As under the 2011 Program and the 2009 Program, under the 2015 Program the CSA must issue a written determination on an RTAA application within five working days of its receipt. If approved, the CSA must notify the appropriate state payment unit and other appropriate component offices within the state. The RTAA applicant has the right to appeal a state determination that denies RTAA benefits in the same manner as provided for in State UI law for all TAA determinations.

Where a worker seeks to establish RTAA eligibility based upon more than one job, the employment hours will be combined in order to determine whether the worker has the number of hours needed to qualify for RTAA. If the worker obtains additional job(s), 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.

Qualifying employment that was commenced before the date of separation from adversely affected employment may be considered qualifying employment for purposes of determining RTAA eligibility.

H.3.1. RTAA Eligibility and UI Exhaustion for those Close to 50

TEGL No. 10-11, Change 2, Question 9 (Q9) states that, "workers who have become employed before they reach the age of 50 may be determined eligible for RTAA when they reach age 50 during such employment if they meet all the other RTAA eligibility requirements." Past guidance did not address the effect of the statutory eligibility period, Section 246(a)(4), on determinations of RTAA eligibility when a worker reaches age 50 after obtaining RTAA qualifying reemployment. This guidance establishes that, while the individual need not be age 50 or older when obtaining RTAA qualifying reemployment, RTAA eligibility requires that the benefit be payable within the eligibility period established in accordance with Section 246(a)(4).

As described in Section H.4. of these Operating Instructions, the eligibility for RTAA depends in part on whether or not the worker has received TRA.

A worker who has not received TRA may receive RTAA benefits for a period not to exceed two years beginning on the earlier of:

1. The date on which the worker exhausts all rights to UI as defined at 20 CFR 617.3(oo); or
2. The date on which the worker obtains reemployment.

A worker who has received TRA may receive RTAA benefits for a period of 104 weeks beginning on the date which the worker obtains reemployment reduced by the total number of weeks the individual received TRA.

The controlling variables in both situations are:

1. Exhaustion of the worker's UI entitlement; or
2. The date the worker obtains reemployment.

To make the RTAA determination, the CSA will need to know the applicable dates for the worker: the date of reemployment and either the date the worker exhausted all rights to UI, or the dates the worker began and ended receipt of TRA before the date of reemployment. These dates must occur within the 104-week, or two-year, eligibility period identified in the statute. If a worker reaches age 50 after the applicable statutory eligibility period, the CSA may not approve RTAA for that worker even if at that time the worker met the other eligibility conditions of Section 246(a)(3)(B)(ii), (iii), and (iv).

H.3.2. Reinterpretation of Full-time Work, Part-time Work, and Full-time Training as Allowable under RTAA

The TGAAA first established the individual eligibility requirements for RTAA in 2009 under Section 246(a)(3)(B) of the 2009 Act, and neither the TAAEA nor the TAARA 2015 amended this clause. Section 246(a)(3)(B) lists four requirements for reemployment. Section 246(a)(3) (B)(iii)(I) and (II) address two conditions under which the employment is qualifying and the effect of the worker's enrollment in a training program approved under Section 236 of the Trade Act on the receipt of RTAA. Item (I) requires full-time employment when the worker is not enrolled in TAA training; and item (II) requires employment "at least 20 hours per week"when the worker is enrolled in TAA training. Under TEGL No. 22-08, the Department interpreted these provisions as allowing a worker in part-time employment of at least 20 hours a week who is enrolled in TAA-approved training to be eligible for RTAA, while not allowing RTAA for a worker in full-time employment who is enrolled in TAA-approved training.

The Department's intent was to allow workers in part-time employment to receive RTAA while they are enrolled in training. However, full-time employment as defined in State law always exceeds 20 hours per week and generally covers employment from 35-40 hours per week. Therefore, the "at least' language in clause (II) may be read to refer to any number of hours over 20, which means that **both part-time employees, as well as full-time employees, who are enrolled in TAA training may be eligible for RTAA**. This reading avoids providing a disincentive for workers working full-time considering enrolling in TAA-approved training. To interpret this provision in the best

interests of older adversely affected workers enrolled in TAA-approved training, these Operating Instructions revise the prior interpretation of this provision contained in TEGL No. 22-08 and allow full-time workers enrolled in TAA training as well as part-time workers enrolled in TAA training to be eligible for RTAA. This new interpretation of Section 246(a)(3)(B)(iii)(II) will be applied to both RTAA participants and RTAA applicants as of the issuance of these Operating Instructions.

