Alabama Workforce Investment System

Alabama Department of Economic and Community Affairs
Workforce Development Division
401 Adams Avenue
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November 18, 2002
GOVERNOR'S WORKFORCE DEVELOPMENT DIRECTIVE NO. PY2002- 06, Chge 3

SUBJECT: Federal Register/Trade Adjustment Assistance Program Training and Employment Guidance Letter Interpreting Federal Law

1. **Purpose.** This transmits information regarding various provisions of the Trade Reform Act of 2002.

2. **Discussion**. The attached **Federal Register** notice of November 14, 2002, both restates and provides interpretations of various provisions of the Trade Reform Act of 2002, which was earlier transmitted under Training and Employment Guidance Letter No. 11-02.

   Specific Trade Reform Act of 2002 subject areas covered include:
   - **A. Reauthorization, Termination, and Expenditure Record**
   - **B. Petition Filing, and Provision of Rapid Response Assistance**
   - **C. Group Eligibility Requirements**
   - **D. Trade Readjustment Allowances**
   - **E. Job Retraining**
   - **F. Job Search Allowances**
   - **G. Relocation Allowances**
   - **H. Repeal of the NAFTA-TAA Program**
   - **I. Coordination With WIA**
   - **J. Unamended Portions of the 1974 Act**
   - **K. Program Reporting**
   - **L. Alternative Trade Adjustment Assistance for Older Workers**
   - **M. Health Insurance Tax Credit**

3. **Action.** Copies of the attached **Federal Register** notice are provided for informational and action purposes.

4. **Contact**. Questions regarding this information should be referred to the USDOL Regional Office.

Steve Walkley, Division Director
Workforce Development Division

Attachment

the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Type of Review: New collection.

Agency: Employment Standards Administration (ESA).

Title: Alternate Employment Information Request.

OMB Number: 1215–0NEW.

Affected Public: Business or other for-profit and not-for-profit institutions.

Frequency: As needed.

Number of Respondents: 100.

Number of Annual Reponses: 2,000.

Estimated Time Per Response: 30 minutes.

Total Burden Hours: 1,000.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The Energy Employees Occupational Illness Compensation Program Act of 2000, as amended (EEOICPA or Act), 42 U.S.C. 7384 *et seq.*, established a program to provide compensation to covered employees and, where applicable, survivors of such employees, suffering from illnesses incurred in the performance of duty for the Department of Energy (DOE) and certain of its contractors, subcontractors and vendors. When the DOE is unable to verify employment history to establish benefit eligibility, section 7384d(a) of the Act gives the Office of Workers Compensation (OWCP) legal authority to request employment information from private entities who are not current contractors or subcontractors of DOE and who have voluntarily agreed to respond to such requests. Section 7384v(c) of the Act gives OWCP legal authority to make these same requests to current DOER contractors and subcontractors. This information collection request will use a variety of methods to contract designated respondents and will accept information responses via e-mail, telephone, Fax or mail.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 02–28929 Filed 11–13–02; 8:45 am]

BILLING CODE 4510–CH–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

November 4, 2002.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King on 202–693–4129 or e-Mail: *King-Darrin@dol.gov.*

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 (202–395–7316), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

Agency: Employment and Training Administration (ETA).

Type of Review: New collection.

Title: Revising Quarterly Contribution and Wage Reports to Accommodate Expanded Name Fields and Additional Labor Market Information.

OMB Number: 1205–0NEW.

Affected Public: Business or other for-profit.

Type of Response: Reporting.

Frequency: One time.

Number of Respondents: 1,600.

Annual Responses: 1,615.

Average Response Time: 30 minutes to complete the survey and 90 minutes to conduct a case study interview.

Estimated Burden Hours: 823.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The information collected with this survey is necessary to assess of the burden employers and State Employment Security Agencies (SESAs) would experience if the quarterly contribution and wage reports filed by employers and processed by SESAs were revised to accommodate full names and additional labor market information (LMI). The full name fields are necessary to enhance the efficiency of the National Directory of New Hires database in locating the employment of individuals who are not meeting their parental responsibilities. The additional LMI data is needed to improve the ability to accurately assess the value of various workforce Investment Act vocational training programs and to enrich the pool of LMI data available.

Ira L. Mills

Departmental Clearance Officer.

[FR Doc. 02–28930 Filed 11–13–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Trade Adjustment Assistance Program: Training and Employment Guidance Letter Interpreting Federal Law

The Employment and Training Administration interprets federal law requirements pertaining to Trade Adjustment Assistance (TAA). These interpretations are issued in Training and Employment Guidance Letters (TEGLs) to the State Workforce Agencies. The TEGL described below is published in the **Federal Register** in order to inform the public.

TEGL 11–02

TEGL 11–02 advises states of the federal law requirements applicable to implementing reforms of the Trade Adjustment Assistance (TAA) program enacted by the TAA-Reform Act of 2002.

