Trade Adjustment Assistance under the Trade and Globalization Adjustment Assistance Act of 2009 Policy

References:

The Trade and Globalization Adjustment Assistance Act of 2009; American Recovery and Reinvestment Act of 2009; the Trade Act of 1974, as amended; the Workforce Investment Act of 1998; Nebraska's Employment Security Law; State Plan; 20 CFR part 617; 29 CFR parts 90.18 and 90.19; 41 CFR part 301-11; Federal Register/Vol. 75, No. 63/April 2, 2010; TEGL 5-00; TEGL 21-00; TEGL 11-02; TEGL 16-02; TEGL 13-05**;** TEGL 22-08**;** TEGL 23-08; TEGL 01-10, Ch. 1; TEGL 16-10, Ch.1 and 2; TEGL 19-10; UIPL 12-11; TEGL 10-11; TEGL 14-14; TEGL 16-14; TEN 2-13; and TEN 15-13.

Background:

The Trade and Globalization Adjustment Assistance Act of 2009 signed into law on February 17, 2009 as part of the American Recovery and Reinvestment Act of 2009 amended the Trade Adjustment Assistance (TAA) program. Workers covered by petitions filed on or after May 18, 2009, and on or before February 14, 2011, identified by petition numbers between 70,000 and 79,999, are subject to the provisions of the 2009 Amendments and this TAA policy. The Recovery Act added a provision to improve the affordability of the Health Coverage Tax Credit (HCTC) by raising the tax credit to 80% of health insurance premiums beginning May 2009, through December 2010. The Omnibus Trade Act of 2010 extended the effective dates of the HCTC provisions through February 12, 2011. In addition, a program called Reemployment Trade Adjustment Assistance became available to workers 50 years of age or older. The Trade Adjustment Assistance Extension Act of 2011 (TAAEA) was signed into Law on October 21, 2011. The TAAEA retroactively reinstated a number of HCTC enhancements that were available to workers under the 2009 Program, and increased the credit rate from 65% under the 2002 Program to 72.5% reimbursement of health insurance costs for eligible participants. This HCTC is retroactive to February 13, 2011 for workers who were eligible during that time period. These benefits are provided at no expense to employers. As referenced in TEN 15-13, HCTC expired on January 1, 2014. Beginning January 1, 2014, every eligible TAA recipient will be responsible for paying their full health coverage premiums without HCTC; and all individuals will have a range of options in Health Insurance Marketplaces and may be eligible for new tax credits for health insurance or expanded Medicaid options.

The authorization for the TAA program was set to expire on December 31, 2014. However, Congress took action on December 13, 2014, by passing the FY 2015 Omnibus Appropriations Act, which was signed into law by President Obama on December 16, 2014. Termination provisions relating to the operation of the TAA program, as provided in TEGL 14-14, do not apply to the operation of TAA in FY 2015 (through September 30, 2015).

Action:

After the 10 day public review period, this policy is considered final. Questions and comments should be submitted in writing to Stan Odenthal, Policy Coordinator, stan.odenthal@nebraska.gov.

Policy:

As a required partner in the One-Stop-service delivery system, the TAA program is required to be accessible through American Job Centers.

Purpose of TAA

American workers whose jobs are lost as a result of increased imports or from a shift of production or services to any foreign country may apply for Trade Adjustment Assistance (TAA) under the Trade Act of 1974, as amended**.** TAA is federal assistance for U.S. Workers who are significantly harmed by foreign trade. TAA benefits are to help workers adjust to the employment problems resulting from increased foreign imports of products or services which directly compete with, or are like, those produced by the workers' company, causing a significant loss of U.S. jobs.

Full Operation of TAA Program in FY 2015

The FY 2015 Omnibus Appropriations Act has the effect of continuing the full operation of the TAA program through September 30, 2015. Full operation of the TAA program means:

- Cooperating State Agencies (CSA) Will continue to file and assist workers and others in filing a Petition for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA), Form ETA-9042 (or Form ETA-9042A), Rev. January 2014.

- The Office of Trade Adjustment Assistance (OTAA) will continue to conduct investigations of petitions filed with the Department of Labor (Department) before and after December 31, 2014.

- OTAA will issue determinations of group eligibility for workers covered by petitions filed from January 1, 2014, through September 30, 2015, based on the requirements of section 222 of the Trade Act under the Reversion 2014 program.

- Certifications of petitions filed after December 31, 2014, will allow those new groups of workers to apply for TAA benefits and services under the Reversion 2014 program.

- CSAs must continue to administer benefits (including ATAA and RTAA) and services to eligible workers under the 2002 program, the 2009 program, the 2011 program, and Reversion 2014.

Establishing Group Eligibility

Who May File A Petition

Petitions for TAA may be filed by a group of three workers from the same firm at the same job location, or a union official, or a state or local agency representative in a local American Job Center, or an employer official, or a legally authorized representative.

Time Limit For Filing A Petition

You must date and submit the Petition Form within **1 YEAR** from the date on which the workers were separated or had their hours or wages reduced.

Where To Get Petition Form
The TAA form is available at all American Job Centers, at the Nebraska Department of Labor (NDOL) Office of Employment and Training (OE&T) in Lincoln at (402) 471-9883, from the Unemployment Insurance TRA benefit staff in Lincoln at (402) 471-9896, or direct from the U.S. Department of Labor (USDOL) Employment and Training web site at http://www.doleta.gov/tradeact.

Where the Petition Form Is Filed
The state shall be prepared to assist petitioners in completing and filing petitions. The TAA petition must be filed simultaneously with both the USDOL in Washington, DC and the TAA Coordinator of the state where the firm is located. If the Petition Form includes firms in different states, copies of the completed Petition Form must be filed in each state where firms are located.

Fax the completed Petition Form to **202-693-3585, OR**

Mail the completed Petition Form to both USDOL and NDOL at:

U.S. Department of Labor
Office of Trade Adjustment Assistance
200 Constitution Avenue N.W.
Room N-5428
Washington, D.C. 20210

Nebraska Department of Labor
Office of Employment and Training
Attention: TAA Coordinator
550 South 16th Street
P.O. Box 94600
Lincoln, NE 68509-4600

If a petition is not received on the same day by both USDOL and NDOL, it will be considered to be filed on the date on which the petition was received by USDOL's Office of Trade Adjustment Assistance.

Criteria for Certification of Eligibility

The petition must satisfy three criteria:

1. A significant number or proportion of the workers in the workers' firm must have become totally or partially separated or be threatened with total or partial separation.
2. The second criterion is satisfied if either A or B below are satisfied:
   (A) (i) sales or production, or both, at the petitioning workers' firm must have decreased absolutely, and
   (ii)(a) imports of articles or services like or directly competitive with articles produced or services supplied by the petitioning workers' firm have increased; or (b) imports of articles like or directly competitive with articles into which the component part produced by the workers' firm was directly incorporated have increased; or (c) imports of articles like or directly competitive with articles which are produced directly using the services supplied by the workers' firm have increased; or (d) imports of articles directly incorporating component parts not produced in the U.S. that are like or directly competitive with the article into which the component part produced by the workers' firm was directly incorporated have increased.
   (B) (i)(I) there has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm; or (II) there has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm.
3. The increase in imports or shift/acquisition must have contributed importantly to the workers' separation or threat of separation.

