

TAA REVERSION POLICY 2021

The Trade Adjustment Assistance (TAA) Program is a federal entitlement program that assists U.S. workers who lost their jobs as a result of foreign trade. The Trade Act of 1974 has been amended a number of times over the past 46 years. The latest amendments, enacted in 2015, include reversion and sunset provisions effective July 1, 2021, and July 1, 2022, respectively. Any workers covered under a Petition for Trade Adjustment Assistance filed on or after July 1, 2021, will be covered under Reversion 2021. This policy outlines the changes to the TAA Final Rule from [Policy 5.40A](#).

Group Eligibility under TAA Revision 2021 include:

- Petitions 98,000 and above
- Incumbent Workers are not eligible
- Interstate Trade Commission (ITC) is not applicable
- Public sector petitions are not applicable
- Petitions in regards to services is not applicable
- Shift in production is limited to certain nations that are party to free trade agreement with the United States, or
 - A beneficiary country under the Andean Trade Preference Act,
 - African Growth and Opportunity Act or
 - The Caribbean Basin Economic Recovery Act.

TAA is a federal entitlement program, however, to be eligible:

- Individuals must meet the criteria based on Entitlement Determination [Form 40](#).
- Individuals need to discuss the program with DLR staff to ensure they are part of an approved Certified Petition.

This is validated by:

- Verification of their employment with the company within the petition date range (pay stub, etc.), or
- Layoff letter or email from the company.

Note: *If an individual is located in another state but are part of a Certified Petition in South Dakota, they may choose to receive services in South Dakota or their home state. This also applies to someone living in, or who has relocated to, South Dakota and is part of a Certified Petition in another state.*

These individuals should enter a job service office immediately following the announcement of a lay-off. There are certain provisions under Reversion 2021 that have important time lines.

Individuals are not eligible if they have:

- Quit their job,
- Been terminated for cause by their employer, OR
- Obtained suitable employment. **Suitable Employment:** Making 80% or more than the wages earned at workers past employment(Job that was certified for Trade) and/or employed in a position with similar skill level of the job they were laid off from. 80% of income received from a part time, temporary or short term job is not considered suitable.

CERTIFIED PETITION

A petition may be filed under TAA Reversion if a **significant number** or proportion of workers in the workers firm or subdivision of a firm who became totally or partially separated or threatened with total or partial separation workers who have lost or may lose their jobs as a result of foreign trade in one of four ways:

- State Agency-One Stop Partner – Rapid Response
- Union
- Employer (Firm)
- A significant amount of Workers of the Firm

South Dakota will file a petition on behalf of a worker group or assist in the filing despite objections from workers, union, firms or others if there is a likelihood of eligibility.

Once the petition is filed, the employer is contacted by U.S. DOL to gather additional information to make a determination. Although the certification criteria has changed under Reversion 2021, the result of the determination remains the same and will either be an approved or denied. If denied the petitioner may appeal the denial within one year of the initial filing. If it is approved, the petitioner is notified by email.

The TAA Labor Program specialist will contact the firm to gather contact information for the affected workers, set up a TAA Informational Meeting and make every effort to contact the individual workers to ensure they are aware of the benefit and services offered through the Trade Adjustment Assistance program.

Upon receipt of the approved petition the Labor Program Specialist must publish (20CFR 618.618 (2)viii4-7) a notice of the certification in a newspaper in the areas in which the affected workers reside. This notice will include information regarding the layoff and impending upcoming information meetings. In addition to a public notice South Dakota will utilize social media to reach affected workers.

PROGRAM ENROLLMENT

Refer to TAA Final Rule [Policy 5.40A](#). Program enrollment policy did not change with TAA Reversion.

SERVICES

TAA offers a variety of training opportunities and Support Services in order to gain suitable employment. As TAA and WIOA programs work together to serve the individual, financial services cannot be duplicated in more than one funding stream. If the needs of individual go beyond the services below, consider other Support Services [Policy 5.34](#) through the Title I Dislocated Worker program.

For example: if TAA funding is providing gas for job search on May 1, 2019, the same gas cannot be paid for using other program funding. However, if TAA pays for gas for job searching on May 1, 2019, Dislocated Worker funding could purchase job interview clothing.

Employment and Case Management Services

Under TAA Reversion 2021, TAA case management funds will not be able to support any worker certified under a Petition filed on or after July 1, 2021. This will not remove the state's responsibility to provide employment and case management services to all TAA program participants. When eligible, staff are required to co-enroll adversely affected workers in the WIOA Title I Dislocated Worker program to additional services.

Job Search Allowance

Refer to TAA Final Rule [Policy 5.40A](#). Job search allowance policy did not change with TAA Reversion.

Relocation Assistance

Refer to TAA Final Rule [Policy 5.40A](#). Relocation assistance policy did not change with TAA Reversion.

Transportation and Subsistence While in Training

Refer to TAA Final Rule [Policy 5.40A](#). Policy for transportation while in training or transportation and Subsistence while in training did not change with TAA Reversion.

TRAINING

Training services should be expected to lead to new employment. One training is allowed through TAA funding per participant. Staff will exhaust all efforts to find work-based learning prior to Occupational Skills Training (OST) approval.

TAA staff along with the participant is responsible for verifying that there is no “similar or like training” available at a more reasonable cost within the TAA participant’s commuting area.

For details on training approval and determining reasonable costs for training, see TAA Final Rule [Policy 5.40A](#).

The three most common training services provided through TAA are On-the-Job Training and Occupational Skills Training. Registered Apprenticeship and other trainings can also be considered. Under TAA Reversion, work-based learning such options as On-the-Job Training and Apprenticeships are the preferred method of training to be considered before Occupational Skills Training (OST) can be approved. *Individuals attending Occupational Skills training must be enrolled in training within 8 weeks from the certification date or 16 weeks from the separation date in order to receive TRA benefits. No exceptions.*

On-the-Job Training

Follow the On-the-Job Training [Policy 5.28](#).