The operating instructions in TEGL 11–02 are issued to the States and the cooperating state workforce agencies (SWAs) as guidance provided by the Department of Labor (DOL) in its role as the principal in the TAA program. As agents of the Secretary of Labor, the

States and cooperating SWAs may not vary from the operating instructions in TEGL 11–02 without prior approval from DOL.

Pending the issuance of regulations implementing the provisions of the TAA Reform Act of 2002, the operating instructions in TEGL 11–02 constitute the controlling guidance for the States and the cooperating SWAs implementing and administering the Trade Act of 1974, as amended, pursuant to the agreements between the States and the Secretary of Labor under section 239 of the Trade Act of 1974, as amended.

Changes to the TAA program are set out in TEGL 11–02 according to the principal parts of the TAA program and generally in the order in which they appear in the TAA Reform Act of 2002. The changes to each part, and those aspects of each part that remain unchanged, are explained in turn, along with the regulations principally affected and the changes in program administration that may be required. Sections of the Trade Act of 1974 that are entirely unchanged by the TAA Reform Act of 2002 are discussed after the sections that are changed.

Dated: November 7, 2002.

Emily Stover DeRocco,

Assistant Secretary of Labor.

Training and Employment Guidance Letter No. 11–02

To: All State workforce liaisons, All State workforce agencies, All one-stop center system leads.

From: Emily Stover DeRocco, assistant Secretary.

Subject: Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade Act of 2002.

1. *Purpose.* To assist the State Workforce Agencies (SWA) in implementing the provisions of the Trade Act of 2002 that amend the current Trade Adjustment Assistance program and repeal the North American Free Trade-Transitional Adjustment Assistance program.

2. *References.* The Trade Act of 1974, as amended (Pub. L. 93–618, as amended); the Trade Act of 2002 (Pub. L. 107–210); 20 CFR part 617; 29 CFR part 90; General Administration Letter 7–94 with changes 1, 2, and 3. The amendments to the TAA program may also be referred to as the Trade Adjustment Assistance Reform Act of 2002. Forthcoming directives: Unemployment Insurance Program Letter (UIPL) No. 02–03; ETA guidance—Use of National Emergency Grant Funds Under the Workforce Investment Act, as Amended, to Support Healthcare Assistance for Trade Impacted Workers; Department of the Treasury instructions and guidance on implementing the Health Insurance Tax Credit provisions of the Trade Act of 2002.

To provide guidance on the implementation of various aspects of the Trade Act of 2002, ETA plans to issue the following additional instructions:

Provision	Instructions	Expected issue date	Effective date of provision
Health Insurance Assistance NEGs for System-Building	TEGL: Use of NEGs to Develop Systems for Health Insurance Coverage Assistance for Trade-Impacted Workers.	10/10/02	8/6/02
End-of-Year Tax Credit	UIPL No. 02–03: Health Insurance Tax Credit for Eligible Trade Adjustment Assistance/Trade Readjustment Allowances (TAA/TRA) Recipients.	10/10/02	12/1/02
New Petition Procedures	TEGL	Spring 2003	
Advance Tax Credit	Companion Advisory to IRS Instructions	Late Spring 2003.	8/1/03
Alternative TAA for Older Workers Program	TEGL	Spring 2003	8/6/03

3. *Guiding Principle for TAA Implementation.* The reauthorization and reform of the TAA program and repeal of the NAFTA–TAA program provide an opportunity to ensure that effective strategies are employed to assist affected workers in obtaining reemployment. It is essential that DOL and the states work together to move trade-affected workers into new jobs as quickly and effectively as possible so that they continue to be productive members of our workforce and so that our businesses remain competitive. To this end, the intervention strategies used for program benefits and services will be aimed toward rapid, suitable and long-term employment for adversely affected workers. States must:

A. Increase the focus on early intervention, upfront assessment, and reemployment services for adversely affected workers. It should not be assumed that the best reemployment strategy for all workers is the long-term training and extended income support that has traditionally been the focus of the program. The new requirements in the 2002 Amendments requiring the provision of rapid response and core and intensive services available under WIA and other Federal programs to workers filing a TAA petition afford an important opportunity to stress early intervention and more rapid reemployment. providing an early assessment and identification of the worker's marketable skills, and the provision of job search assistance and other reemployment services will assist many workers in obtaining suitable reemployment quickly.

B. Use One-Stop Career Centers as the main point of participant intake and delivery of benefits and services. This will encourage coordination among programs in order to better serve workers and promote efficiencies in the workforce system.

C. Maintain fiscal integrity and promote performance accountability. ETA will ensure that money allocated for TAA is sued for the purposes Congress intended—to improve the economy, and assist workers and businesses—and that it is spent with the interests of taxpayers in mind. This will occur, in part, through strengthened participant outcome measures for the program.