Adversely Affected Workers in Public Agencies
A group of workers in a public agency shall be certified by the Secretary as eligible to apply for adjustment assistance pursuant to a petition filed under section 221 if the Secretary determines that:

1. a significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;
2. the public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and
3. the acquisition of services described in paragraph 2 contributed importantly to such workers' separation or threat of separation.

Adversely Affected Secondary Workers
Workers of a firm can be certified as eligible to apply for adjustment assistance because the workers are secondarily affected – workers who supply components parts for articles, or services, used in the production of articles or in the supply of services (upstream) to a firm whose workers are certified (primary); or workers who perform additional, value-added production processes or services including finishing operations (downstream) for a firm whose workers are certified (primary). The 2009 Amendments allow for secondary worker coverage based on certifications of workers in service sector firms. In all cases, there must have been a loss of sales to the certified firm.

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. The secondary-worker coverage applies only to workers employed by firms in the first tier. The component parts or services the supplier supplied to the primary firm must either account for at least 20% of the production or sales of the supplier, 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.

The term "downstream producer" means a firm that performs additional, value-added production processes or services directly for another firm for articles or services with respect to which a group of workers in such other firm has been certified. Value-added production processes or services include final assembly, finishing, testing, packaging, or maintenance or transportation services. The term "supplier" means a firm that produces and supplies directly to another firm component parts for articles, or services, used in the production of articles or in the supply of services that were the basis for a certification of eligibility of a group of workers employed by such other firm.

Firms Identified by the International Trade Commission
A group of workers covered by a petition filed under section 221 shall be certified as eligible to apply for adjustment assistance if:

1. The workers' firm is publicly identified by name by the International Trade Commission (ITC) as a member of a domestic industry in an investigation resulting in a finding of injury or market disruption under section 202(b)(1), section 421(b)(1), section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930.
2. The petition is filed within one year after the date on which a summary of the ITC's report to the President, or the ITC's affirmative finding, is published in the Federal Register.
3. The workers of the firm identified in 1 (above) have become totally or partially separated from the workers' firm no more than one year before the publication date of the Federal Register notice described in 2 (above) and no later than one year after that date.

Petition Fact-Finding Process

When the TAA petition is received, the USDOL Trade Adjustment Assistance Program conducts a fact-finding investigation. OE&T shall assist the Secretary in the review of the petition by verifying such information and providing other assistance as the Secretary may request. This investigation determines whether a significant number or proportion of the workers of the firm have become totally or partially separated or are threatened to become totally or partially separated, and whether imports or a shift in production or services to a foreign country contributed importantly to these actual or threatened separations and to a decline in sales or in production of articles or supply of services. Workers in public agencies may also qualify for assistance where an agency has acquired from a foreign country services like or directly competitive with the services the agency supplies. It is USDOL's responsibility to investigate the facts. They are required to make an eligibility determination within 40 days after a petition is filed. If the petition is approved and the workers are certified as eligible to participate in the TAA program, workers covered by a certification may contact their state workforce agency to apply for individual services and benefits. These benefits are provided at no expense to employers.

When a decision has been made by USDOL, the certification or denial is sent to the Nebraska Commissioner of Labor and the Trade Unit. The Secretary of Labor publishes a summary of the determination in the Federal Register and on USDOL's website (www.doleta.gov/tradeact/taa/taa_search_form.cfm) together with the Secretary's reasons for making such determination.

Establishing Individual Eligibility

The Trade Unit in OE&T upon notice of a certification shall provide each affected worker covered by a TAA certification with written notice of the certification, what TAA program benefits and services are available, and how to apply for those services as soon as possible. The state shall obtain from the firm, or other reliable source, the names and addresses of all workers who were or became totally or partially separated before the state received the certification and within the certification period, as well as workers subsequently separated during the certification period. Because of the statutory expansion of the TAA training benefit to adversely affected incumbent workers, the new Secretary/Governor Agreement requires NOE&T to notify these workers of their possible entitlement to TAA-training as soon as possible before their partial or total separations. Thus, OE&T must identify, through the firm or other reliable source, the names and addresses of all adversely affected incumbent workers to permit the determination of whether a worker is individually threatened with separation. Accordingly, OE&T must request a separate list of workers who are threatened with separation at the same time they request the list of adversely affected workers from the employer.

A certification shall not apply to any worker whose last total or partial separation from the firm before the workers' application for trade readjustment allowance occurred more than one year before the date of the petition on which such certification was granted.

Each certification contains an "impact date," which identifies when layoffs or reduction in work schedules began. Certifications also contain a "termination date." Generally, the certification covers all members of the worker group who are laid off or threatened with layoff during the three-year period beginning one year before the petition was filed and ending two years after the date of the certification.

OE&T shall ensure a published notice of the certification is placed in the newspaper in the areas where the certified workers reside or issue written notices to each affected individual.

There is a special rule with respect to military service. Under the Amendments, the new section 233(i) makes returning service members "whole," as if the period of military service had not occurred. The provision allows workers called up for active duty military or full-time National Guard service to restart the TAA enrollment process after completion of military service. This provision will apply to any returning service member who either: (1) served on active duty in the Armed Forces for a period of more than 30 days under a call or order to active duty of more than 30 days; or (2) in the case of a member of the Army National Guard of the United States or Air National Guard of the United States, performed full-time National Guard duty under 32 U.S.C. 502(f) (regarding required drills and field exercises) for 30 consecutive days or more when authorized by the President or the Secretary of Defense for the purpose of responding to a national emergency declared by the President and supported by Federal funds. Under section 233(i)(2), this "make-whole" provision applies only if the worker's period of duty occurs before the worker completes a training program approved under section 236. However, the worker need not have already enrolled in or in fact have begun training before the worker's period of duty began for this provision to apply. Upon separation, these individuals are eligible to receive TRA, training, and other benefits in the same manner and to the same extent as if the worker had not served the period of duty.

Under section 1137(d) of the Social Security Act, states are required 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. All users of the SAVE program must verify the immigration status of all non-citizen applicants in order to avoid discrimination. Participants obtain immigration status information through the SAVE program's Verification Information System (VIS). This VIS is a Web-based application that queries an immigration database containing information on more than 60 million non-citizens. When a user agency submits a status verification request, the system provides the applicant's immigration status within seconds. The system also gives the user a way to submit additional information electronically to an Immigration Status Verifier (ISV) when further research is necessary. 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 state determines constitutes reasonable evidence indicating a satisfactory immigration status." A system must be in place for alerting staff of the expiration of satisfactory immigration status during the time the individual is potentially eligible for benefits. This may be done by modifying 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, this requirement applies to all benefits under the TAA program, and not just TRA benefits. It is necessary to 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. Additionally, one of the six conditions for approval of training is that there be "a reasonable expectation of employment following completion of... training." At the time of application, a training program is not approvable if the individual is not eligible to work at least one day following completion of training.

