

# Washington State Trade Readjustment Allowances Policy

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**Policy Number:** 3100 (2009)

**Policy Title:** Trade Readjustment Allowances (TRA)

**Effective Date:** June 24, 2016

## **1. Purpose:**

To communicate the policy on Trade Readjustment Assistance (TRA) for petitions certified under 2009 rules (petition numbers TA-W 70,000 – 79,999).

## **2. Background:**

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 TAA program had a two-step process. First, a group of workers (or other specified entity) file a petition for certification of eligibility with the Office of Trade Adjustment Assistance (OTAA). Second, workers who are part of a group covered by a certified petition apply individually to a state for benefits and services.

Since its first enactment in 1974, the Trade Act has been amended numerous times. Likewise, TAA program rules and requirements have evolved with each new law. The 2009 Amendments changed the provisions of 2002 in several ways.

The Trade and Globalization Assistance Act (TGAA) of 2009 (Public Law 111-5) reauthorized the TAA program through December 31, 2010 and again expanded its scope, benefit amounts, and services. The eligible worker sector expanded to more workers and firms, including workers and firms in the service sector, and improves workers' opportunities for training, health insurance coverage, and reemployment. As described in TEGP No. 16-10, Change 1, the application of the 2009 Amendments ended on February 12, 2011.

Among other changes the 2009 Amendments provided adversely affected workers with new entitlement to employment and case management services, increased the maximum amount of additional TRA payable, the eligibility period to receive these payments, and allowed payment of up to 26 weeks of additional TRA if identified that worker needs prerequisite or remedial education.

Eligible workers may also elect to receive TRA instead of Unemployment Insurance

(UI) that is based upon a 'parent claim' instead of a second UI benefit claim, often resulting in a lower weekly benefit amount (WBA).

The 2009 amendments also allow States to apply UI "good cause" waiver provisions to all TAA time limits and established minimum requirements for State reviews of waivers of the training requirement. The ATAA pilot program was made permanent and renamed the Reemployment Trade Adjustment Assistance (RTAA) program. Part-time training was made available to all trade impacted workers and training enrollment allowed before separation from employment.

### **3. Policy:**

Trade Readjustment Allowance (TRA) provides financial support to participants while enrolled in full- time TAA approved training or conducting a work search under a waiver of training. TRA is not available until all eligibility for unemployment insurance (UI) benefits and applicable extensions are exhausted. There are four types of TRA:

- Basic TRA is payable if the TAA participant is enrolled or participating in TAA approved training or has obtained a waiver of training requirement. Basic TRA can also be paid to participants who are conducting a work search following training.
- Additional TRA is payable only if the TAA participant is actively attending TAA approved training and has exhausted all rights to Basic TRA.
- Remedial TRA is payable only to TAA participants who received remedial education included in the approved training plan. It is available when Basic and Additional TRA are exhausted. Remedial TRA is payable only while the participant is actively attending TAA approved training.
- Prerequisite TRA is payable only to TAA participants enrolled in prerequisite coursework when it is included in the original training plan. It is available when Basic and Additional TRA are exhausted. Prerequisite TRA is payable only while the participant is actively attending TAA approved training.

#### **a. TRA Eligibility Requirements**

- i. To be eligible for TRA benefits, adversely affected workers must meet the following requirements:
  - Certification –
    - The worker must be an adversely affected worker covered by a certification.
    - The worker must be laid off because of lack of work from adversely affected employment.
  - Separation –
    - The worker's first qualifying layoff must have occurred on or after the impact date of the certification and on or before the expiration date of the certification;
  - Wages and Employment –
    - In the 52-week period ending with the week of the worker's first qualifying separation or any subsequent qualifying layoff under the same certification, the worker must have had at least 26 weeks of employment at wages of at least \$30 or more a week with the certified employer.