4. *Background.* the Trade Adjustment Assistance (TAA) program for workers was first established at the U.S. Department of Labor (DOL) by the Trade Act of 1974 (1974 Act). Currently, when DOL receives a petition for TAA from a group of workers or its authorized representative, DOL conducts a fact-finding investigation to determine whether increased imports have contributed importantly to the workers' dispacement. IF the findings of the investigation show that the workers have been adversely affected by import competition, the Secretary of Labor issues a certification of eligibility to apply for adjustment assistance. Once a certification is issued, it is transmitted

to the State. The SWAs act as agents of the Secretary to notify certified workers of potential Trade Act benefits and services, make eligibility determinations for individuals, and deliver benefits and services. Individual workers who are members of the certified worker group apply for benefits and services at a One-Stop Career Center or other local office of the SWA. Individual workers who meet the qualifying criteria may receive up to 104 weeks of job retraining, up to 52 weeks (generally) of income support in the form of Trade Readjustment Allowances (TRA), job search allowances, and relocation allowances. In addition, all workers covered by a certification are eligible for basic reemployment services such as job referrals, job clubs, resume-writing assistance, and so forth. Most of the steps in this current process have been affected by the provisions of the Trade Act of 2002 (2002 Act).

The 1974 Act has been amended several times since its initial passage. In December 1993, the North American Free Trade Implementation Act created the North American Free Trade Agreement—Transitional Adjustment Assistance (NAFTA–TAA) program by adding subchapter D to chapter 2 of title II of the 1974 Act. Subchapter D contains one section, section 250, which established the NAFTA–TAA program and specified some differences between it and the regular TAA program. Certifications of worker groups under NAFTA–TAA were made only if imports from Canada and/or Mexico caused the import impact, or if the workers' firm shifted production to either Canada or Mexico. Workers filed their petitions with the Governor of the State in which they were employed, not directly with DOL, and the State performed a preliminary investigation. If the workers appeared to be impacted by imports from Canada or Mexico or a shift of production to Canada or Mexico, the state provided rapid response assistance under the Workforce Investment Act of 1998 (WIA). The State then transmitted all information gathered in the preliminary investigation to DOL, which issued the final determination on eligibility to apply. In order to qualify for TRA, workers had to be enrolled in training within specific time limits. Workers certified under NAFTA–TAA had to be enrolled in approved training in order to qualify for TRA; no waivers from this requirement were allowed. Regular TAA allowed waivers if training was "not feasible or appropriate" for the worker.

Along with the creation of the NAFTA–TAA program, the Clinton Administration issued a Statement of Administrative Action (SAA) that committed to providing assistance to workers who were not directly impacted by trade with Canada or Mexico, but were indirectly impacted because their firm supplied components to, or performed finishing operations for, a firm which was directly impacted. These secondarily-impacted workers petitioned for certification in the same way as for the NAFTA–TAA program, or DOL initiated a secondary investigation if the result of a primary NAFTA–TAA investigation was a denial of eligibility to apply. In either case, if the worker group was found to be secondarily impacted by imports from Canada and/or Mexico or a shift of production to Canada or Mexico, the members of the group qualified for benefits and services delivered through the dislocated worker program under WIA.

On August 6, 2002, President George W. Bush signed into law H.R. 3009, the Trade Act of 2002 (2002 Act), Pub. L. 107–210. The 2002 Act makes several amendments to the 1974 Act. The amendments that are covered in these operating instructions apply to petitions for adjustment assistance that are filed on or after November 4, 2002. Petitions filed on or before November 3, 2002, are covered by the provisions of the 1974 Act that were in effect on September 30, 2001.

The 2002 Act repeals subchapter D of chapter 2 of title II of the 1974 Act (the NAFTA–TAA program). However, workers covered under certifications issued pursuant to NAFTA–TAA petitions filed on or before November 3, 2002, will continue to be covered under the provisions of the NAFTA–TAA program that were in effect on September 30, 2001. The 2002 Act generally did not amend the job retraining provisions of the 1974 Act, except that customized training may now be approved for import-impacted workers. The statutory cap on funds that may be allocated to the States for training is raised from $110 million to $220 million per year. The maximum amount of TRA is increased by 26 weeks of additional TRA for all workers in training. Up to 26 more weeks of additional TRA may be approved if the worker must undergo remedial training as part of his/her retraining program. In order to qualify for TRA, a worker must be enrolled in training within 16 weeks of his/her most recent total qualifying separation, or within 8 weeks of the issuance of the certification, whichever is later. However, States may grant an extension of these requirements for up to 45 days if there are extenuating circumstances. Waivers from the training requirement are available under six specific conditions. A worker may continue to receive TRA during a break in training that lasts up to 30 days (raised from 14 days).

To petition for eligibility to apply for TAA, workers or their authorized representatives must now file the petition simultaneously with the Secretary of Labor and the Governor of the State where the workers were employed. The Governor no longer has responsibility for conducting a preliminary investigation. However, the Governor must provide rapid response services and appropriate core and intensive to all petitioning workers. DOL has 40 days to conduct an eligibility investigation and issue a determination. The 2002 Act also makes the secondary-worker coverage, as provided under the Statement of Administrative Action, statutory. Workers who are found to be secondarily-impacted, as defined in the Act, are eligible to apply for the same benefits and services as workers certified as primarily impacted; the benefits and services for both primarily and secondarily-affected workers are paid from TAA funds.