This guidance also rescinds the guidance issued in TEGL No. 22-08 and 10-11, Change 1, Section G.1., prohibiting a worker employed full-time and enrolled in training from qualifying for RTAA. Accordingly, a worker who is in full-time OJT at the time of application for RTAA and, therefore, is both employed full-time and enrolled in TAA training may be eligible for RTAA, just as a worker in part-time OJT at the time of application for RTAA may qualify for RTAA. This interpretation provides a greater opportunity for RTAA recipients to receive RTAA while in an OJT or in a registered apprenticeship program.

H.3.3. Definition of Firm

To determine that a worker is eligible for RTAA, the CSA must make a finding that the employment obtained by the worker is not at the "firm" from which the worker was separated, that is, the "firm" identified in the certification. The term "firm" is defined at Section 247(3) of the 2009 Act, the 2011 Act, and the 2015 Act to include "an appropriate subdivision thereof." The Department interpreted this requirement in TEGL No. 22-08, Section H.3. as requiring that the CSA must determine what constitutes the "firm" for purposes of determining RTAA eligibility on a case-by-case basis, depending on the certification. A certification may cover one or more worker groups at either an entire firm or one or more subdivisions of a firm located in one or several States. Accordingly, if the certification is issued for a worker group in an appropriate subdivision of a firm, a worker in that group may not be eligible for RTAA upon a return to employment with that subdivision, but may be eligible for RTAA upon a return to employment at another subdivision of a firm. If, however, the certification is issued for a group of workers composed of all workers in the entire firm, or does not identify a subdivision, the worker may not be eligible for RTAA based on a return to employment in any subdivision of that firm.

The definition of "firm" codified at 29 CFR 90.2, the regulations governing petitions and determinations, applies in determining whether this eligibility criterion has been met because that definition is used by the Department in identifying the "firm" in the certification. Under the regulatory definition, a firm "includes an individual proprietorship, partnership, joint-venture, association, corporation (including a development corporation), business trust, cooperative,

trustee in bankruptcy, and receiver under decree of any court. A firm, together with any predecessor or successor-in-interest, or together with any affiliated firm controlled or substantially beneficially owned by substantially the same persons, may be considered a single firm." A firm may be considered a successor-in-interest to another firm, if most or all of the following factors are present:

- There is continuity in business operations
- There is continuity in location
- There is continuity in the workforce
- There is continuity in supervisory personnel
- The same jobs exist under similar conditions
- There is continuity in machinery, equipment, and process
- There is continuity in product/service

In making its determination, the CSA should first review the certification under which the worker was covered, and look for any amendments to the certification, and compare the name and address of the firm in the certification to the name and address of the firm in which the worker has found reemployment. Then the CSA should consider, whether some or all of those factors, identified above, exists to determine whether the firm at which the worker found reemployment is a "successor-in-interest" to the firm from which the worker was separated. The CSA may need to obtain further information about the firm from the employer to make that determination. If the CSA determines that the worker returned to employment with a successor-in-interest to the firm from which the worker was separated, then the worker is not eligible for RTAA. The determination must be made based on the individual application of the worker.

H.4. Eligibility Period

Statute: Section 246(a)(4) of the 2015 Act reads:

(4) ELIGIBILITY PERIOD FOR PAYMENTS.—

(A) WORKER WHO HAS NOT RECEIVED TRADE READJUSTMENT ALLOWANCE.—In the case of a worker described in paragraph (3)(B) who has not received a trade readjustment allowance under part I of subchapter B pursuant to the certification described in paragraph (3)(A), the worker may receive benefits described in paragraph (2) for a period not to exceed 2 years beginning on the earlier of—

(i) the date on which the worker exhausts all rights to unemployment insurance based on the separation of the worker from the adversely affected employment that is the basis of the certification; or

(ii) the date on which the worker obtains reemployment described in paragraph (3)(B).