It is recommended that all dislocated workers go to their local American Job Center even if they are awaiting a decision on TAA certification. Core services are available and will be tracked on NEworks. Eligibility may be determined for the WIA Title I Dislocated Worker program and when participants begin receiving WIA-funded intensive and training services, they shall be tracked on NEworks. Immediately beginning the process of needs assessment improves participation rates and allows individuals more time to consider all of the options available to them. This is particularly critical due to the time lapse that could occur while awaiting TAA petition determinations. It is important the individual calls their Unemployment Insurance Claim Center where their parent claim resides to file an application for an eligibility determination to receive Unemployment Insurance benefits and/or Trade Readjustment Allowances (TRA) payments.

Adversely Affected Worker
An adversely affected worker is an individual who, because of lack of work in adversely affected employment, has been totally or partially separated from such employment.

A voluntary quit can, under some circumstances, be a "lack of work" separation for purposes of qualifying as an adversely affected worker who may apply for Trade Adjustment Assistance.

Adversely Affected Incumbent Worker

The 2009 Amendments provide that training may be approved before separation for adversely affected incumbent workers. This provision defines an adversely affected incumbent worker as a worker who: (1) is a member of a group of workers that has been certified as eligible to apply for TAA benefits, (2) has not been totally or partially separated from employment and thus does not have a qualifying separation, and (3) is determined to be individually threatened with total or partial separation. This includes individuals who have received a notice of termination or layoff from employment as a result of any permanent closure or any substantial layoff at a plant, facility or enterprise. Nebraska's "Eligibility for Dislocated Workers" policy defines "substantial layoff" as any reduction in force which is not the result of a plant closure, and which results in an employment loss at a single site of employment during any 30 day period for at least 50 employees (excluding employees regularly working less than 20 hours per week). Nebraska's "Eligibility for Dislocated Workers" policy defines a general announcement of a planned closure as any document or statement, released by an official of the company, which specifies intent to close any employment site. A general announcement can be substantiated by a copy of the company document, a confirmed news/press release, or confirmed newspaper/magazine article. Confirmation must include the name and title of the company official, location of the facility, and the planned closure date. A WARN notice of planned closure may be considered a general announcement. This documentation of a threat of total separation from the firm is useful in making a determination that a worker is an adversely affected incumbent worker entitled to pre-separation training.

Workers threatened with total or partial separation from adversely affected employment may begin TAA-approved training before the date of that separation. TAA pre-separation training is intended to allow earlier intervention where layoffs are planned in advance and the employer can specifically identify which workers will be affected. Adversely affected incumbent workers may begin training prior to layoff, thereby lessening the amount of time needed to complete the training program after the separation occurs, and lessening the worker's overall length of unemployment. The criteria and limitations for approval of training for adversely affected incumbent workers are the same as they are for adversely affected workers; except for on-the-job training or customized training (unless such training is for a position other than the worker's adversely affected employment.) Adversely affected incumbent workers, like adversely affected workers, are entitled to employment and case management services to ensure they have the same assistance in developing a reemployment plan and choosing training. OE&T must ensure the training being provided is for a different position than the worker's current position if the training is being provided under agreement with the worker's current employer. An incumbent worker may receive pre-separation training for another position with the worker's current employer, but only if the position is not similarly threatened by trade, i.e. the new position is outside of a subdivision with a trade-certified worker group.

OE&T must evaluate whether the threat of total or partial separation continues to exist for the duration of the pre-layoff training. This can be accomplished by verifying with the employer that the threat of separation still exists before each subsequent portion of the training is funded. If the threat of separation is removed during a training program, funding of the training must cease. The

worker would be eligible to complete any portion of the training program where TAA funds have already been expended, but would not be eligible for further TAA funding of the training program in the absence of a threatened or actual separation from the adversely affected employment. The worker may resume the approved training program upon the resumption of the threat or in the event of a total qualifying separation, if the six criteria for approval of the training under Section 236(a)(1) are still met.

In accordance with 20 CFR Section 617.22(f)(2), a worker is permitted to have approval of one training program per certification. A training program begun prior to separation counts as the one training program, and the training plan should be designed to meet the long-term needs of the worker based on the expectation they will be laid off. The training program should also take into account the availability of up to 156 weeks of training. Thus, while a pre-separation training program may be resumed, a worker who has participated in pre-separation training will not be eligible for a new and different training program.

Early Intervention Services

Early intervention services including rapid response assistance and appropriate core and intensive services, as described in Section 134 of WIA, shall be made available to the workers covered by the petition to the extent authorized under the WIA and other Federal laws. Early intervention services that will be beneficial to potential trade-affected workers continue to be a priority and may include, but are not limited to, orientation, surveying the workers, initial assessment of skill levels, aptitudes, and abilities, the provision of labor market information, job search assistance, stress management, and financial management workshops. Reemployment Services (RES) should also be utilized when appropriate. Trade Adjustment Assistance staff are encouraged to work with WIA staff to align resources and develop clear plans for coordination. In most instances, the Rapid Response informational meeting(s) shall be held in the city where the affected workers worked. These meetings outline the TAA services available.

Co-enrollment

Co-enrollment means enrollment in more than one program at a time, such as, concurrent enrollment in the WIA Dislocated Worker program and the TAA program. Since most trade-impacted workers are by definition dislocated workers for the purposes of WIA Title I, it is recommended that these individuals enter the One-Stop service delivery system immediately following the announcement of a layoff. Once the certification has been issued, workers shall be informed that they are covered by this certification and are eligible to apply for TAA benefits. Since NEworks is an integrated Management Information System, one record is established for each participant and multiple program services (including Wagner-Peyser, WIA, Rapid Response, WIA Dislocated Worker, and Trade Adjustment Assistance) shall be attached to that record in an integrated manner, as needed. For co-enrolled individuals receiving WIA-funded intensive services and training exclusively funded by TAA, there is no requirement to use providers certified as eligible providers. All partner staff shall continue to work together and use the systems and processes in place to serve the adult and dislocated worker populations, rather than using a parallel process that duplicates services available through the One-Stop system. Memoranda of understanding between Local Boards and the Trade Act programs may serve as vehicles for articulating opportunities for coordination among programs. By concurrently enrolling these workers in multiple programs, a broader range of resources are available to the dislocated worker.

Supportive Services

Participants may be co-enrolled if they would benefit from WIA supportive services. Supportive services include services such as transportation, child care, dependent care, housing, and needs-related payments, necessary to enable an individual to participate in core, intensive, or training services authorized under WIA Title I. Local Boards, in consultation with the American Job Center

partners and other community service providers, must develop a policy on supportive services that ensures resource and service coordination in the local area.

Coordination
If the TAA program funding sources for provision of employment and case management services to workers in the TAA program are insufficient to meet the requirement that these services be offered to all adversely affected workers and adversely affected incumbent workers, OE&T must make arrangements to assure that funding under the WIA or another program is available to provide those services. In the event local WIA funds are exhausted, OE&T will apply for a National Emergency Grant to replenish funds. Multiple enrollment resources may include Wagner-Peyser activities, faith-based and community-based programs, vocational rehabilitation services, and veterans' programs.