The 2002 Act creates a program of health insurance tax credits (HITC) for certain trade-impacted workers and others. Covered individuals include workers who are eligible for TRA (including those workers who would be eligible except that they have not exhausted all entitlement to unemployment insurance), workers participating in the alternative TAA program (next paragraph), and individuals over 55 years old who are receiving monthly benefits paid by the Pension Benefit Guaranty Corporation (PBGC). Covered individuals may be eligible to receive a tax credit equal to 65% of the amount they paid for qualifying coverage under qualified health insurance. The tax credit may be claimed at the end of the year, or, beginning in August 2003, a qualified individual may receive the credit in the form of monthly advance payments to the health insurance provider.

The 2002 Act creates the Alternative TAA (ATAA) for Older Workers program. Under the ATAA, workers at least 50 years who obtain different, full-time employment within 26 weeks of separation from adversely-affected employment at wages less than the wages earned in the adversely-affected employment may receive 50 percent of the wage differential, up to a maximum of $10,000, during their two-year eligibility period. To be eligible for the ATAA program, workers may not earn more than $50,000 per year in the new employment. Also, the firm where the

workers worked must meet certain eligibility criteria. Workers who take advantage of the ATAA cannot receive three of the regular TAA benefits and services (training, TRA, and job search allowances); they are, however, eligible to apply for relocation allowances and the health insurance tax credit.

The 2002 Act also creates a separate TAA program for farmers. Eligibility determinations for that program are the responsibility of the Secretary of Agriculture. Farmers certified under that program are entitled to the same [illegible] farmers.

5. *Operating Instructions.* The operating instructions in this document are issued to the States and the cooperating SWAs as guidance provided by the Department of Labor (DOL) in its role as the principal in the TAA program. As agents of the Secretary of Labor, the States and cooperating State agencies may not vary from the operating instructions in this document without prior approval from DOL.

Pending the issuance of regulations implementing the provisions of the 2002 Act, the operating instructions in this document constitute the controlling guidance for the States and the cooperating State agencies in implementing and administering the 1974 Act, as amended, pursuant to the agreements between the States and the Secretary of Labor under section 239 of the 1974 Act, as amended.

Changes to the TAA program are set out in this document according to the principal parts of the TAA program and generally in the order in which they appear in the 2002 Act. The changes to each part, and those aspects of each part that remain unchanged, are explained in turn, along with the regulations principally affected and the changes in program administration that may be required. Sections of the 1974 Act which are entirely unchanged by the 2002 Act are discussed after the sections that are changed.

In general, the amendments to the 1974 Act made by the 2002 Act take effect on November 4, 2002, 90 days after the President signed the 2002 Act into law.

All of the changes to the petitioning process apply to petitions filed on or after November 4, 2002. Changes to the eligibility requirements and levels of Trade Act benefits and services apply to workers covered by certifications issued pursuant to petitions filed on or after November 4, 2002. For convenience and emphasis, the effective date is repeated in several sections of these instructions. Exceptions to this effective date apply to certain aspects of the health insurance tax credit and to the ATAA program. Instructions for those are not included in this document, but will be issued in separate directives in the near future.

There are provisions of the 2002 Act that are not covered by these operating instructions. The Health Insurance Tax Credit (HITC) [illegible] 2003. Complete guidance and operating instructions for the ATAA are forthcoming. The HITC and the ATAA are discussed briefly in this document, and only for informational purposes.

For purposes of these operating instructions, the following definitions will apply:

1. 2002 Act means the Trade Act of 2002, Pub. L. 107–210.

2. 1974 Act means the Trade Act of 1974, as amended (but not including the amendments in the 2002 Act), Pub. L. 93–618, as amended.

3. DOL means the U.S. Department of Labor.

4. Secretary means the Secretary of Labor.

5. TAA means the Trade Adjustment Assistance program.

6. NAFTA–TAA means the North American Free Trade Agreement-Transitional Adjustment Assistance program.

7. TRA means Trade Readjustment Allowances.

8. ATAA means Alternative Trade Adjustment Assistance program.

9. HITC means Health Insurance Tax Credit.

10. WIA means the Workforce Investment Act of 1998.

A. Reauthorization, Termination, and Expenditure Record

Statutory Change: Section 111 of the 2002 Act amends sections 245 and 285 of the 1974 Act as follows:

Sec. 285. Termination

(a) Assistance for Workers.—Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended by striking 'October 1, 1998, and ending September 30, 2001, each place it appears and inserting October 1, 2001, and ending September 30, 2007,'.

(c) Termination.—Section 285 of the Trade Act of 1974 is amended to read as follows:

(a) Assistance for Workers.—

(1) *In General.*—Except as provided in paragraph (2), trade adjustment assistance, vouchers, allowances, and other payments or benefits may not be provided under chapter 2 after September 30, 2007.

(2) *Exception.*—Notwithstanding paragraph (1), a worker shall continue to receive trade adjustment assistance benefits and other benefits under chapter 2 for any week for which the worker meets the eligibility requirements of that chapter, if on or before September 30, 2007, the worker is—

(A) Certified as eligible for trade adjustment assistance benefits under chapter 2 of this title; and

[illegible] past that date of program benefits to workers who are covered by a certification issued on or before that date and are otherwise eligible to receive the benefits.