(B) WORKER WHO HAS RECEIVED TRADE READJUSTMENT ALLOWANCE.—In the case of a worker described in paragraph (3)(B) who has received a trade readjustment

allowance under part I of subchapter B pursuant to the certification described in paragraph (3)(A), the worker may receive benefits described in paragraph (2) for a period of 104 weeks beginning on the date on which the worker obtains reemployment described in paragraph (3)(B), reduced by the total number of weeks for which the worker received such trade readjustment allowance.

Administration: As under the 2011 Act and the 2009 Act, the 2015 Act provides two separate eligibility periods, the first for workers who have not received TRA, and the second for workers who have received TRA.

The eligibility period for workers who have not received TRA is a two-year period beginning the earlier of "the date on which the worker exhausts all rights to unemployment insurance based on the separation of the worker from the adversely affected employment that is the basis of the certification," or the date of reemployment. Section 247(12) defines "unemployment insurance" as "the unemployment compensation payable to an individual under any State law or Federal unemployment compensation law," which includes EUC. Under 20 CFR 617.3(c) a separation that qualifies a worker as an adversely affected worker is a lack-of-work separation from adversely affected employment. A "qualifying separation" is defined at 20 CFR 617.3(t)(2) to mean a separation from adversely affected employment within the certification period for which an individual qualifies as an adversely affected worker, and for Basic TRA, any total separation of the individual.

The statutory phrase "worker exhausts all rights to unemployment insurance based on the separation of the worker from…adversely affected employment…" must address the situation where a worker has more than one separation from adversely affected employment. Where there is more than one such separation, the relevant separation is the worker's last separation from adversely affected employment that qualifies the worker as an adversely affected worker. The Department uses the last separation because that separation is the one that triggers the worker's application for RTAA. Accordingly, the CSA must determine the worker's last separation for lack of work from adversely affected employment before the RTAA application. This principle applies only to the determination of the eligibility period, and does not apply to the calculation of RTAA payments, where wages at separation are defined as the annualized hourly rate at the time of the most recent separation, as explained in Section H.7. of these Operating Instructions.

Further, a separation may trigger a benefit year, occur during a benefit year, or not result in any entitlement to UI. If the worker's last separation from adversely affected employment, which qualifies the worker as an adversely affected worker, either triggers a benefit year or occurs within a benefit year, the

eligibility period will begin (if earlier than the reemployment) when the worker exhausts that UI eligibility, either by collecting all benefits available on the benefit year or by the expiration of the benefit year. If the worker has no UI entitlement for his/her last separation from adversely affected employment that qualifies him/her as an adversely affected worker, then the two-year period begins on the date on which the worker obtains reemployment.

The eligibility period for a worker who has received TRA is the two-year period (generally 104 weeks) beginning with the date of reemployment, reduced by the number of weeks the worker received TRA. For example, if a worker received 52 weeks of TRA, the eligibility period would be reduced to 52 weeks, beginning on the date of reemployment.

The individual's application for RTAA must be filed within the applicable eligibility period as described above. As with ATAA, retroactive payments may be made where appropriate. Note: Be sure to review Section H.3.1. of these Operating Instructions for clarification on eligibility for those close to 50.

H.5. Total Amount of Payments

Statute: Section 246(a)(5) of the 2015 Act reads:

(5) TOTAL AMOUNT OF PAYMENTS. –
(A) IN GENERAL. – The payments described in paragraph (2)(A) made to a worker may not exceed –
(i) $10,000 per worker during the eligibility period under paragraph (4)(A); or
(ii) the amount described in subparagraph (B) per worker during the eligibility period under paragraph (4)(B).
(B) AMOUNT DESCRIBED. – The amount described in this subparagraph is the amount equal to the product of –
(i) $10,000, and
(ii) the ratio of –
(I) the total number of weeks in the eligibility period under paragraph (4)(B) with respect to the worker, to
(II) 104 weeks.

Administration: As under the 2011 Act and the 2009 Act, the 2015 Act provides two separate calculations of the maximum amount of RTAA payments that may be made to a worker, the first for workers who have not received TRA, and the second for workers who have received TRA.