The Trade Unit and Trade Readjustment Allowance benefit staff shall work together to meet data collection, storage, and reporting requirements. To reinforce pursuit of the program performance goals and ensure clear and uniform procedures are followed, state performance management training or meetings shall be held and include participation of State Trade Coordinator and TRA benefit staff. The State Trade Unit shall capture and report information related to a participant's ongoing participation in training or waiver status to the TRA benefit payment staff.

Benefits and Services

Reemployment Services
Reemployment services are available to assist unemployed or partially unemployed workers at the local American Job Center. These reemployment services may include counseling, vocational testing, labor market information, job seeking assistance, job placement and supportive services. TAA individuals may be co-enrolled in the WIA or Wagner-Peyser (WP) programs, and receive these services from WIA or WP.

Employment and Case Management
The following employment and case management services must be offered to all adversely affected workers and adversely affected incumbent workers covered by a certification:

- Comprehensive and specialized assessment of skill levels and service needs, including diagnostic testing and use of other assessment tools and in-depth interviewing and evaluation to identify employment barriers and appropriate employment goals.
- Development of an individual employment plan (IEP) to identify employment goals and objectives, and appropriate training to achieve these goals and objectives.
- Information on training available in local and regional areas, information on individual counseling to determine which training is suitable training, and information on how to apply for such training.
- Information on how to apply for financial aid, including referring workers to educational opportunity centers described in section 402F of the Higher Education Act of 1965, where applicable, and notifying workers that they may request financial aid administrators at institutions of higher education to use the administrators' discretion under section 479A of such Act to use current year income data, rather than preceding year income data, for determining the amount of need of the workers for federal financial assistance under Title IV of such Act.
- Short-term prevocational services, including development of learning skills, communications skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct to prepare individuals for employment or training.
- Individual career counseling, including job search and placement counseling, during the period in which the individual is receiving a trade adjustment allowance or training, and for purposes of job placement after receiving such training.

- Provision of employment statistics information, including the provision of accurate information relating to local, regional, and national labor market areas, including: job vacancy listings in such labor market areas; information on jobs skills necessary to obtain jobs identified in job vacancy listings; information relating to local occupations that are in demand and earnings potential of such occupations; and skills requirements for local occupations in demand.
- Information relating to the availability of supportive services, including services relating to child care, transportation, dependent care, housing assistance, and need-related payments that are necessary to enable an individual to participate in training.

These services must be made available to workers over the course of their participation in the TAA program, in an integrated manner that suits their individual needs at a particular time. OE&T should minimize the extent to which they establish new or stand alone employment and case management structures for TAA program participants where these services are available within the workforce development system. Rather, OE&T should fully integrate TAA participants and resources into the One-Stop system, thereby maximizing and enhancing existing employment and case management structures. OE&T must demonstrate it has provided or offered these services either in a paper-based case file or in an electronic case management system, which must be available for review. Additionally, the case management file of each participant must demonstrate that the OE&T notified each worker of his/her enrollment in training deadlines.

Job Search Allowances
Job search allowances are payments made to TAA certified workers who are totally laid off and cannot obtain suitable employment within their commuting area. The allowance for reimbursement may equal 100% of necessary job search expenses, based on a per diem rate (transportation, hotel, meals), up to a maximum of $1,500. This reimbursement to affected workers is paid for expenses incurred, while participating in a pre-approved job search program.

The cost allowable for lodging and meals shall not exceed the **lesser** of the actual cost to the individual of lodging and meals while engaged in the job search; or 50 percent of the prevailing per diem allowance rate authorized under the Federal travel regulations (see 41 CFR part 101-7) for the locality where the job search is conducted. [20 CFR § 617.34(a)(2)].

There are time limits for job search allowances. The application for the allowance is the later of (1) the 365th day after the date of certification OR (2) the 365th day after the date of the worker's last total separation OR (3) the date that is the 182nd date on which the worker concluded training. The TAA certified worker must apply (file an application) before beginning their search for work. The participant must supply a printout from a web-based mapping service such as MapQuest of the route traveled to the TAA case manager because travel must be outside the commuting distance of 25 map miles (one way) to be reimbursed. Authorization for the job search allowance is only for travel within the United States.

Relocation Allowances
If the certified worker is successful in obtaining employment outside their normal commuting area, the TAA program offers financial assistance for the individual to relocate to their new area of employment. Outside the normal commuting area is defined as more than 50 miles one way using a web-based mapping service such as MapQuest from current address to new address.

When it is determined no suitable work is available in the certified worker's normal commuting area, a relocation allowance application may be approved if:

- the certified worker has obtained “suitable employment” affording a reasonable expectation of long-term duration or a bona fide offer of such work in another area (must be in the United States); and
- the individual has not previously received a relocation allowance under the same certification; and
- the individual is totally separated from certified employment at the time of relocation. (Partially separated workers may apply in anticipation of total layoff.)

A relocation allowance pays 100% of the reasonable and necessary expenses of moving the certified worker, their family, and their household goods (not to exceed the weight limit authorized in Federal travel regulations) to the new location. Additionally, the certified worker will receive a lump sum payment equal to three times their average weekly wage, up to a maximum of $1,500, to help them get settled. An application for relocation allowance must be filed and approved by the Regional Manager before the individual moves.

A bona fide offer must be verified by a letter from the new employer.

There are time limits for filing an application for relocation allowances. The application for relocation allowance must be filed within 425 days after the date of certification or last total layoff, whichever is later; and the individual must begin to relocate within 182 days after applying for a relocation allowance, or within 182 days after completing approved training.

The cost allowable for lodging and meals for an individual or each member of the individual's family shall not exceed the **lesser** of the actual cost to the individual for lodging and meals while in travel status; or 50 percent of the prevailing per diem allowance rate authorized under the Federal travel regulations (see 41 CFR part 101-7) for the locality to which the relocation is made. [20 CFR § 617.46(a)(2)].

Waivers of Training

Waivers of training are a result of a finding that it is not feasible or appropriate to approve a training program for a worker because of one or more of the following reasons:

1. **Recall** - The worker has been notified that he/she will be recalled by the firm from which the separation occurred.
2. **Marketable Skills** - The worker possesses marketable skills for suitable employment and there is a reasonable expectation of employment at equivalent wages in the foreseeable future. The term “marketable skills” may include the possession of a postgraduate degree.
3. **Retirement** - The worker is within 2 years of meeting all requirements for entitlement to either old-age insurance benefits under Title II of the Social Security Act or a private pension sponsored by an employer or labor organization.
4. **Health** - The worker is unable to participate in training due to his/her health. A waiver of training due to health reasons shall not be construed to exempt the 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.
5. **Enrollment Unavailable** - The first available enrollment date for the approved training of the worker is within 60 days after the date of the "enrollment unavailable" determination, or, if later, there are extenuating circumstances for the delay in enrollment, as determined pursuant to guidelines issued by the Secretary.
6. **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 Vocational and Technical Education Act of 1998, and employers), no training that is suitable for the worker is available at a reasonable cost, or no training funds are available.