Statutory Change: Section 120 of the 2002 Act amends section 245 of the 1974 Act as follows:

Section 245 of the Trade Act of 1974 (19 U.S.C. 2317), as amended by section 111(a) of this Act, is further amended by amending subsection (b) to read as follows:

(b) *Period of Expenditure.*—Funds obligated for any fiscal year to carry out activities under sections 235 through 238 may be expended by each State receiving such funds during that fiscal year and the succeeding two fiscal years.

Administration: This amendment codifies the existing way of handling funds allocated to States for job training (including transportation and subsistence allowances), job search allowances, and relocation allowances.

States may accrue expenditures during the fiscal year in which they receive funding, and during the succeeding two fiscal years. States must liquidate all accrued expenditures charged to a particular fiscal year within 90 days after the close of the second succeeding fiscal year (29 CFR 97.23(b)).

B. Petition Filing and Provision of Rapid Response Assistance

B.1. Petition Filing

Statutory Change: Section 112(a) of the 2002 Act amends section 221(a) of the 1974 Act to read as follows:

(a)(1) A petition for certification of eligibility to apply for adjustment assistance for a group of workers under this chapter may be filed simultaneously with the Secretary and the Governor of the State in which such workers' firm or subdivision is located by any of the following:

(A) The group of workers (including workers in an agricultural firm or subdivision of an agricultural firm).

(B) The certified or recognized union or other dully authorized representative of such workers.

(C) Employers of such workers, one-stop operators are one-stop partners (as defined in section 101 of the Workforce Investment Act of 198 (29 U.S.C. 2801)), including State employment security agencies, or the State dislocated worker unit established under title I of such Act, on behalf of such workers.

(2) Upon receipt of a petition filed under paragraph (1), the Governor shall—

(A) Ensure that rapid response assistance, and appropriate core and intensive services (as described in section 134 of the Workforce Investment Act of 1998 (29 U.S.C. 2864)) authorized under other Federal laws are made available to the workers covered by the petition to the extent authorized under such laws; and

(B) Assist the Secretary in the review of the petition by verifying such information and providing such other assistance as the Secretary may request.

Administration: Beginning on November 4, 202, petitions for certification of eligibility to apply for adjustment assistance must be filed simultaneously with the Secretary of Labor and the Governor of the State where the petitioning workers worked. Although the language of the statute says "may" be filed simultaneously, the legal interpretation is that anyone who has standing to file a petition and who wishers to do so *must* file simultaneously with the Secretary and the Governor in order that they are both able to carry out their statutory responsibilities. If the statute had said "shall" file simultaneously, that would be a legal requirement that all persons in the United States who fit into one or more of the three listed categories must file petitions for adjustment assistance.

Throughout those operating instructions, the terms "filed" and "received" have the same meaning with respect to the petitioning process. Regulations published at 29 CFR 90.2 state that "*Date of filing* means the date on which petitions and other documents are received by the Office of Trade Adjustments Assistance. Employment and Training Administration, U.S. Department of Labor * * *".

Petitions may be filed by any of the following:

1. Three or more individual members of the affected worker group;
2. An official of the certified or recognized union that represents the workers;
3. An official of the company where the workers worked;
4. One-Stop operators are partners as defined in section 101 of the WIA, including SWAs or the State dislocated worker unit.

The States is also required to assist the Secretary in the review of the petition by verifying such information and providing other assistance as the Secretary may request. However, States no longer perform preliminary investigations as they did under the NAFTA–TAA program.

States must be prepared to assist petitioners in completing and filing petitions. Petitions forms must be readily available at all One-Stop Career Centers and other local offices of the SWA. Upon receiving a petition, the State must immediately transmit the petition by facsimile or other electronic means to DOL. If a petition is received both in the State and transmitted to DOL on the same day, the petition will be considered to have been filed simultaneously with the Secretary and the Governor. However, in practice, strictly simultaneous filing may not be practical. If a petition is not received on the same day by both the Secretary and the Governor, it will be considered to be filed on the later of the two different dates of receipt. A new petition form will be supplied to the States by DOL; the new petition form will also be available for download from the TAA Web site (*http://www.doleta.gov/tradeact*). Petitions filed on or after November 4, 2002, must use the new form.

B.2. Rapid Response

Upon receipt of a petition on or after November 4, 2002, the State must ensure that rapid response assistance and appropriate core and intensive services, as described in section 134 of the WIA, are made available to the workers covered by the petition to the extent authorized under the WIA and other Federal laws. This requirement applies to every petition received. If a petition is generated during the course of rapid response assistance to a worker group, this requirement will be satisfied for that petition. The State shall use the date that the petition is received by the State as the criterion for providing rapid response assistance.