- Entitlement to UI –
    - At the time of the first layoff on or after the impact date, the worker must be monetarily eligible for unemployment.
    - The TAA eligible worker does not have to file a claim, but they must have had enough hours of work and wages to establish a benefit year.
  - Exhaustion of UI –
    - The worker must have exhausted all rights to unemployment insurance benefits or applicable extensions.
  - Extended Benefits (EB) Work Test –
    - The EB work test requirement is also applicable to claimants for basic TRA, except when the individual is in and/or participating in an approved TAA training program as provided at 20 CFR 617.17 (b)(2).
  - Participation in TAA training –
    - The individual must be enrolled in or participating in TAA training; or have completed training following qualifying separation (only basic TRA); or have received a waiver from the TAA training (only basic TRA).
- ii. If the worker does not meet the minimum 26-week employment and wage requirement, a week of employment shall be added, up to a maximum of 7 weeks, for each week that one of the following conditions exist:
    - The certified employer authorized leave for vacation, sickness, injury, maternity or inactive duty or active duty military service or training;
    - A worker's employment was interrupted to serve as a full-time representative of a labor organization in the affected firm or subdivision.
  - iii. The trade-affected worker shall be eligible for up to a maximum of 26 weeks for each week that one of the following conditions exists:
    - The worker could not work for the adversely affected employer due to a disability compensable under state or federal worker's compensation laws;
    - The worker is on call-up for active duty in reserve status in the US armed forces after August 1, 1990.
  - iv. If TAA eligible workers are not eligible for TRA benefits because they did not meet the qualifying requirements, they may still be eligible to apply for training, job search allowances, relocation allowances, wage subsidy for older workers program and reemployment services.

**b. Determining the Parent Claim**

- i. The first qualifying layoff is the first layoff of at least seven consecutive days after the impact date of the petition.
  - The unemployment claim in effect at the time of the first qualifying layoff is the TRA parent claim.
  - The weekly benefit amount for Basic and Additional TRA is the same as the weekly benefit amount of the TRA parent claim.
- ii. The most recent claim is not always the TRA parent claim.

- The Washington State TRA Coordinator will determine the TRA parent claim when determining eligibility for TRA.

### c. TRA Deadlines and Special Rules

Participants in the TAA program must meet one of the following criteria for basic TRA:

- Be participating in approved training or be within 30 days of the start of approved training;
- Have completed an approved training plan and be actively seeking work; or
- Be on a training waiver.

There is no waiting period after certification to receive TRA payments under 2009 rules. Under the 2002 Reform Act, there was a 60-day waiting period following certification. For example, if a worker is laid off applies for UI January 1, but the company does not file for TAA certification until July 1, the worker's UI benefits may be exhausted by then. The TAA participant can claim TRA benefits as soon as the certification has been made and regular benefits are exhausted.

- To receive TRA, the TAA participant must be enrolled in TAA approved training by:
  - The last day of the 26th week after the TAA participant's most recent qualifying layoff; or
  - The last day of the 26th week after the week that the Department of Labor issued the certification.
- Exceptions to the Enrollment in Training / Waiver from Training Deadlines

The TGAAA provides for additional justifiable cause exceptions for a TAA eligible worker who misses application and enrollment deadlines. The Washington State TRA Coordinator will make all determinations regarding any of the following extensions:

1. 45 Days for Extenuating Circumstances:  
Circumstances beyond the control of the worker allow an extension of the deadlines up to 45 days. This includes situations where training programs are abruptly cancelled as well as when a worker suffers injury or illness preventing participation in training.
2. 60 Days after Actual Notification of the Exception to the Enrollment Deadlines:  
Circumstances deemed to be beyond the worker's control, such as failure of the cooperating state agency to notify the worker, justify an extension of the eligibility periods. This is the worker centric exception. The worker must meet the enrollment deadlines by Monday of the first week occurring 60 days after the date that the worker was properly notified of both his/her eligibility to apply for TAA training and the requirement to enroll in training absent a waiver of the training requirement.
3. 30 Days after the Termination of a Waiver:  
To maintain eligibility for Additional TRA, workers with a training waiver must be enrolled in training prior to the first Monday, 30 days following the termination of the waiver, either by expiration (end of Basic TRA) or

revocation.