A preliminary assessment of each trade affected worker's skills must be carried out to identify workers for whom immediate enrollment in training is appropriate. The completed assessment of pre-training skills must be included in each worker's case file. Except where such an assessment of a worker clearly indicates a need to enroll in training immediately, it is generally appropriate to seek a waiver request under the marketable skills condition. This waiver would allow some period of job search and avoid removing some workers prematurely from the labor force and investing training resources that may not be necessary to helping a worker obtain reemployment. All waivers (except for Retirement) must be reevaluated 3 months after the date issued and every 28 days for the duration of the waiver period. If the waiver is issued on the basis of marketable skills, the reevaluation will take into account the reasons the individual has been unable to obtain employment during the job search. If the difficulty finding work is attributed to skill deficiencies, the waiver may need to be revoked with the worker immediately enrolled in training. It is important the individual continue to receive appropriate case management services during the waiver period to ensure progress continues to be made toward meeting the individual's reemployment plan. Information related to waiver status shall be shared with the TRA benefit payment staff since changes may impact continued receipt of weekly benefits, if available.

Waivers are limited to a maximum duration of six months unless an extension is authorized by the State Trade Unit. This means a waiver issued during a worker's UI period often will not cover the worker's entire entitlement to basic TRA. In cases where it is necessary to cover the worker's full entitlement to basic TRA, the state may extend a worker's waiver beyond six months.

Training

If there are no suitable jobs in the area and training would improve the chances of getting a job, the adversely affected worker or an adversely affected incumbent worker may be eligible for full-time or part-time TAA funded training, although full-time training is required for TRA eligibility. Training opportunities may include: employer-based training including on the job training (OJT), customized training (except that OJT and customized training may not be approved for affected incumbent workers unless such training is for a position other than the worker's adversely affected employment), and registered apprenticeship programs; any training program provided by a state pursuant to Title I of WIA; any local board approved training; any program of remedial education or program of prerequisite education or coursework required to enroll in training; any federal or state funded training program; any training program or coursework at an accredited institution of higher education (including training to obtain or complete a degree or certificate program); and any other training program approved by the Secretary.

When a petition has been certified, funded training may be approved using TAA resources if the following six conditions are met:

- There is no suitable employment available now or in the foreseeable future.
- The worker would benefit from training and has the capabilities to successfully complete the training.
- There is a reasonable expectation of employment following training completion.
- Approved training is reasonably available within the worker's commuting area.
- The worker is qualified to start and complete training successfully considering the worker's overall financial resources.

- Training is suitable and available at a reasonable cost. Training may not be approved when the costs of the training are unreasonably high in comparison with the average costs of training other workers in similar occupations at other providers. If the worker volunteers to use other funds to supplement the TAA training funds when the cost of training is otherwise not reasonable, the training program will be approved, if the other training approval criteria are met. However, personal funds of the participant shall not be used to pay for any portion of their training program.

Suitable employment is defined for this criterion as 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% of the worker's average weekly wage.

Each trade-affected worker must be provided the necessary information to enable them to make an informed choice among approvable training options, regardless of the worker's language or educational abilities. When a worker's education and language abilities are limited, careful case management at the training selection stage and during training is essential.

Workers who qualify for Trade Act training must be provided general information about available training programs, including access to labor market information, wage information and web sites which may inform participants of the types of training available. Documentation to demonstrate all of these requirements have been satisfied must be kept in the case file.

20 CFR 617.22(f)(2) limits the maximum length of approvable training to 104 weeks (during which training is conducted) so that a training program would not extend too far beyond the worker's TRA. The 2009 Act provides up to 26 more weeks of additional TRA to workers for a potential total of 130 weeks of income support for most workers, as well as up to 26 more weeks for workers who require either remedial education or prerequisite training for a total of up to 156 weeks of available income support. Training may extend beyond the weeks of TRA available to the individual worker, if the worker demonstrates a financial ability to complete the training after the expiration of the worker's TRA eligibility period. Most workers will not have 156 or 130 weeks of income support available at the beginning of training; rather most workers will have used some weeks of income support, such as 26 weeks or more of UI.

If the approved training meets all of the requirements of the Trade Act and regulations, including the requirement for the training to be available at a reasonable cost, a worker has a right to choose to enroll in more expensive training that is of demonstrably higher quality or that may be expected to produce better results for the worker in quickly returning to suitable employment even when lower cost training is available to the worker. The approved training program must be a program that provides the necessary skills to return the participant to work. Prior to training approval, each worker's case file must identify what occupation the worker is being trained to enter.

In approving training, the OE&T must consider cost, suitability for the worker, and quality and results. If training is approved, payment will be made through an Individual Training Accounts (ITA) voucher or directly to the school, unless training costs are paid or are reimbursable under another federal law. Locals are encouraged to select training providers that have met the qualifications necessary to be included in the statewide Eligible Training Provider List. However, the amendment of Section 236(a)(5) of the 2002 Act expressly provides that training options available under the TAA program are not limited to training programs available under Title I of WIA. Personal funds of the participant shall not be used to pay for any portion of their training program. Duplicate payment of training cost is prohibited.

When individuals are enrolled in a TAA program, the maximum amount of funds expended for training costs shall not exceed $14,000 per eligible participant. However, training options shall not be based solely on the state training cap. Exceptions to the limitation may be considered when the training requested is available at a reasonable cost and particularly suitable for the individual situation as demonstrated by back-up documentation provided by the case manager. When an exception is being requested by the local area, the request and back-up documentation must be sent to the OE&T, Attention: Trade Unit, 550 S. 16th, Lincoln, NE 68509. The final decision for either approval or disapproval of an exception is determined by the Nebraska Commissioner of Labor. This limitation also applies when co-enrollment is involved. Although through co-enrollment additional resources may be available, the total training costs shall not exceed $14,000 per eligible participant. The cost of other services, i.e., allowable travel, relocation, job search assistance, etc. shall not be applied towards the training costs.

It is not appropriate to use Trade Act funds to pay for the development of a training provider or program, curriculum development, teacher training or physical plant needs.

If training is not within 25 miles of home [one way using map miles], supplemental assistance is available for transportation cost based on the prevailing federal per diem mileage rates, under the federal regulations. A printout from a web-based mapping service such as MapQuest of the route traveled by the participant must be included in their file to document the mileage. The mileage printout must be submitted every time a mileage request is made for supplemental assistance funds.

The cost allowable for lodging and meals for an individual attending training at a location exceeding 25 miles from their home, shall not exceed the **lesser** of the individual's actual per diem expenses for subsistence; or 50 percent of the prevailing per diem rate authorized under Federal travel regulations (see 41 CFR part 101-7) for the locale of the training. [20 CFR § 617.27(b)]

Trade Act funds may be used for a participant's "training consumables," i.e. paper, pens, calculators and other items that are training related and directly support the completion of the course. The participant will need to provide documentation of the need for the training consumables requested. This requirement may be completed by the submission of a course syllabus or email from a professor outlining needed items. The amount used to purchase training consumables may not exceed $50 per training term and must be included in, and not in addition to, the $14,000 training cap. Exceptions to the limitation may be considered with appropriate justification and documentation and must be approved by the Office/Regional Manager. For payment processing purposes all receipts must be kept and signed by the participant for all training consumables purchased.