Registered Apprenticeship

Follow the Registered Apprenticeship Program (RAP) [Policy 5.51](#).

Occupational Skills Training

Refer to TAA Final Rule [Policy 5.40A](#) for details on TAA OST. The policy for OST did not change with Reversion except for the number of weeks allowed defined by the TAW number. 98,000 + = 130 weeks allowed.

For details on required supplies, books, fees, and benchmarks of OST, see TAA Final Rule [Policy 5.40A](#).

ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE (ATAA)

Alternative Trade Adjustment Assistance (ATAA) expires June 30, 2022, and provides wage subsidies to TAA individuals who accept new employment within 26 weeks of their separation at a lower wage they were making at their TAA employment, and are:

- Impacted by a petition with a TAW number greater than 98,000 and above; and
- At least 50 years of age or older at the time of re-employment; and
- Re-employed making less than \$50,000 annually in gross wages; and
- Working full-time (36-40 hours per week)
- Receiving their first ATAA payment by 6/30/2022 or they forfeit their ATAA.

Qualifying employment must be “Covered Employment” under South Dakota State Law. It also may not include activity that is unlawful under Federal, State, or local law.

Covered employment in simplest terms means that the employer must have a RA Tax Account. In agriculture, they must also meet the criteria for Tax Liability.

If they are eligible, ATAA pays 50% of the difference between the wages at separation and wages in re-employment, with a maximum of \$10,000 paid over a period of up to two years. In order to receive ATAA, the individual must be enrolled in TAA for the duration of their benefits. ATAA individuals must register in SDWORKS. ATAA participants are co-enrolled into Title One programs in the event that supportive services are necessary to continue with employment. Overtime wages are included in the calculation initial and continued employment for eligibility.

ATAA eligible individuals may:

- Be eligible to receive Relocation
- Receive Case Management Services
- NOT be eligible for TRA or Training after the receipt of one ATAA payment
- NOT be eligible for ATAA after receiving Training or TRA

- NOT return to same employer or similar same type of work they were doing at their Trade Affected Employment
- NOT be eligible for Job Search Allowance and Subsistence

TRADE READJUSTMENT ALLOWANCE

The federal Trade Readjustment Allowance (TRA) is a form of income support for individuals who have exhausted Reemployment Assistance (RA) Benefits and those who have jobs directly affected by foreign imports determined by U.S. DOL. **TRA is administered by the RA Division**, not the Workforce Training Division, however, the two work closely together. Participants must be enrolled in or waived from Training within 8 weeks of certification or 16 weeks from separation in order to receive TRA benefits No exceptions. Participants must also file a bona fide application for training within 210 days of separation to be eligible for Additional TRA.

Participants are notified when benefits transition from Basic to Additional and Additional to Completion through an application process. There are 3 types of TRA benefits:

- **Basic:** Is when regular unemployment benefits end. An individual may receive up to 52 weeks of combined regular and basic TRA benefits. An individual has two years (104 weeks) after separating from a trade-affected employer to use basic TRA benefits and receive payment, if eligible
- **Additional:** For petitions 80,000 and higher where Basic TRA has ended. Individuals may be eligible for up to 65 weeks of Additional TRA within the 78 calendar week period beginning with the first week of approved training following the last week of Basic TRA entitlement.
- **Completion:** For petitions 80,000 and higher, an individual that needs additional time to complete TAA approved training, may qualify for completion TRA. This is an additional 13 weeks of TRA benefits payable within a 20 week period during which time the training program must be completed. The claimant must have been making satisfactory progress in the training program. TRA cannot be paid for weeks during a scheduled break.

Breaks in Training

Refer to TAA Final Rule [Policy 5.40A](#). Breaks in Training did not change with TAA Reversion.

Overpayments

Refer to TAA Final Rule [Policy 5.40A](#). Overpayments did not change with TAA Reversion.

Waivers

The training enrollment deadline for TRA may be waived only if enrollment in approved training is not feasible or appropriate for one or more of the following reasons:

- Individual is unable to participate in or complete training due to the health of the individual. (This does not exempt the worker from requirements relating to the availability for work, active work search or refusal to accept work under Federal or State Reemployment Assistance benefits laws).
- The first available enrollment date for approved training is within 60 days after the issued date of the waiver, or if later, there are extenuating circumstances for the delay in enrollment must be approved by the Labor Program Specialist.
- Training is not reasonably available, suitable training at a reasonable cost is not available, or training funds are not available.

Participants must be enrolled in or began training or received a waiver from Training within 8 weeks of certification or 16 weeks from separation in order to receive TRA benefits No exceptions

If a waiver expires without renewal, the individual will lose eligibility for TRA benefits. If the basis of a waiver is no longer applicable (individual is in training or does not make contact with the Employment Specialist at intervals required to maintain the waiver), Employment Specialist will notify in writing that the waiver is revoked.

There must be a valid reason for granting, denying, or revoking a waiver and be recorded in SDWORKS notes. A DLR Labor Program Specialist will determine that there is good cause for issuing a waiver with respect to time limitations in regards to training enrollment and must consider South Dakota good cause and Federal good cause guidelines before waiving time limitations.

Good Cause: Under Reversion, good cause is not allowable.

Extenuating Circumstances: Allowable where situations beyond the affected workers control. This includes situations where training programs are abruptly cancelled. Or situations where the affected worker suffers injury or illness preventing enrollment or participating in training.

**DOLETA TAA
20CFR 617 and 618
20 CFR part 90
20CFR 618.505
TEGL 24-20**