Example 1: If the 30<sup>th</sup> day following the termination of the waiver is Sunday, the participant must be enrolled before Monday, so Friday of the previous week is the deadline.

Example 2: If the 30<sup>th</sup> day following the termination of the waiver is Wednesday, the deadline is Friday of the same week.

Example 3: If the 30<sup>th</sup> day following the termination of the waiver is Monday, the participant has until Friday of that week.

### iii. Special Rules

The TGAAA provides for an extension on the eligibility period that TRA (basic and additional) is payable. The State TRA Coordinator will issue all determinations regarding any of the following extensions:

#### 1. For Calculating Separations - Judicial or Administrative Appeal

In the event a certification is issued as a result of an appeal of an earlier denial of certification, the 104-week eligibility period (130-week if remedial or prerequisite education is included) for Basic TRA will begin the week following the week the group was certified. Additionally, enrollment deadlines may be extended due to extenuating circumstances or Washington's good cause rules, as with any other waiver.

#### 2. For Justifiable Cause to Extend the Eligibility Periods for TRA

A new rule allows for an extension for justifiable cause of periods that TRA (basic and additional) are payable. Justifiable cause means circumstances determined to be beyond the worker's control. Washington Unemployment Insurance laws, regulations, and policies regarding good cause apply to this determination.

#### 3. For Military Service

Veterans must be afforded priority of service. The 2009 TGAAA also provides new rules for returning service members. Members of the armed forces and National Guard who are called to active duty while a TAA participant are considered "whole," as if the period of military services had not occurred.

The provision allows workers called up for active duty for 30 days or more to restart the TAA enrollment process after completion of military service. This includes workers who had begun, but had not completed, a training program before being called up for active duty, and those workers whose company is certified while the workers are serving on active duty.

If the participant began training prior to active duty call-up, the participant is

allowed to complete that training. However, the worker need not have been enrolled in or have begun training before the period of duty for this provision to apply. When separated, these individuals are eligible to receive TRA, training and other benefits under the 2009 amendments in the same manner and extent as if the worker had not served the period of duty.

The State will toll all deadlines for all TAA, and RTAA benefits and services, as well as TRA eligibility periods, during a service member's period of duty which occurs before the individual completes TAA-approved training. The State must first consult with and receive the Department's permission, before waiving any other TAA requirement.

iv. For the Use of State Law Good Cause Provisions

The TRA Coordinator will apply the Washington UI program "good cause" waiver provisions to all time limitations governing TRA and enrollment in training deadlines.

Claimants can establish good cause for not applying for the program or for missing specific deadlines. The actions of a reasonably prudent person in a similar situation are the guide in determining good cause.

[WAC 192-100-010](#) states "A reasonably prudent person is an individual who uses good judgment or common sense in handling practical matters. The actions of a person exercising common sense in a similar situation are the guide in determining whether an individual's actions were reasonable."

For Trade Readjustment Allowances (TRA), reasons that would constitute good cause include, but are not limited to, the following:

- *Acting or failing to act based on authoritative advice directly from departmental personnel upon which a reasonable person would normally rely.*

Example: Claimant inquires at WorkSource about eligibility for the Trade Act program because he worked for a subcontractor for a Trade-affected employer. He was told that he was not eligible because he did not work for the Trade-affected employer. He did not apply for the program based on this information. We did not tell him of his right to apply or of his right to a redetermination and appeal.

Good cause based on erroneous advice or information from department personnel will not be established if a claimant could be reasonably expected to question the accuracy of the information and knew or should have known of redetermination or appeal rights which he or she failed to exercise in a timely manner.

