its official name(s), worker groups, and products or services. The company also must provide a total count of workers and the dates and worker counts of any separations since the one-year period prior to the affirmative final determination being published in the Federal Register. This usually results in accelerated investigations compared to investigations of regular petitions; however, delays may occur if the company is unresponsive.

17. How can we encourage company officials to cooperate in the investigation process?

State workforce officials may contact company officials prior to submitting a petition to make sure that company officials know what the TAA Program is, what to expect during the investigation process, and that this process is not about assigning blame and will not cost the employers monetarily. In ITC-related petitions, the adverse effects of trade on an industry have already been established. State workforce officials may also explain that cooperating in the investigation process and completing the BDR quickly is a means by which employers can help separated workers get assistance and find new employment opportunities.

18. Do the TAA benefits and services available to workers certified under an ITC-related petition differ from TAA benefits and services available to workers certified under non-ITC related petitions?

No. Members of worker groups who are certified through an ITC-related petition are eligible to apply for the same benefits and services available to members of worker groups certified under regular petitions.

19. Is additional guidance available on ITC-related petitions?

Yes. An ITC-Related Petitions webinar can be found here: <https://www.workforcegps.org/events/2018/11/21/15/00/USITC-Related-Petitions-for-TAA-Program>. It includes visual timelines that help explain petition filing deadlines and eligibility time windows.