C. Group Eligibility Requirements

Section 113 of the 2002 Act amends section 222 of the 1974 Act by broadening the criteria for certification and adding eligibility for certain secondarily-affected workers. In order to properly assist workers or their representatives to file petitions for adjustment assistance, or to properly file themselves on behalf of workers, States must know the new criteria for certification of petitions for both primarily-affected workers and secondarily-affected workers. Responsibility for investigating petitions and applying the criteria for certification will rest with DOL.

It is important to note from the outset that the inclusion of secondarily-affected workers does *not* create a separate group of certified workers who are eligible for benefits and services that are different from those available to other certified workers. All workers covered by certifications issued pursuant to petitions filed on or after November 4, 2002, whether they are 'primarily affected' or 'secondarily affected', are eligible to apply for the same set of benefits and services.

C.1. Certification Criteria

Statutory Change: Section 113 of the 2002 Act amends section 222(a) of the 1974 Act to read as follows:

(a) In General.—A group of workers (including workers in any agricultural firm of subdivision of an agricultural firm) shall be certified by the Secretary as eligible to apply for adjustment assistance under this chapter pursuant to a petition filed under section 221 if the Secretary determines that—

(1) A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated; and

(2)(A)(i) The sales or production, or both, of such firm or subdivision have decreased absolutely;

(ii) Important of articles like or directly competitive with articles produced by such firm or subdivision have increased; and

(iii) The increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

(B)(i) There has been a shift of production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

(ii)(I) The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

(II) The country to which the workers' firm has shifted production of the articles is a beneficiary country under the Andean Trade Preferences Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

(III) There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Administration: The criteria for certification of eligibility to apply for adjustment assistance now cover adverse effects either from increased imports or from a shift of production to certain countries. In order for a certification to be issued, the petition must satisfy these two criteria:

1. A significant number or proportion of the workers in the workers' firm, or an appropriate subdivision of such 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 or subdivision must have decreased absolutely, and

(ii) Imports of articles like or directly competitive with articles produced by the petitioning workers' firm or subdivision have increased, and

(iii) The increase in imports described in (ii) contributed importantly to the petitioning workers' separation or threat of separation and to the decline in sales or production at the firm or subdivision.

B. (i) There has been a shift of production by the petitioning workers' firm or subdivision to a foreign country of articles like or directly competitive with the articles which are produced by the firm or subdivision, and

(ii) one of the following conditions applies:

a. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States; or

b. The country to which the workers' firm has shifted production of the articles is a beneficiary country under the Andean Trade Preference Act, the African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act, or

c. There has been or is likely to be an increase in imports of the articles that are like or directly competitive with articles which are or were produced by the firm or subdivision.

The new certification criteria are basically a combination of the criteria for the old TAA program and those for the NAFTA–TAA program. the first set of criteria for certification are the same as those that have applied to the TAA program since its inception. The second set of criteria takes the shift of production criterion from the NAFTA–TAA program and modifies it to cover shifts to many, but not all, countries. The applicable countries are those included in three specific trade-promotion Acts and any others that are parties to free-trade agreements with the United States. The group of countries that are applicable for these purposes may change from time to time; a current list of such countries will be available on the TAA Web site. For shifts of production to countries that do not fall into either of those groups, there is a third criterion that covers actual or prospective increases of imports of like or directly competitive products. The latter criterion does *not* require that the actual or prospective increases in imports come from the country to which the shift of production occurred.

C.2. Secondarily-Affected Worker Eligibility

Statutory Change: Section 113(b) of the 2002 Act continues the amendments to section 222 of the 1974 Act by redesignating section 222(b) of the 1974 Act as section 222(c) and inserting the following:

(b) Adversely Affected Secondary Workers.—A group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) shall be certified by the Secretary as eligible to apply for adjustment assistance benefits under this chapter if the Secretary determines that—

(1) A significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility under subsection (a), and such supply or production is related to the article that was the basis for such certification (as defined in subsection (c)(3) and (4)); and

(3) Either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation determined under paragraph (a).

Section 113(b) of the 2002 Act amends section 222(c) (as redesignated) of the 1974 Act by adding the following:

(3) Downstream Producer.—The term 'downstream producer' means a firm that performs additional, value-added production processes for a firm or subdivision, including a firm that performs final assembly or finishing, directly for another firm (or subdivision), for articles that were the basis for a certification of eligibility under subsection (a) of a group of workers employed by such other firm, if the certification of eligibility under subsection (a) is based on an increase in imports from, or a shift of production to, Canada or Mexico.

(4) Supplier.—The term 'supplier' means a firm that produces and supplies directly to another firm (or subdivision) component part for articles that were the basis for a certification of eligibility under subsection (a) of a group of workers employed by such other firm.

Administration: there are basically two groups of workers that can be certified as eligible to apply for adjustment assistance because the workers are secondarily affected—workers who supply components (upstream) to a firm whose workers are certified (primary) or workers who perform additional, value-added production and finishing operations (downstream) for a firm whose workers are certified (primary).

Upstream workers must directly supply the primary firms. 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 components supplied to the primary firm by the upstream workers must either account for at least 20 percent to the production or sales of the upstream firm, 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. For upstream workers to be certified as secondarily affected, the import impact on the primary firm can come from increased imports from any country or a shift of production to any country that qualifies under the shift-of-production criteria.