- *Severe weather conditions precluding safe travel to the point of filing.* We include loss of telephone or electrical service or both due to severe weather in this category.
- *Incapacity due to illness or injury.* This would also raise an issue under able and available for work.

- *Other factors of similar gravity.* This includes compelling personal reasons, for example, family emergency or jail. Compelling personal reasons may also raise issues under able and available for work.
- *Incorrect advice from the employer* may establish good cause for backdating.

Example: An employer experiences a series of temporary shutdowns and is Trade certified. During the first shutdown, the employer arranges to have agency staff on site to explain the Trade Act program. A second shutdown occurs. A claimant who chose not to apply at the first shutdown asks the supervisor what she needs to do to apply when the second shutdown occurs. The supervisor tells her only those who applied during the first layoff were covered by the Trade certification.

When a claimant alleges incorrect employer advice, an attempt to contact the employer is required.

- *Claimants with language or learning disabilities* may establish good cause for backdating.

Example: Claimant is a recent immigrant and her primary language is Thai. She is laid off from the Trade-affected employer and finds out from a friend several weeks later that she may be eligible for Trade Act. Fact-finding establishes that though the agency has sent a mailing to all affected employees or posted notice in the news paper, it is not in a language the claimant could read.

Good cause no longer exists if the claimant does not act or attempt to act during the first week that good cause factors are **not** present. We do not grant good cause to any week earlier than the first week that the good cause factors occurred.

Example: A claimant does not meet specific deadline because a major snowstorm caused the downing of phone lines and blocking roads. This would establish good cause for missing the deadline. However, the claimant did not contact his case manager when crews had restored phone lines and cleared the roads. He had personal business to attend to during that week. We would not allow good cause for second week and the claimant will have missed the deadline because the claimant did not follow-up during the week when good cause factors no longer existed.

If the TRA Coordinator has clear and convincing proof that the participant knew of the filing requirements and deliberately chose to ignore them a denial determination of the worker's eligibility for TRA will be issued. However, the case management file of each participant should demonstrate that the state agency has properly notified the worker of his or her enrollment in training deadlines.

v. Convenience of the Department

This generally means we could not provide services through no fault of the claimant. This could be due to office closures, power outages, staffing and

workload issues, or other factors outside the control of the claimant.

Convenience of the department also includes situations where the claimant files incorrectly against another state. We routinely backdate to the week of contact with the other state, absent some unusual circumstance.

#### **d. Special Rules for TRA Payments**

Special TRA payment rules include the following:

##### **i. Election between TRA or UI –**

If filing a subsequent UI claim would result in a lower weekly benefit amount, TAA participants may elect to receive TRA instead of UI for any week if the following two conditions are met:

- The participant is entitled to receive UI as a result of a new benefit year based on part-time or short-term employment in that the worker engaged after his/her most recent total separation from adversely affected employment; and
- The worker is otherwise entitled to TRA.

This election provision is advantageous to workers because it looks to a broader range of wages on which a new benefit year may be based. This option must be provided to the TAA participant along with an explanation of his or her benefit rights in writing, and document the participant's choice in case notes.

TAA counselors should refer potential eligible participants to the State TRA Coordinator for further clarification on the wages disregard and UI and TRA election options.

##### **ii. Earnings Disregard –**

Wages less than or equal to the worker's TRA weekly benefit amount are not deductible from TRA when participating in full-time training other than OJT.

#### **e. Reporting Wages during TAA-approved Training while claiming TRA (Earnings disregard)**

Trade Act requires a reduction in the TRA amount payable for a week of unemployment insurance (UI) of all income that is deductible from UI using the applicable state law. Wages less than or equal to the TRA weekly benefit amount are not deductible from TRA when participating in full-time training.

Wages greater than the TRA weekly benefit amount are deductible for TRA benefits using the standard earnings deduction chart.

Note: The computation for the earnings deduction on the Washington State standard earnings deduction chart is, gross earnings minus \$5, times 75%. All deductions are rounded up to the next higher dollar.