Workers who have not received TRA may receive a maximum of $10,000 during the eligibility period described in Section H.4. of these Operating Instructions.

This is the same as the maximum amount of ATAA available to an adversely affected worker.

Workers who have received TRA may receive an amount equal to the product of $10,000 and the ratio of the number of weeks in the eligibility period described in Section H.4., above, and 104.

The two-step formula set forth below (as described in TEGL No. 22-08, Change 1, Section A.1) clearly demonstrates how the maximum amount of RTAA that may be paid decreases as the number of TRA weeks received increases. The following example demonstrates the computation of RTAA eligibility for a worker who has received 26 weeks of TRA. The formula used below would be adjusted for a worker who received a different number of weeks of TRA.

Determining Eligibility Period

104 Week Maximum		Weeks of TRA Received		Eligibility Period (x)
104	-	26	=	78

Determining Maximum RTAA Benefit

Factors	
x	Eligibility Period
y	104 Weeks
z	$10,000

Ratio		
x/y	=	Ratio

Formula		
(x/y) * z	=	RTAA Benefit
ratio * $10,000 = RTAA Benefits		

Example
(78/104) * $10,000 = $7,500

Applying the formula would result in an eligibility period of 78 weeks, during which the participant could collect up to $7,500 of RTAA. Note that RTAA is reduced only by the number of weeks for which the worker received TRA. Receipt of UC or EB is not considered in determining the amount of RTAA.

H.6. Continuing Eligibility

As under the 2011 Act and the 2009 Act, under the 2015 Act a worker who is approved for the RTAA program and who continues to meet the eligibility criteria will be paid RTAA benefits until the end of the eligibility period or the payment of $10,000, whichever occurs first.

Nothing in the statute precludes an individual from working for different employers within this eligibility period. Further, employment is not required to be consecutive. However, as with ATAA, RTAA benefits are not payable during periods of unemployment, but payment is allowable when the worker is on employer-allowed release time, such as sick leave. Changes in employment that do not encompass a period of unemployment will be handled during the CSAs ongoing review of each worker's RTAA status, as described below. In the event of a period of unemployment, workers will need to complete a new application for RTAA upon reemployment. The worker would be eligible for the remaining RTAA benefits to which he or she is entitled. The eligibility period continues to run from the date of UI exhaustion or reemployment.

Workers applying for RTAA will need to visit a one-stop career center in person to provide information and establish initial individual eligibility for RTAA. The CSA will need to assess each RTAA claimant's continuing eligibility for RTAA. Whether RTAA entitlement is received on the basis of part-time (at least 20 hours) or full-time employment, the CSA must verify the worker's employment and wage status on at least a monthly basis. If the worker is employed part-time (at least 20 hours per week) and receiving RTAA while in TAA-approved training, the CSA must, on a monthly basis, verify participation in the training.

RTAA payments stop in the event of any one of the following:

- The worker's annualized wages from reemployment exceed $50,000 in a year.
- The worker no longer meets the reemployment requirement through either full-time work or a combination of TAA-approved training and at least 20 hours of work.
- The worker has received the maximum amount of RTAA.
- The worker has reached the end of the RTAA eligibility period.

A worker who is working part-time and is enrolled in TAA-approved training will be excused from the training requirement for any week for which she or he has "justifiable cause," as defined at 20 CFR 617.18(b)(2), for failing to begin or ceasing participation in training. If the worker has justifiable cause for failing to participate in training for a week, but is working at least 20 hours per week,

RTAA is payable for that week if the worker is otherwise eligible. If the worker fails to participate in training for a week without justifiable cause, the worker is ineligible for RTAA for that week.

It is the CSA's responsibility, when calculating the RTAA 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 include all jobs in which the worker is employed.