Unemployment Insurance and TAA Benefits While in Training

The 2009 Amendments amended Section 236(d) of the 2002 Act to clarify that an adversely affected worker may not be determined to be ineligible or disqualified for unemployment insurance or program benefits under TAA because:

1. the worker:
    - is enrolled in TAA approved training;
    - left work that was not suitable employment in order to enroll in such training; or the worker engaged in on a temporary basis during a break in such training or a delay in the commencement of such training; or
    - left on-the-job training not later than 30 days after commencing such training because the training did not meet the requirements of Section 236(c)(1)(B). That section provides for the approval of OJT where the NOE&T determines it can reasonably be expected to lead to suitable employment with the employer offering the OJT; is

compatible with the skills of the worker; includes a curriculum through which the worker will gain the knowledge or skills to become proficient in the job for which the worker is being trained; and can be measured by benchmarks that indicate the worker is gaining the knowledge or skills; or

2. because of the application to any such week in training of the provisions of state law or Federal unemployment insurance law relating to availability for work, active search for work, or refusal to accept work.

Income Support and TRA Payments

Individuals may be eligible for Trade Readjustment Allowances (TRA). In order to qualify for TRA, a worker must be enrolled in training (or have a waiver of training) within 26 weeks after certification or layoff, whichever is later. In determining a worker's eligibility, the requirement that workers be either enrolled in approved training or covered by a training waiver in order to receive TRA does not apply for weeks that occur prior to the training enrollment deadline. In many cases, the 26 week deadline for a worker will be reached while the worker is still receiving unemployment insurance (UI). Since some workers are not aware this deadline may apply before they exhaust their UI, workers are to be informed of these requirements and the OE&T must document its efforts to notify workers of the enrollment deadlines. [There is an exception allowed to the enrollment deadlines where the worker did not enroll by the deadlines because the OE&T failed to provide the worker with timely information regarding the training enrollment deadlines. In that event, the Secretary of Labor has determined the worker must be enrolled in training or receive a waiver by the Monday of the first week occurring 60 days after the date on which the worker was properly notified of both his/her eligibility to apply for TAA and the requirement to enroll in training absent a waiver of the training requirement.] States may grant an extension to the deadline for enrollment for up to 45 days if there are extenuating circumstances. "Extenuating circumstances" are circumstances beyond the control of the worker that could arise when training programs are abruptly cancelled, as well as in cases where a worker suffers injury or illness preventing participation in training, or other events where the state can justify and document that the application of extenuating circumstances is warranted. An extension of 45 days for extenuating circumstances shall only be granted through the EO&T at NDOL. Workers who have received a training waiver must be enrolled in training by the Monday of the first week occurring 30 days after the date on which the waiver terminated, whether by revocation or expiration. "Enrolled in training" means the worker's application for training has been approved by the Regional Manager and the training institution has furnished written notice to the Regional Manager that the worker has been accepted into the approved program which is to begin within 30 days of such approval. Entitlement to unemployment insurance includes regular unemployment compensation and Extended Benefits (EB) and Temporary Extended Unemployment Compensation (TEUC). If an individual is eligible to receive EUC payments, this is received in lieu of Basic TRA benefits.

Since eligibility for TRA shall be determined by the TRA benefit staff, it is recommended the individual going into training apply for TRA when their UI claim is filed. If the certified worker (with a qualifying separation) is not approved for TRA, they still remain eligible to apply for other TAA services.

The Unemployment Insurance staff at the Claim Center (402-458-2500, or for TDD service 402-471-0016) shall advise individuals from certified companies on how to apply for TRA benefits. The TRA payments are intended only for workers who are enrolled in approved full time training unless a waiver has been granted.

In order to receive payment of TRA for any week of unemployment, the worker must be adversely affected, be covered by a group certification, apply for TRA payments in a timely fashion; and meet all of the following requirements:

1. Their first qualifying separation from affected employment must have occurred on or after the impact date and before the expiration of the 2-year period beginning on the date of the certification.
2. During the 52 week period ending with the total or partial separation, they must have been employed at least 26 weeks at wages of $30 or more per week in an affected job.
3. The individual must have been entitled to and exhausted all UI benefits, except additional compensation that is funded by a state and is not reimbursed from any federal funds, and that the worker would not be disqualified for extended compensation payable under the Federal-State Compensation Act of 1970 by reason of its work search and job search requirements. [Note: Section 232(d) allows the worker to elect to receive TRA instead of UI for any week where the worker meets two conditions: The worker is entitled to receive UI as a result of a new benefit year based in whole or in part upon part-time or short-term employment in which the worker engaged after the worker's most recent total separation from adversely affected employment; and the worker is otherwise entitled to TRA.]
4. The individual must be enrolled in TAA approved training, be academically successful, and provide appropriate school documentation at regular intervals. A waiver of training may be granted if appropriate. [Note: In determining a worker's eligibility, the requirement that workers be either enrolled in approved training or covered by a training waiver in order to receive TRA does not apply for weeks that occur prior to the training enrollment deadline.]

For those who qualify for TRA benefits, their eligibility for **Basic TRA benefits** is the 104-week period (or, in the case of an adversely affected worker who requires a program of prerequisite education or remedial education in order to complete training approved for the worker, the 130-week period) beginning with the first week, which follows the week of their most recent total separation within the certification period. This does not mean the individual receives TRA benefits for 104 weeks. The maximum amount of TRA benefits an individual may receive during this period is limited to 52 times their weekly TRA amount minus all UI benefits (including federal extended unemployment compensation) which they were entitled to receive.

Prerequisite education is coursework the training institution requires for entry into the approved training program. Remedial education is defined as training in the elementary skills that every worker must have in order to achieve basic reemployability. Remedial training should be considered pre-vocational; that is, it leads to occupational, on-the-job, or customized training that will equip the participant with specific job skills. Wherever practical, remedial training should be conducted concurrently with the early parts of occupational training. Examples of remedial education are basic writing and mathematical skills training, English as a Second Language (ESL), and courses leading to a G.E.D.

TRA is not payable to workers participating in on-the-job training.

Additional TRA are weekly benefits paid to eligible workers to help them complete their TAA approved training program. Under the Trade Adjustment Assistance (TAA) program, individuals may be eligible to receive TRA for up to 78 additional weeks in the 91 week eligibility period that follows the last week of (basic) TRA entitlement; or begins with the first week of such training. Under the 2009 Amendments, the worker is allowed to not claim benefits during up to 13 weeks without losing any weeks of benefits. These dollars are only available if they are participating in a TAA approved training program.

The 2009 Amendments amended Section 233(h) to allow for an extension of these periods for "justifiable cause," meaning circumstances determined to be beyond the worker's control by the OE&T. In making this determination, the OE&T will apply Nebraska's "good cause" law applicable to the administration of the State's UI laws. These extensions may only be made by the OE&T and the circumstances for making these decisions must be documented.