Example 1: A participant attending full-time TAA training has a TRA weekly benefit amount of \$400. He works 20 hours and earns \$17.50 per hour for a total of \$350. The \$350 is less than his TRA weekly benefit amount, so nothing is deducted from his TRA benefits. He receives the full \$400 in TRA benefits.

Example 2: The same participant above works 40 hours and earns \$17.50 per hour for a total of \$700. The \$700 is greater than his TRA weekly benefit amount by \$300. Using the standard earnings deduction chart for \$300, his TRA benefits are reduced by \$222. He receives \$178 in TRA benefits.

In this example, the calculation would be 40 hours times \$17.50 per hour, totaling \$700 in gross earnings. \$700 gross earnings minus \$400 TRA weekly benefit amount, equals \$300 deductible earnings (this is the amount above the TRA earnings disregard). \$300 deductible earnings minus \$5, times 0.75, equals \$221.25, which is rounded up to the next complete dollar for a \$222 standard earnings deduction. \$400 TRA weekly benefit amount minus the \$222 standard earnings deduction equals a \$178 TRA payment after earnings disregard and standard earnings deduction.

#### **f. Waiver of TAA Training Requirements to Receive TRA Benefits**

Unless enrolled in training, individuals on state extended benefits, or Basic TRA must be directed to conduct a more enhanced job search using EB work search criteria.

For internal procedures in the issuance, review and revocation of a waiver refer to TAA Classroom Training Policy #3045 (P.2) and Waiver from Training Guidelines.

Waivers from the training deadline are used to:

- Allow TAA workers to meet the 26-week after layoff or 26-week (26/26 week) after certification deadline to preserve Basic TRA benefit eligibility;
- Allow TAA eligible participants not in training to collect Basic TRA using the EB work search standard. In most cases this is an interim measure until a training plan is approved.

##### **i. Waiver Conditions**

An individual must meet at least one of the six (6) waiver conditions before issuing a waiver of training.

###### **1. Recall –**

- An individual receives a written recall from the Trade certified, separating employer.
- Obtain documentation for file.

###### **2. Marketable skills –**

- Individual has marketable skills to conduct an effective work search and there is 'reasonable expectation of employment at equivalent wages in the foreseeable future.'

###### **3. Health –**

- Training can be waived if an individual is unable to participate in training due to health issues.
- A letter from a doctor or other appropriate medical documentation is required.
- While we may allow a waiver for health reasons, the participant must still

be able, available and actively seeking work and on an EB work search plan, if receiving state extended benefits, or Basic TRA.

4. Retirement –

- This waiver reason can be used if we can get written verification from a private pension source, showing that participant is within two years of meeting requirements for an entitlement to a private pension sponsored by an employer or labor organization.
- If participant is within two years of receiving regular Social Security benefits, we do not need additional documentation.
- The individual must still be able, available and actively seeking work and on an EB work search plan.

5. Enrollment unavailable –

- When an individual is seriously considering a specific training plan but they cannot enroll in the program right away.
- If training will begin later than 60 days after the date of waiver approval, the reason for the delay in enrollment (the ‘extenuating circumstances’), must be noted.

6. Training not available –

- When an individual is not able to find training that is reasonably available and at a reasonable cost.
- Distance learning options may be available, and should be explored, but are not appropriate for all individuals or training programs.

ii. Reasons to Deny Waiver

Waivers cannot be approved if the individual is past the 26-weeks after layoff or 26-weeks after certification deadline to request a waiver unless the 45 day extension of the training deadline for an extenuating circumstance applies.

iii. Reviewing and Duration of Waivers

- The first waiver review must be in 90 days and then every 30 days thereafter.
- Waivers are effective for not more than 6 months from the date issued.
- To preserve the worker’s eligibility for TRA, the state TRA Coordinator may approve extending the waiver for another 6 months.

iv. Revoking a Waiver

- Waivers from training need to be revoked anytime the conditions of the waiver are no longer applicable.
- The participant shall be notified of the revocation in writing and needs to enroll in training the Monday following the date the waiver was revoked.

v. Waiver Expiration

At the end of the 6 month waiver period, if a reassessment of the participants’ case does not indicate a need to extend the waiver period, the waiver will expire.