Downstream workers must directly perform additional, value-added production processes, including final assemble or finishing, on the products of the primary firm. Downstream workers can only be certified as secondarily affected if the workers of the primary firm are certified based on increased imports from Canada or Mexico or a shift of production to Canada or Mexico. Also, the downstream workers' firm must have suffered a loss of business with the primary firm that contributed importantly to the workers' separations or threat of separations.

C.3. Secondary Worker Coverage Under the SAA

The secondary-worker coverage that was established by the Statement of Administrative Action (SAA) that accompanied the NAFTA implementing legislation applied only to workers who were adversely affected by imports from, or a shift of production to, Canada or Mexico. Workers determined to be secondarily impacted under the SAA received benefits and services through the dislocated worker program under WIA. Under the 2002 Act, the TAA

program will be responsible for benefits and services provided to workers who are certified as secondarily affected pursuant to petitions received on or after November 4, 2002. The benefits and services available to such workers, and the eligibility critiera applicable to them, are exactly the same as for workers who are certified as primarily impacted.

D. Trade Readjustment Allowances

D.1. Exhaustion of Unemployment Insurance

Statutory Change: Section 114(a) of the 2002 Act amends section 231(a)(3)(B) of the 1974 Act by inserting at the end of the subsection "except additional compensation that is funded by a State and is not reimbursed from any Federal funds."

Administration: As amended, section 231(a)(3)(B) requires that a worker must exhaust all entitlement to unemployment insurance in order to be eligible for TRA. Entitlement to unemployment insurance includes regular UC and Extended Benefits (EB) and Temporary Extended Unemployment Compensation (TEUC). However, the new amendment means that an eligible worker may receive TRA before (or, depending on State law, along with) receiving additional compensation that is entirely State-funded.

Under section 233(a)(1) of the 1974 Act, which has not been amended, a determination of the amount of basic TRA to which an eligible worker is entitled is made by computing 52 times the most recent TRA weekly benefit amount (WRA), then deducting from that amount the sum of the unemployment insurance to which the worker was entitled in the worker's first benefit period. However, the statutory change to section 231(a)(3)(B) is interpreted to mean that additional compensation that is entirely State-funded shall not be deducted from the product of 52 times the worker's WBA in computing a worker's basic TRA maximum benefit amount.

D.2. Enrollment in Training Requirement

Statutory Change: Section 114(b) of the 2002 Act amends section 231(a)(5)(A) of the 1974 Act to read;

(5) Such worker

(A)(i) Is enrolled in a training program approved by the Secretary under section 236(a) of this title, and

(ii) The enrollment required under clause 9i) occurs no later than the latest of—

(I) The last day of the 16th week after the worker's most recent total separation form adversely affected employment which meets the requirements of paragraphs (1) and (2),

(II) The last day of the 8th week after the week in which the Secretary issues a certification covering the worker,

(III) 45 days after the later of the dates specified in subclause (I) or (II), if the Secretary determines that there are extenuating circumstances that justify an extension in the enrollment period, or

(IV) The last day of a period determined by the Secretary to be approved for enrollment after the termination of a waiver issued pursuant to subsection (c).

Administration: "Enrolled in training" means that the worker's application for training has been approved by the SWA and that the training institution has furnished written notice to the SWA that the worker has been accepted into the approved program which is to begin within 30 days of such approval (20 CFR 617.11(a)(2)(vii)(D)). States are encourage to select training providers that have met the qualifications necessary to be included in the Eligible Training Provider List (ETPL) as defined in the WIA.

"Extenuating circumstances" are situations that could arise when training programs are abruptly cancelled or where the first available enrollment date is past the end of the 60-day period, as well as in cases where a worker suffers injury or illness that adversely affects the worker's ability to enroll in training. These new enrollment deadlines are nearly the same as those that have existed for the NAFTA–TAA program since 1994. These deadlines may be waived for specified reasons, which are discussed next. However, the intent of time limitations is that adversely-affected workers who are in need of training be enrolled in training quickly in order to expedite their adjustment and reemployment.

For purposes of subsection IV, "the last day of a period determined by the Secretary" is the first Monday of the week following the week in which the waiver is terminated, whether by revocation or expiration, until such time as this issue is addressed in regulations.

D.3. Training Waivers

Statutory Change: Section 115 of the 2002 Act amends section 231(c) of the 1974 Act to read as follows:

(c) Waivers of Training Requirements.—

(1) Issuance of waivers.—The Secretary may issue a written statement to an adversely affected worker waiving the requirement to be enrolled in training described in subsection (a)(5)(A) if the Secretary determines that it is not feasible or appropriate for the workers, because of 1 or more of the following reasons:

(A) Recall.—The workers has been notified that the workers will be recalled by the firm from which the separation occurred.

(B) Marketable Skills.—The workers possesses marketable skills for suitable employment (as determined pursuant to an assessment of the worker, which may include the profiling system under section 303(j) of the Social Security Act (42 U.S.C. 503(j)), carried out in accordance with guidelines issued by the Secretary) and there is a reasonable expectation of employment at equivalent wages in the foreseeable future.

