

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION TAA
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ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 14-14

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
RAPID RESPONSE COORDINATORS
TRADE ADJUSTMENT ASSISTANCE LEADS

FROM: PORTIA WU 
Assistant Secretary

SUBJECT: Trade Adjustment Assistance (TAA) for Workers and Alternative Trade Adjustment Assistance (ATAA) and Reemployment Trade Adjustment Assistance (RTAA) program operations after December 31, 2014

1. 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 on December 31, 2014, and termination provisions will take effect beginning on January 1, 2015, absent congressional action.

2. References.

- Chapter 2 of Title II of the Trade Act of 1974, as amended (Pub. L. 93-618) (1974 Act and, as amended, Trade Act);
- Trade Adjustment Assistance Reform Act of 2002, Division A, Title I, Subtitle A of the Trade Act of 2002 (Pub. L. 107-210), as amended by the Miscellaneous Trade and Technical Corrections Act of 2004, (Pub. L. 108-429);
- Trade and Globalization Adjustment Assistance Act of 2009, Division B, Title I, Subtitle I of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5);
- Trade Adjustment Assistance Extension Act of 2011 (Pub. L. 112-40);
- 20 Code of Federal Regulations (CFR) part 617;
- 29 CFR part 90;
- Training and Employment Guidance Letter (TEGL) No. 11-02, Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade Act of 2002, and its Changes 1, 2, and 3;

RESCISSIONS None	EXPIRATION DATE Continuing
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- TEGL No. 22-08, Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade and Globalization Adjustment Assistance Act of 2009, and its Change 1;
- TEGL No. 10-11, Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade Adjustment Assistance Extension Act of 2011 (TAAEA), and its Changes 1 and 2;
- TEGL No. 7-13, Operating Instructions for Implementing the Sunset Provisions of the Amendments to the Trade Act of 1974 Enacted by the Trade Adjustment Assistance Extension Act of 2011 (TAAEA or the 2011 Amendments).

3. Background. The authorization for the TAA program expires on December 31, 2014. If Congress does not extend the authorization period, or take other action through appropriations or authorization legislation, the program will begin to phase out on January 1, 2015, and the Department of Labor (Department) will no longer investigate or certify new petitions after that date.

However, even absent legislative action, certain provisions of the program will continue to operate. Therefore, CSAs must continue to administer the programs after December 31, 2014, in accordance with the relevant operating instructions listed in TEGL No. 11-02 and its Changes 1, 2 and 3; TEGL No. 22-08 and its Change 1, TEGL No. 10-11 and its Changes 1 and 2; and TEGL No. 7-13.

4. Termination Provisions.

Section 285 Provision: On January 1, 2015, the termination provision for the TAA program under Section 285(a) of the Trade Act of 1974 is due to take effect.

Under this provision, in order to be entitled to TAA benefits and services after December 31, 2014, the CSAs must determine that a worker: (1) is covered by a petition filed and determined to be certified on or before December 31, 2014, (2) is an “adversely affected worker” as defined in 20 CFR 617.3(c), who because of lack of work in adversely affected employment has been totally or partially separated from such employment on or before December 31, 2014, and (3) meets or continues to meet the individual eligibility requirements of TAA benefits and services in accordance with relevant operating instructions and Federal regulations at 20 CFR 617, and any other applicable deadlines, on or after January 1, 2015. For the 2009 and 2011 programs, an adversely affected worker also includes “adversely affected incumbent workers,” as defined in TEGL No. 22-08, D.2.1 and discussed in TEGL No. 10-11, who were threatened with total or partial separation on or before December 31, 2014. CSAs must continue to provide TAA benefits and services to these workers after December 31, 2014, in accordance with the relevant operating instructions listed in TEGL No. 11-02 and its Changes 1, 2 and 3; TEGL No. 22-08 and its Change 1; TEGL No. 10-11 and its Changes 1 and 2; and TEGL No. 7-13.