H.7. RTAA Payments

Statute: Section 246(a)(2) of the 2015 Act reads:

> *(2) BENEFITS.*
> *(A) PAYMENTS – A State shall use the funds provided to the State under Section 241 to pay, for the eligibility period under subparagraph (A) or (B) of paragraph (4) (as the case may be), to a worker described in paragraph (3)(B), 50 percent of the difference between –*
> *(i) the wages received by the worker at the time of separation; and*
> *(ii) the wages received by the worker from reemployment.*

Section 246(a)(6) of the 2015 Act reads:

> *(6) CALCULATION OF AMOUNT OF PAYMENTS FOR CERTAIN WORKERS. –*
> *(A) IN GENERAL. – In the case of a worker described in paragraph (3)(B)(iii)(II) [a worker employed at least 20 hours per week an enrolled in training], paragraph (2)(A) [the RTAA benefit amount calculation] shall be applied by substituting the percentage described in subparagraph (B) for '50 percent'.*
> *(B) PERCENTAGE DESCRIBED. – The percentage described in this subparagraph is the percentage –*
> *(i) equal to 1/2 of the ratio of –*
> *(I) the number of weekly hours of employment of the worker referred to in paragraph (3)(B)(iii)(II), to*
> *(II) the number of weekly hours of employment of the worker at the time of separation, but*
> *(ii) in no case more than 50 percent.*

Administration: The basic calculation of the RTAA benefit amount is 50 percent of the difference between a worker's wage at the time of separation and the worker's wage from reemployment. As with ATAA, in order to establish the RTAA payment, wages at separation are defined as the annualized hourly rate at the time of the most recent separation. Wages at reemployment are defined as the annualized hourly rate at the time of reemployment. The annualized wages

are computed by multiplying the worker's hourly rate received during the last full week of his or her employment by the number of hours the individual worked during the last full week of employment and multiplying that number by 52. Overtime wages and hours are excluded from the calculation. 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.

In the case of a worker who had a partial separation, as defined in 20 CFR 617.3(cc), that resulted in a reduction of the worker's wage and/or hours, the calculation should be based on the wages and/or hours immediately before the partial separation went into effect.

For workers who meet the reemployment requirements described in Section H.3. of these Operating Instructions through a combination of TAA-approved training and at least 20 hours of work, the RTAA benefit calculation is based on a percentage of the difference between the wages the worker received from the adversely affected employer at the time of separation and the wages the worker receives in new employment. The percentage is based on the number of hours worked in new employment as compared to the adversely affected employment. This calculation is illustrated below in Sections H.7.1 and H.7.2.

RTAA may be paid on a weekly, biweekly, or other payment frequency not longer than monthly, as established by the CSA, and the total payment may not exceed the $10,000 maximum over the worker's RTAA eligibility period.

Wage Calculation Methodology

Factors

Factors	
o	Annualized Old Wages (also Annualized Separation Wages)
n	Annualized New Wages (also Annualized Reemployment Wages)
h	Variable percentage based on reduced Hours Per Week h = (current hours per week /old hours per week)

Annualized Old Wages (o): Annualized wages are computed by multiplying the worker's hourly rate during the last full week of his/her employment by the number of hours the worker worked during the last full week of employment and multiplying that number by 52: (hourly rate * hours worked) * 52

Annualized New Wages (n): Annualized wages at reemployment are

defined similarly to annualized wages at separation, except that the hourly rate and hours worked initially must reflect those of the first full week of reemployment, although this number will change if the new wages change: (hourly rate * hours worked) * 52

Variable Percentage (h): This variable equals the quotient of the worker's current hours per week divided by the worker's hours per week at the time of separation.

H.7.1. Wage Calculation Formulas

The calculation of a monthly allotment would be derived in one of the two following methods, as appropriate:

Calculation for Full-Time Employment: Annualized Separation Wages **minus** Annualized Reemployment Wages **multiplied by** .50 **equals** 50 percent of the difference between the two periods of wages. Fifty percent of the difference between the two periods of wages **divided by 12 equals** the monthly RTAA wage subsidy.

Monthly	(o – n) * .50
Benefit Equals	12

Calculation for Part-time Employment: Annualized Separation Wages **minus** Annualized Reemployment Wages multiplied by h (the variable percentage based on reduced hours for part-time Annualized Reemployment Wages). Fifty percent of the difference between the two periods of wages **divided by 12 equals** the monthly RTAA wage subsidy.

