

# Washington State Trade Adjustment Assistance Policy

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**Policy Number:** 3020, Revision 1 (2011)

**Policy Title:** Trade Adjustment Assistance (TAA) Overpayments and Waivers

**Effective Date:** December 11, 2020

## 1. Purpose:

To communicate guidance on overpayments and waivers for workers eligible for Trade Adjustment Assistance (TAA) for petitions certified under 2011 rules.

## 2. Background:

The U.S. Department of Labor (DOL) published TAA Final Rule 20 CFR part 618 on August 21, 2020. Through this final rulemaking, the Department modernizes the TAA Program, provides additional flexibility to states, and consolidates all applicable program regulations into a single section of the Code of Federal Regulations and continued to align the program with WIOA.

The Trade Adjustment Assistance for Workers Program (TAA program) was first established in the Trade Act of 1974 as a tool to retrain trade impacted workers and help them find suitable employment. The Trade Adjustment Assistance Extension Act (TAAEA) of 2011 (Public Law 112-40) was enacted on October 21, 2011. The TAAEA again reauthorized the TAA program with changes to benefits. The 2011 Amendments include a reduction in number of eligible groups qualified for TAA, elimination of three training waivers, and elimination of the additional 26 weeks of TRA for workers participating in prerequisite or remedial training, with the addition of a new Completion TRA component.

The 2011 amendments apply to petitions filed on or after October 21, 2011, and numbered TA-W 81,000 – 89,999. There is a special retroactive applicability for petitions numbered 80,000 – 80,999. Eligible workers with petitions in this range were able elect to receive benefits in accordance with either 2002 or 2011 amendments.

Under Trade Act as amended, states are given latitude to determine if TAA overpayments can be waived. Trade Readjustment Allowances (TRA) overpayments and waivers are addressed separately through the Unemployment Tax and Benefits (UTAB) system.

## 3. Policy:

If the department or a court determines that any individual received any TAA program benefits to which the individual was not entitled, the individual will be notified by ESD and is liable to repay the amount of such benefits to the state agency.

Unless an overpayment is due to [fraud](#), recovery of TAA overpayments will be waived if it would cause a financial hardship for the individual or the individual's household. ESD will take into consideration the income and resources reasonably available to the individual or household and other ordinary living expenses of the individual.

The participant must request an overpayment waiver, in writing, from ESD, which will approve or deny the waiver. If the waiver is approved, the individual and TAA case manager will be notified. If the waiver is denied, ESD must recover the overpayment. All steps taken regarding approval or denial of waivers will be appropriately documented.

#### 4. **Definitions:**

##### **Fraud**

If a state agency or a court of competent jurisdiction finds that any person or individual:

- Knowingly has made, or caused another to make, a false statement or representation of a material fact.
- Knowingly has failed, or caused another to fail, to disclose a material fact; and as a result of such false statement or representation, or of such nondisclosure, such individual has received any TAA payment to which the person or individual was not entitled, such person or individual shall, in addition to any other penalty provided by law, be ineligible for any further payments under TAA.

#### 5. **References:**

- [20 CFR Part 618](#)

#### 6. **Supersedes:**

Policy 3020 – TAA Overpayments and Waivers dated September 20, 2017.

#### 7. **Website:**

[Workforce Professionals Center](#)

#### 8. **Action:**

Employment Security Department Regional Directors and WorkSource Administrators must distribute this policy broadly throughout the system to ensure that WorkSource System staff are familiar with its content and requirements.

##### **Direct Inquiries To:**

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