Section 48-628.01 of Nebraska's Employment Security Law states: "Good cause for voluntarily leaving employment, defined. Good cause for voluntarily leaving employment shall include, but not be limited to, the following reasons:

(1) An individual has made all reasonable efforts to preserve the employment but voluntarily leaves his or her work for the necessary purpose of escaping abuse at the place of employment or abuse as defined in section 42-903 between household members;

(2) An individual left his or her employment voluntarily due to a bona fide non-work-connected illness or injury that prevented him or her from continuing the employment or from continuing the employment without undue risk of harm to the individual;

(3) An individual left his or her employment to accompany his or her spouse to the spouse's employment in a different city or new military duty station;

(4) An individual left his or her employment because his or her employer required the employee to relocate;

(5) (a) An individual is a construction worker and left his or her employment voluntarily for the purpose of accepting previously secured insured work in the construction industry if the commissioner finds that:

(i) (A) The quit occurred within 30 days immediately prior to the established termination date of the job which the individual voluntarily leaves,

(B) the specific starting date of the new job is prior to the established termination date of the job which the worker quits,

(C) the new job offered employment for a longer period of time than remained available on the job which the construction worker voluntarily quit, and

(D) the worker had worked at least 20 days or more at the new job after the established termination date of the previous job unless the new job was terminated by a contract cancellation; or

(ii) (A) The construction worksite of the job which the worker quit was more than 50 miles from his or her place of residence,

(B) the new construction job was 50 or more miles closer to his or her residence than the job which he or she quit, and

(C) the worker actually worked 20 days or more at the new job unless the new job was terminated by a contract cancellation.

(b) The provisions of this subdivision (5) shall not apply if the individual is separated from the new job under conditions resulting in a disqualification from benefits under subdivision (1) or (2) of section 48-628;

(6) An individual accepted a voluntary layoff to avoid bumping another worker;

(7) An individual left his or her employment as a result of being directed to perform an illegal act;

(8) An individual left his or her employment because of unlawful discrimination or workplace harassment on the basis of race, sex, or age;

(9) An individual left his or her employment because of unsafe working conditions; or

(10) Equity and good conscience demand a finding of good cause."

While participating in training, individuals may experience a break in their training and still receive basic and additional benefits if:

- the break from school does not exceed 30 days; and
- they were in training prior to the break and returned immediately after the break; and
- the break was part of the school/training schedule.

TRA benefits may be denied, **IF**:

- The individual does not file an application within the specified time frame.
- The individual fails to make satisfactory progress in their training program.

- The individual no longer attends school and has not shown good cause, as defined by Trade regulations. OE&T determines good cause and issues written approval or denial of the good cause.
- The individual fails to report wages for any week where benefits are claimed.

Overpayments
If the OE&T, the U.S. Secretary of Labor, or a court of competent jurisdiction determines any person has received any payment under Trade to which the person was not entitled, including a payment referred to in Sec. 243(b), such person shall be liable to repay such amount to the state agency or the Secretary, as the case may be, except the state agency or the Secretary shall waive such repayment if such agency or the Secretary determines that:

- The payment was made without fault on the part of such individual, and
- Requiring such repayment would cause a financial hardship for the individual (or the individual's household, if applicable) when taking into consideration the income and resources reasonably available to the individual (or household) and other ordinary living expenses of the individual (or household).

OE&T will document whether the payment was made with or without fault on the part of the individual when making decisions related to overpayments.

Appeal Rights

Regarding Petitions
Any worker, group of workers, certified or recognized union, or authorized representative of such worker or group, whose petition for TAA has been denied by USDOL may file an application for reconsideration of the determination by USDOL within 30 days after publication of the determination in the Federal Register. The request must be in writing and include:

- Name(s), address(es), and telephone number of the applicant(s);
- Name or a description of the group of workers on whose behalf the application for reconsideration is filed;
- Name and case number of the determination complained of;
- A statement of reasons for believing the determination complained of is erroneous;
- If the application is based, in whole or in part, on facts not previously considered in the determination, such facts shall be specifically set forth.
- If the application is based, in whole or in part, on an allegation that the determination complained of was based on mistake of facts which were previously considered, such mistake of facts shall be specifically set forth; and
- If the application is based, in whole or in part, on an allegation as to a misinterpretation of facts or of the law, such misinterpretation shall be specifically set forth.

Mailing address is:
U.S. Department of Labor
Division of Trade Adjustment Assistance
Employment and Training Administration
200 Constitution Avenue, N.W., Room N-5428
Washington, DC 20210
For information call (202) 693-3560.

Not later than 15 days after receipt of the application for reconsideration, the certifying officer shall make and issue a determination granting or denying reconsideration. The determination regarding application for reconsideration shall be published in the Federal Register. If the determination is negative, it shall constitute a final determination for purposes of judicial review. If the determination is affirmative regarding application for reconsideration, then the group of workers or other persons showing an interest in the proceedings may make written submissions within 10 days after publication of the notice to show why the determination under reconsideration should or should not be modified. Not later than 45 days after reaching an affirmative determination regarding application for reconsideration, the certifying officer shall make a determination on the reconsideration. The determination on the reconsideration shall be published in the Federal Register.

Regarding Individual Services
When a petition has been certified, but the individual is denied a specific TAA service such as training, travel, relocation etc., the individual has the same appeal rights as those provided under the state unemployment compensation law. Appeal rights are described on each form signed by the participant. Those rights are: "If you feel this determination is incorrect, you have a right to a hearing before an Appeal Tribunal; provided you file a timely notice of appeal by letter which must clearly state (1) that you are appealing and (2) the reasons why you believe this determination is incorrect. Your notice of appeal and such reasons must be received within twenty (20) days after this determination is mailed." Whenever someone appeals a decision concerning their TAA benefits, they have a right to be represented by their union, lawyer, or other person to help present the facts.

Performance Measures

The core indicators of performance are:
The percentage of workers receiving benefits who are employed during the second calendar quarter following the calendar quarter in which the workers cease receiving such benefits;

- The percentage of such workers who are employed in each of the third and fourth calendar quarters following the calendar quarter in which the workers cease receiving such benefits; and
- The earnings of such workers in each of the third and fourth calendar quarters following the calendar quarter in which the workers cease receiving such benefits.

Program Evaluation and Monitoring

Nebraska will self monitor by a file review for process improvement. Each file review will identify best practices, process deficiencies, and training needs. By creating a process improvement plan, each case manager will have the ability to correct any deficiencies before coming under a formal Federal review. Reviewing files will ensure effective and efficient operation and administration of the program. At a minimum, a random file sample of 20 cases will be reviewed quarterly. Reviews will be based on Nebraska's One-Stop system using the regions of Greater Nebraska, Lincoln, and Omaha local areas. Regions will be selected as a whole beginning with Greater Nebraska the first quarter of 2010 followed by Lincoln local area the second quarter and Omaha local area the following quarter. The worker sample will be based on the last digit of the Social Security Number, fluctuating between using 0-5 and 6-9 every other review. The review must include files from at least two certifications and include participants that are in training, receiving ATAA or RTAA funds and those that have been relocated. Both 2002 and 2009 certification will be reviewed.