Workers who were included in the 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 December 31, 2014, will lose their entitlement to any TAA benefits and services after that date. This means that, after December 31, 2014, CSAs **may not provide** TAA benefits and

services to workers who were separated (or threatened with separation for 2009 and 2011 program certifications) from adversely affected employment **after** that date.

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 and Reversion 2014, and RTAA administered under the 2009 and 2011 programs.

The termination provision 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 December 31, 2014, may continue to receive payments under the respective program after that date. Therefore, workers that have met all the other eligibility requirements for ATAA or RTAA by December 31, 2014, but who have not yet been issued a determination approving an application to receive at least one ATAA or RTAA payment by that same date, will not be eligible to receive payments under these programs. CSAs may not approve applications for ATAA or RTAA on or after January 1, 2015.

5. Applicability of Prior Authority on the Termination Provisions. The current termination provisions supersede 20 CFR 617.64, which implemented a termination provision that no longer is in effect. This guidance supersedes not only this regulation, but any guidance on the termination of TAA that you may have received.

6. Petition Filing and the December 31, 2014 Deadline. Only petitions that are filed and certified on or before 5:00 PM, Wednesday, December 31, 2014, Eastern Standard Time (EST) may allow a worker in the covered group to be eligible for TAA after December 31, 2014, as described in paragraph 4, *Termination Provisions*, above.

The Department advises the workforce system that potential petitioners, who wish to be certified under the Reversion 2014 program, file a complete petition as soon as possible and consider using the on-line petition filing or fax to ensure prompt receipt by the Department, as explained on the TAA website at www.doleta.gov/tradeact.

After making a determination on group eligibility, the 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 and published in the Federal Register. The CSA will then notify individual workers of the certification, provide information about benefits and services, *and inform them of the termination provisions described in this directive*, in the event that congressional action to override the TAA program termination provisions does not occur before December 31, 2014. CSAs also should prepare to notify individual workers covered by certifications that have not expired of the effect of the termination provisions on their entitlement to TAA benefits and services. The Department will provide further guidance to CSAs on the content of such notices.

7. Action Required. CSAs are instructed to continue operation of the TAA, ATAA, and RTAA programs through December 31, 2014. After December 31, 2014, CSAs must continue to operate the TAA program under the termination provisions described above. The Department

will advise the CSAs of further developments as they occur, and will issue operating instructions for the TAA program before the close of the year.

8. Inquiries. Inquiries regarding these instructions should be directed to the appropriate Regional Office.

9. Attachment. Appendix A: Applicable Trade Act Provisions

APPENDIX A

APPLICABLE TRADE ACT PROVISIONS

Section 233(a)(7) of the Trade Adjustment Assistance Extension Act of 2011 (TAAEA) requires that section 285 of the Trade Act shall be applied and administered after December 31, 2013, as if it read:

(a) ASSISTANCE FOR WORKERS.—

(1) IN GENERAL.—Except as provided in paragraph (2), trade adjustment assistance, vouchers, allowances, and other payments or benefits may not be provided under chapter 2 after December 31, 2014.

(2) EXCEPTION.—Notwithstanding paragraph (1), a worker shall continue to receive trade adjustment assistance benefits and other benefits under chapter 2 for any week for which the worker meets the eligibility requirements of that chapter, if on or before December 31, 2014, the worker is—

(A) certified as eligible for trade adjustment assistance benefits under chapter 2 of this title; and
(B) otherwise eligible to receive trade adjustment assistance benefits under chapter 2.

Section 233(a)(4) of the TAAEA, requires that section 246 (b) of the Trade Act terminating the Alternative Trade Adjustment Assistance [ATAA] Program [and the reemployment trade adjustment assistance benefit], shall be applied and administered after December 31, 2013, as if it read:

(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 December 31, 2014.

(2) EXCEPTION.—Notwithstanding paragraph (1), a worker receiving payments under the program established under subsection (a)(1) on the termination date described in paragraph(1) shall continue to receive such payments provided that the worker meets the criteria described in subsection (a)(3)(B) [of section 246, providing the individual eligibility requirements].