Monthly	((o – n) * h * .50)
Benefit Equals	12

To determine the weekly annualized benefit amount, change 12 to 52, or to determine the bi-weekly annualized benefit amount, change 12 to 26.

H.7.2. Wage Calculation Examples

RTAA participant was working 40 hours per week with annualized separation wage of $50,000 per year. The participant obtained full-time employment, making $20,000 per year.

o = $50K	n = $20K

Option 1- Full-Time Employment

Monthly Benefit Equals	($50K – $20K) * .50 / 12	= $1250 Per Month

Option 2 – Part-Time Employment

RTAA participant was working 40 hours per week with annualized separation wage of $50,000 per year. The participant obtained part-time employment of 20 hours per week, making $20,000 per year.

o = $50K	n = $20K	h = (20/40)

Monthly Benefit Equals	($50K – $20K) * (20/40) * .50 / 12	= $625 Per Month

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 RTAA wage supplement, the CSA will repeat the above calculation using the new wages and hours and adjust the RTAA payment accordingly.

H.8. Overpayments

As with ATAA, the determination of "annualized wages" is made prospectively. An individual meets the "earns not more than $50,000 a year in wages from reemployment" requirement in Section 246 for a given month if the monthly determination of annualized wages is accurate and complete at the time it is made. Absent fraud, no overpayment determinations will 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 are valid payments that the individual was entitled to, and are not overpayments.

H.9. Other Program Benefits

Statute: Section 246(a)(2)(B)-(C) of the 2015 Act reads:

> *(B) HEALTH INSURANCE.—A worker described in paragraph (3)(B) participating in the program established under paragraph (1) is eligible to receive, for the eligibility period under subparagraph (A) or (B) of paragraph (4) (as the case may be), a credit for health insurance costs under Section 35 of the Internal Revenue Code of 1986.*

(C) TRAINING AND OTHER SERVICES. – A worker described in paragraph (3)(B) participating in the program established under paragraph (1) is eligible to receive training approved under Section 236 and employment and case management services under Section 235.

Section 246(a)(7) of the 2015 Act reads:

(7) LIMITATION ON OTHER BENEFITS. – A worker described in paragraph (3)(B) may not receive a trade readjustment allowance under part I of subchapter B pursuant to the certification described in paragraph (3)(A) during any week for which the worker receives a payment described in paragraph (2)(A).

Administration: An individual receiving RTAA may also receive TAA training, employment and case management services, HCTC, and job search and relocation allowances under certain conditions.

As with ATAA, once a worker elects RTAA, the worker cannot return to TRA. The 2015 Act provides a way for a worker to move from TRA to RTAA, by authorizing a method of computing an available balance when that move occurs, but does not provide a way for a worker to move from RTAA back to TRA.

With respect to HCTC, guidance will be provided separately, as the HCTC Program is implemented by the IRS, as explained in Section J of these Operating Instructions.

H.10. Documentation of Benefit History

The Department requires that each CSA maintain a manual or automated benefit history for each RTAA recipient for a period of no less than three years for audit purposes. The three years begins from the most recent determination of eligibility, benefits paid or appeal decisions – whichever is later. The information required for that benefit history is the same as what is required for ATAA.

I. STATE OPERATIONS

I.1. Alien Verification

Statute: Section 239(k) of the 2015 Act reads:

(k) VERIFICATION OF ELIGIBILITY FOR PROGRAM BENEFITS. –
(1) IN GENERAL. – An agreement under this subchapter shall provide that the State shall periodically redetermine that a worker receiving benefits under this subchapter

who is not a citizen or national of the United States remains in a satisfactory immigration status. Once satisfactory immigration status has been initially verified through the immigration status verification system described in Section 1137(d) of the Social Security Act (42 U.S.C. 1320b-7(d)) for purposes of establishing a worker's eligibility for unemployment compensation, the State shall reverify the worker's immigration status if the documentation provided during initial verification will expire during the period in which that worker is potentially eligible to receive benefits under this subchapter. The State shall conduct such redetermination in a timely manner, utilizing the immigration status verification system described in Section 1137(d) of the Social Security Act (42 U.S.C. 1320b-7(d)).