Merit Staffing

Under 20 CFR Part 618, the USDOL "requires that personnel engaged in TAA-funded functions undertaken to carry out the worker adjustment assistance provisions must be state employees covered by a merit system of personnel administration." In TEGL No. 01-10, the USDOL instructed states to implement the TAA program according to "new merit staffing provisions which were to become applicable to TAA-funded positions effective December 15, 2010, as codified at 20 CFR 618.890(b)." On December 29, 2010, President Obama signed into law the Omnibus Trade Act. Section 102 of the Omnibus Trade Act retroactively extended the deadline for states to implement the merit-based state personnel staffing requirements contained in 20 CFR 618.890(a) from December 15, 2010, to no earlier than February 12, 2011. This requirement is now in effect. However, as clarified in the April 2, 2010 Federal Register, "there is nothing in this rule prohibiting the delivery, in appropriate circumstances, of employment and case management services to adversely-affected workers by staff funded by WIA or other Federal programs through co-enrollment. As a partner in the One-Stop delivery system, the TAA program will continue to coordinate with the other partners in the system to ensure adversely-affected workers are provided access to a broad array of comprehensive services."

Reporting

The state shall submit quarterly Trade Act Participant Report (TAPR) data. The report shall include all active participants and all participants who have exited the program in the last 10 quarters. The "Program Exit" policy is applicable for participants co-enrolled in TAA and Dislocated Worker programs.

Health Insurance Costs and Tax Credit

The Trade Act, as amended, authorized a federal income tax credit under the HCTC program to be administered by the Internal Revenue Service for health insurance premiums paid for qualified health insurance for all eligible individuals (TAA recipients, ATAA recipients and RTAA recipients). An "eligible TAA recipient" is defined as an individual who receives Trade Readjustment Allowances (TRA) for any day of a month (and the next subsequent month) or who would receive TRA but for the fact that s/he has not exhausted unemployment compensation (UC) entitlement.

The HCTC program expires on January 1, 2014. At that time, every eligible TAA recipient will be responsible for paying their full health coverage premiums without HCTC. Beginning January 1, 2014, new health coverage options will be available; all individuals will have a range of options in Health Insurance Marketplaces and may be eligible for new tax credits for health insurance or expanded Medicaid options. Resources to help individuals learn about new health insurance options made available under the Affordable Care Act (ACA) can be found at www.healthcare.gov which is the U.S. Department of Health and Human Services' Health Insurance Marketplace Web site.

Reemployment Trade Adjustment Assistance

The 2009 Amendments established Reemployment Trade Adjustment Assistance (RTAA) as a wage supplement option available to older workers under the TAA program. It replaced Alternative Trade Adjustment Assistance (ATAA) which provided wage supplements as an option for reemployed older workers as a demonstration project under the 2002 Act. [The ATAA program remains available to workers certified for ATAA under petitions filed prior to May 18, 2009, and after February 14, 2011.]

All TAA certifications filed between May 18, 2009, and on or before February 14, 2011, include eligibility to apply for RTAA, as well as other TAA benefits. Workers opting to participate in the wage supplement program do not surrender their eligibility for TAA-approved training. RTAA may be paid to participants working part-time, if they are enrolled in approved training. The maximum

benefit the worker may receive over the course of the eligibility period is $12,000. [Note: This is a maximum and may be reduced if the worker has received TRA.] An individual receiving RTAA may also receive TAA training, employment and case management services, HCTC, and job search and relocation allowances under certain conditions. However, once a worker elects RTAA, the worker cannot return to TRA.

To be eligible for RTAA, an individual must meet the following conditions at the time of reemployment:

1. Be at least age 50 at time of reemployment or effective November 20, 2009, if the worker has become employed prior to reaching the age of 50, and meets all other RTAA requirements, the worker may be determined eligible for RTAA upon the worker's 50th birthday. However if the worker received TRA, each week in which TRA was paid reduces the duration of RTAA eligibility accordingly. [TEGL No. 22-08, Change 1, Section A]. The individual's age can be verified with a driver's license or other appropriate documentation.
2. Must not be expected to earn more than $55,000 annually in gross wages, excluding overtime pay, from the reemployment. If a paycheck has not been issued at the time of application, the employer must submit a supporting statement documenting the worker's annual wages. [Note: This is a projection, but if later (absent fraud) it is determined the wages exceed more than $55,000, it does not create an overpayment. However, RTAA would be stopped at that point.]
3. Reemployment:
   a. Be reemployed full-time and not enrolled in a TAA-approved training program. [For RTAA purposes, Nebraska accepts the definition of the employer in determining full-time as long as it is 36 hours a week or more.] The OE&T will verify reemployment in the same manner as it uses for ATAA eligibility;
   b. Be reemployed less than full-time, but at least 20 hours a week, and be enrolled in a TAA-approved training program. Similar to the requirement that TRA benefits may only be paid when enrolled in a full time training program, eligibility for RTAA benefits based on part-time employment and participation in training requires enrollment in a full time training program as well. This requirement helps ensure workers will not exhaust their limited RTAA benefit before returning to full-time employment, which is the true goal of the TAA program. The verification will be conducted in the same manner as is used for verifying employment for ATAA eligibility and for verifying participation in training; **or**
   c. Be reemployed full-time and enrolled in a full-time TAA-approved program.
4. The worker cannot return to employment at the "firm" from which the worker was separated. However, the 2009 Act defines "firm" as either the entire firm or the appropriate subdivision. Accordingly, this requirement means that if the certification is issued for a worker group in an appropriate subdivision of a firm, the worker may not return to employment with that subdivision, but may return to work at another subdivision of the firm. If, however, the certification is issued for workers in the entire firm, the worker may not return to employment in any subdivision of that firm.
5. Reimbursement amounts will be rounded up to the next whole dollar.
6. For the purpose of calculating hours, the total hours employed each week will be rounded to the nearest 1/10 of an hour. For example, a worker who is employed between 35.9 and 35.94 hours per week would have their hours **rounded down** to 35.9 hours. Whereas a worker who is employed between 35.95 and 35.99 hours per week, would have their hours **rounded up** to 36 hours per week.
7. Full-time or part-time status in an approved training program is based on the established full-time certification policy of the institution where the training is being offered.

The 2009 Act provides two separate eligibility periods for RTAA, the first for workers who have not received TRA, and the second for workers who have received TRA.

1. Worker Who Has Not 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 on which the worker obtains reemployment.
2. Worker Who Has Received TRA
   When a worker has received a trade readjustment allowance pursuant to the certification, the worker may receive RTAA benefits for a period of 104 weeks beginning on the date on which the worker obtains reemployment (as described above for RTAA eligibility) reduced by the total number of weeks for which the worker received such trade readjustment allowance.

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.

The statutory phrase "worker exhausts all rights to unemployment insurance based on the separation of the worker from . . . adversely affected employment..." requires some interpretation. The first point to make is that a worker may have 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 last separation was chosen because that separation is the one that triggers the worker's application for RTAA. A separation that qualifies a worker as an adversely affected worker is a lack-of-work separation from adversely affected employment. The OE&T 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. 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 individual's application for RTAA must be filed within the applicable eligibility period as described above. Retroactive payment may be made where appropriate. 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.

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 $55,000 annual limit for reemployment wages.

Qualifying employment that was commenced prior to separation from adversely affected employment may be considered RTAA qualifying employment.

The OE&T will issue a written determination on an RTAA application within five working days of its receipt. If approved, the State Trade Unit will also notify the Trade Readjustment Allowance

benefit staff. The RTAA applicant has the right to appeal a state determination which denies RTAA benefits in the same manner as provided for in State UI law for all TAA determinations.

The OE&T must 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.