## **g. Basic TRA**

- i. To be eligible for Basic TRA benefits, a TAA participant must exhaust regular UI, all extensions, or have an expired claim.
- ii. The eligibility period for Basic TRA is the 104-week period (130 weeks if remedial and or pre-requisite education is required in order to complete approved training) following the week of the participant's last total qualifying layoff from Trade impacted employment.
  - A total qualifying layoff for TRA purposes is a layoff of 7 days or more.
  - The eligibility period is reset following each subsequent qualified layoff, provided the TAA participant meets the criteria for a valid TRA claim.
  - The TRA weekly benefit amount is always the same as the UI weekly benefit amount from the parent claim, even if the 104-week eligibility period is reset.
  - The Basic TRA eligibility period could end before the actual Basic TRA maximum amount is received.
- iii. The maximum Basic TRA amount payable is 52 times the TRA weekly benefit amount from the parent claim minus the total sum of unemployment insurance the TAA participant was entitled under that claim and, if applicable, any benefit extensions, regardless of whether or not the TAA participant actually received the benefits.
  - In the case of Washington TAA participants, the regular unemployment insurance entitlement is up to a maximum of 26 weeks.
- iv. To receive Basic TRA under the 2009 TGAAA certifications, the TAA participant must:
  - Be enrolled in TAA approved training by the later of:
    - The last day of the 26th week after the TAA participant's most recent qualifying layoff; or
    - The last day of the 26th week after the week the Department of Labor issued the certification.

Or

  - Be participating in or within 30 days of starting TAA approved training; or
  - Have completed a TAA approved training plan and be actively seeking work; or
  - Be on a training waiver.
- v. If TAA participants complete approved TAA training and still have a Basic TRA balance, they may continue collecting benefits while doing an EB work search.
- vi. TAA participants must be fully registered in SKIES, and TAA counselor takes an active role to help participant secure employment.

## **h. Additional TRA**

To accommodate breaks in training, the participant may collect 78 weeks of Additional TRA benefits during a span of 91 weeks.

- This rule enables workers to participate in longer training, such as a two-year Associate's degree, a nursing certification, or completion of a college degree, advanced degree or certification.

- Additional TRA can be paid to participants who are entitled to TRA.
- Payments of Additional TRA may be made only for those weeks during the 91-week eligibility period that the TAA participant is actually participating in TAA approved training.
- These funds may not be used for additional time to job search after completing training or during waivers of training.

i. The 91 Week Eligibility Period

The 91-week eligibility period begins:

- The immediate week after the TAA participant exhausts Basic TRA; or
  - The week that the TAA participant begins participating in full-time TAA approved training (this occurs when training starts after all rights to UI and Basic TRA are exhausted).
- ii. Participants who are not eligible for Basic TRA or Additional TRA benefits because they did not meet the qualifying requirements are still eligible to apply for training, job search allowances, relocation allowances, Reemployment Trade Adjustment Assistance (RTAA) wage subsidy for older workers program and reemployment services.

**i. Prerequisite/Remedial TRA**

Prerequisite/remedial coursework may be required in order to complete a curriculum in higher education.

- To be eligible to receive up to 26 weeks of additional prerequisite/remedial TRA payments, the participant must have prerequisite/remedial education included in an approved training plan.
- This coursework can run simultaneously with vocational training allowing additional payable weeks within the same training quarter.
- The weeks of prerequisite/remedial TRA must follow the last week of entitlement to any other TRA payable.
- It is paid on a basis of one week of Remedial TRA for one week of remedial/prerequisite education that has been completed, Prerequisite and remedial TRA has a combined cap of a maximum 26 weeks payable.
- This addition allows workers to receive up to 156 weeks of additional TRA, instead of 130 weeks.