(2) PROCEDURES. – The Secretary shall establish procedures to ensure the uniform application by the States of the requirements of this subsection.

Administration: Since the enactment of the 2009 Act, CSAs have been required, under Section1137(d) of the Social Security Act (42 U.S.C. 1320b-7(d)), to initially verify the immigration status of self-reporting aliens who apply for UI through the Systematic Alien Verification for Entitlement (SAVE) program maintained by the U.S. Customs and Immigration Service (USCIS, formerly Immigration and Naturalization Service). Under Section 1137(d)(2), an alien is required to provide an alien registration document with an alien registration number, or provide "such other documents as the CSA determines constitutes reasonable evidence indicating a satisfactory immigration status." If there is a match that verifies the individual's documentation, SAVE returns information that the alien is in satisfactory immigration status, and provides an expiration date, if there is one, for that status.

To meet the Act's requirement, CSAs must continue to use the SAVE program to alert the staff responsible for processing applications to the expiration of satisfactory immigration status during the time the individual is potentially eligible for benefits, so that the CSAs are able to determine that the expiration date has been changed or the alien is no longer eligible for TAA. CSAs are also encouraged to modify case management systems for TAA recipients to track the immigration status of a worker receiving TAA who is not a citizen or national of the United States. It is important to note that this requirement applies to all benefits under the TAA Program, and not just TRA benefits.

Section 239(k) of the 2015 Act requires that CSAs re-verify an individual's immigration status if the documentation provided by the individual during initial verification will expire during the period in which that worker is potentially eligible to receive Trade benefits. The re-verification of satisfactory immigration status must be conducted in a timely manner, and in the same manner used for initial verification.

No further action is required unless the alien's satisfactory immigration status expires. When a worker's satisfactory immigration status expires, that worker is no longer entitled to TAA benefits and services. The CSA should notify the worker that no further TAA benefits and services may be provided after the expiration date.

Additionally, one of the six conditions for approval of training is that there be "a reasonable expectation of employment following completion of…training." Where a worker is not in a satisfactory immigration status, there is no such reasonable expectation. Therefore, a training program is not approvable if the individual is not eligible, at the time of application for work, at least one day following completion of training.

I.2. Control Measures

Statute: Section 239(i) of the 2015 Act reads:

> *(i) CONTROL MEASURES. –*
> *(1) IN GENERAL. – The Secretary shall require each cooperating State and cooperating State agency to implement effective control measures and to effectively oversee the operation and administration of the trade adjustment assistance program under this chapter, including by means of monitoring the operation of control measures to improve the accuracy and timeliness of the data being collected and reported.*
> *(2) DEFINITION. – For purposes of paragraph (1), the term 'control measures' means measures that –*
> *(A) are internal to a system used by a State to collect data; and*
> *(B) are designed to ensure the accuracy and verifiability of such data.*

Administration: This Section, which has been in effect since the enactment of the TGAAA, requires CSAs to implement control measures to effectively oversee the operation and administration of the TAA Program and to improve the timeliness of reported data, as well as verify the accuracy of such data. In addition, CSAs must monitor on a regular basis the administration of the TAA Program and its various components, including TRA, training, ATAA and RTAA, job search and relocation, and employment and case management services.

To comply with this continuing provision in the 2015 Act, the CSA must have a formal monitoring program in place that reviews a sample of worker files to ensure effective and efficient operation and administration of the program. The monitoring program must be designed to identify and share best practices, identify and correct deficiencies, and identify and address staff training needs. Case files reviewed must include files for workers certified under the 2002, 2009, 2011, Reversion 2014, and 2015 Programs, as long as there are participants of

those Programs being reported as served. For example, if there are no 2002 Program participants being reported, and no 2015 Program participants have been enrolled, the CSA will review case files from participants being reported and served under the 2009, 2011, Reversion 2014, and 2015 Programs. A minimum quarterly random sample of 20 cases should be audited and must include at least two certifications. The four quarterly samples within a calendar year should also cover at least four different areas of the state administering the program. If circumstances preclude a CSA from meeting these criteria, the CSA should contact the ETA Regional Office to design a monitoring program that better suits the TAA Program in that State, and make sure it is sufficient to ensure the accuracy and verifiability of such data.

I.3. Data Reporting

Statutory Change: Section 404 of the 2015 Act amends Section 239(j) to read:

(j) Performance Measures. –

(1) In general. – Any agreement entered into under this Section shall require the cooperating State or cooperating State agency to report to the Secretary on an annual basis comprehensive performance accountability measures, to consist of –

(A) the primary indicators of performance described in paragraph (2)(A);

(B) the additional indicators of performance described in paragraph (2)(B), if any; and

(C) a description of efforts made to improve outcomes for workers under the trade adjustment assistance program that promote efficiency and effectiveness.

(2) indicators of performance. –

(A) Primary Indicators of Performance. –

(i) IN GENERAL. – The primary indicators of performance referred to in paragraph (1)(A) shall consist of –

(I) the percentage and number of workers who received benefits under the trade adjustment assistance program who are in unsubsidized employment during the second calendar quarter after exit from the program;

(II) the percentage and number of workers who received benefits under the trade adjustment assistance program and who are in unsubsidized employment during the fourth calendar quarter after exit from the program;

(III) the median earnings of workers described in subclause (I);

(IV) the percentage and number of workers who received benefits under the trade adjustment assistance program who, subject to clause (ii), obtain a recognized postsecondary credential or a secondary school diploma or its recognized equivalent, during participation in the program or within 1 year after exit from the program; and

(V) the percentage and number of workers who received benefits under the trade adjustment assistance program who, during a year while receiving

such benefits, are in an education or training program that leads to a recognized postsecondary credential or employment and who are achieving measurable gains in skills toward such a credential or employment.

(ii) Indicator relating to credential. – For purposes of clause (i)(IV), a worker who received benefits under the trade adjustment assistance program who obtained a secondary school diploma or its recognized equivalent shall be included in the percentage counted for purposes of that clause only if the worker, in addition to obtaining such a diploma or its recognized equivalent, has obtained or retained employment or is in an education or training program leading to a recognized postsecondary credential within 1 year after exit from the program.

(B) Additional indicators. – The Secretary and a cooperating State or cooperating State agency may agree upon additional indicators of performance for the trade adjustment assistance program under this chapter, as appropriate.

(3) Standards with respect to reliability of Measures. – In preparing the annual report required by paragraph (1), each cooperating State or cooperating State agency shall establish procedures that are consistent with guidelines to be issued by the Secretary to ensure that the measures reported are valid and reliable.

(4) Accessibility of State Performance Reports. – The Secretary shall, on an annual basis, make available (including by electronic means), in an easily understandable format, the reports of cooperating States or cooperating State agencies required by paragraph (1) and the information contained in those reports.

Administration: Section 239(j) of the 2015 Act establishes five primary indicators of performance for TAA participants. These changes align the TAA Program performance indicators with those mandated under the WIOA. Accordingly, the changes to TAA performance indicators will not be immediately implemented, but will be implemented along with WIOA procedures as part of an integrated reporting process. Additional guidance will be issued to describe this process, and no action is needed by CSAs until that guidance is issued.

Until the new primary indicators of performance are implemented, quarterly outcome data is still required as part of the overall effort to improve the TAA Program, its performance, and worker outcomes. CSAs must continue to submit the following until the Department issues superseding forms and guidance: TAPR (OMB Control No. 1205-0932) in accordance with TEGL No. 17-05; TEGL No. 6-09 and its Changes 1 and 2; TEGL No. 15-10; TEGL No. 06-14 and future TEGLs addressing Data Validation and Performance Reporting Requirements and Associated Timelines; and TEGL No. 04-14.

J. HEALTH COVERAGE TAX CREDIT

Section 407 of the TAARA 2015 retroactively extends the 72.5 percent health

coverage tax credit, Section 35(b) of the Internal Revenue Code of 1986, as amended, through December 31, 2019, for eligible TRA and ATAA/RTAA recipients in the TAA Program. The IRS is currently reviewing the recently passed legislation and expects to provide guidance shortly. Check this IRS Webpage for updates: http://www.irs.gov/HCTC.