**j. Breaks in Training**

- Eligibility for Basic and Additional TRA continues during scheduled breaks in training, but only if a scheduled break is no longer than 30 days (not counting weekends and holidays) and all of the following additional conditions are met:
  - The TAA participant was participating in TAA approved training immediately before the beginning of the break,
  - The break is preapproved in the published academic schedule, or the

- previously established schedule of training issued by the training provider, or is indicated in the training program approved for the TAA participant; and
- The TAA participant resumes participation in training immediately after break.

#### **k. Payment During A Break**

The following formulas are used to determine a TAA participant's eligibility for payment during a break:

- i. The break begins on the day following the last day of scheduled training and up to the last day of the break preceding the next scheduled day of training.
  - Weekend days are not counted unless they are normally scheduled for training.
  - Official state and federal holidays are not counted.
  - If a training facility closes before a scheduled break because of an emergency situation, any days of closure due to the emergency are not be counted as part of the break.
  - If a TAA participant attends classes only two or three days in a week, the break is counted in the same manner outlined above.
    - The counting of break days is dependent on the schedule of the training facility and not the schedule of the participant in training.
    - However, a TAA participant can be paid for any week during which at least one day of training is scheduled and attended.
- ii. If the number of days is 30 days or less, the TAA participant can be paid during the entire break.
- iii. If the number of days is more than 30 days, the TAA participant cannot be paid Basic or Additional weeks of TRA during the full weeks of the break. This includes summer breaks.

#### **l. Extended Benefits Work Test**

- i. Participants, who have not exhausted Basic TRA benefits and have completed training, must meet the requirements of the Extended Benefits Work Test, as follows:
  - Be able to work;
  - Be available for work;
  - Register for work and be available for referral or accept referral to suitable work by the TAA counselor;
  - Apply for any suitable work the TAA participant is referred to by the TAA counselor;
  - Accept any offer of suitable work; and
  - Actively engage in seeking work and furnish the TRA unit with tangible evidence of four such efforts each week.

#### **m. Overpayments**

If the State agency or a court of competent jurisdiction determines that any individual has received any TAA program benefits, including TRA benefits to which such

individual was not entitled, such individual shall be liable to repay such amount to the State agency.

- i. TRA overpayments may be recovered by deduction from any sums payable under TRA, Federal unemployment compensation, or other Federal benefits paid with respect to unemployment under a program administered by the State agency, and, if appropriate, State UI.

**n. Waiver of Recovery of TRA Overpayments**

Recovery of overpayments of TRA must be waived if it would cause a financial hardship for the individual or the individual's household, when taking into consideration the income and resources reasonably available to the individual or household and other ordinary living expenses of the individual.

The intent of Congress is that overpaid individuals who are without fault and unable to repay their TRA overpayments must be granted a reasonable opportunity for waivers of overpayments.

**4. Definitions:**

None.

**5. References:**

- [Public Law 93-618](#), Trade Act of 1974, as amended
- [Public Law 107-210](#), Trade Adjustment Assistance Reform Act of 2002
- [Public Law 111-5](#), Trade and Globalization Adjustment Assistance Act of 2009
- [20 CFR Part 618](#), TAA Final Rule
- [Training and Employment Guidance Letter \(TEGL\) 22-08](#), Operating Instructions for Implementing the Amendments to the Trade Act of 1974 enacted by the Trade and Globalization Adjustment Assistance Act of 2009; [Change 1](#)
- Information on TRA for unemployment insurance staff is contained in section 5925 of the internal, electronic UI Resource Manual (UIRM)

**6. Supersedes:**

None.

**7. Website:**

[Workforce Professionals Center](#)

**8. Action:**

Employment Security 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.

**9. Attachments:**

None

**Direct Inquiries To:**

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Employment System Policy and Integrity Division  
Employment Security Department  
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