(C) Retirement.—The worker is within 2 years of meeting all requirements for entitlement to either—

(i) Old-age insurance benefits under title II of the Social Security Act (42 U.S.C. 401 *et seq.*) (except for application therefor); or

(ii) A private pension sponsored by an employer or labor organization.

(D) Health.—The worker is unable to participate in training due to the health of the worker, except that a waiver under this subparagraph shall not be construed to exempt a 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.

(E) Enrollment Unavailable.—The first available enrollment date for the approved training of the worker is within 60 days after the date of the determination made under this paragraph, or, if later, there are extenuating circumstances for the delay in enrollment, as determined pursuant to guidelines issued by the Secretary.

(F) 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 1988 (20 U.S.C. 2302), and employers), no training that is suitable for the worker is available at reasonable cost, or no training funds are available .

(2) Duration of Waivers.—

(A) In General.—A waiver issued under paragraph (1) shall be effective for not more than 6 months after the date on which the waiver is issued, unless the Secretary determines otherwise.

(B) Revocation.—The Secretary shall revoke a waiver issued under paragraph (1) if the Secretary determines that the basis of a waiver is no longer applicable to the worker and shall notify the worker in writing of the revocation.

(3) Agreements Under Section 239.—

(A) Issuance by Cooperating States.—Pursuant to an agreement under section 239, the Secretary may authorize a cooperating State to issue waivers as described in paragraph (1).

(B) Submission of Statements.—An agreement under section 239 shall include a requirement that the cooperating State submit to the Secretary the written statements provided under paragraph (1) and a statement of the reasons for the waiver.

Section 115 of the 2002 Act also amends section 231(a)(5)(C) of the 1974 Act by striking the word "certified".

Administration: There are now six specific criteria for issuing a waiver of the training requirement. Criterion (A) requires that a worker has received specific notice of recall to the worker's adversely-affected employment. States shall require that this notice of recall be in writing from the firm. Criterion (B) should be used as a means of encouraging more rapid reemployment and the use of up-front job search. As part of the marketable skills test, workers in a petitioning worker group may receive core and intensive services using rapid response funding before their petition is certified to encourage more rapid reemployment. Criterion (E) requires that the worker's training begin within 60 days after the approval of the waiver, unless there are extenuating circumstances. Such circumstances could arise when training programs are abruptly cancelled or where the first available enrollment date is past the end of the 60-day period, as well as in cases where a worker suffers injury or illness that adversely affects the worker's ability to enroll in training. The statutory language in criteria (C), (D), and (F) needs no further explanation.

Also, as before, a waiver only applies to eligibility for basic TRA, not additional TRA. In order to receive additional TRA, a worker must be participating in approved training in each week for which the additional TRA is paid.

In accordance with section 231(c)(3)(A) of the 1974 Act, as amended by the 2002 Act, States may issue waivers from the training requirement, when necessary and proper, in accordance with the statutory language and these instructions for eligible workers who are covered by certifications issued pursuant to petitions received on or after November 4, 2002. Also, in accordance with section 231(c)(3)(B) of the 1974 Act, as amended by the 2002 Act, States must submit to the Secretary reports on all waivers issued. The required reports are discussed in more detail in these instructions in section K, Program Reporting.

D.4. Limitations on TRA

Statutory Change: Section 116(a) of the 2002 Act amends section 233(a) of the 1974 Act so that paragraph (2) reads as follows:

(2) A trade readjustment allowance shall not be paid for any week occurring after the close of the 104-week period (or, in the case of an adversely affected worker who requires a program of remedial education (as described in section 236(a)(5)(D)) in order to complete training approved for the worker under section 235, the 130-week period) that begins with the first week following the week in which the adversely affected worker was most recently totally separated from adversely affected employment—

(A) Within the period which is described in section 231(a)(1) of this title, and

(B) With respect to which the worker meets the requirements of section 231(a)(2) of this title.

Administration: This section of the 1974 Act creates as 104-week period beginning with a worker's most recent total qualifying separation during which the worker may receive any basic TRA to which the worker is entitled. States must continue to apply this rule, except that, in cases where a worker requires remedial education as part of the worker's reemployment plan, such a worker has a 130-period in which to receive any basic TRA to which the worker is entitled.

Statutory Change: Section 116(a) of the 2002 Act also amends section 233(a) of the 1974 Act so that paragraph (3) reads as follows:

(3) Notwithstanding paragraph (1), in order to assist the adversely affected worker to complete training approved for him under section 236 of this title, and in accordance with regulations prescribed by the Secretary, payments may be made as trade readjustment allowances for up to 52 additional weeks in the 52-week period that—

(A) Follows the last week of entitlement to trade readjustment allowances otherwise payable under this part; or

(B) Begins with the first week of such training, if such training begins after the last week described in subparagraph (A). Payments for such additional weeks may be made only for weeks in such 52-week period during which the individual is participating in such training.

Administration: This amendment increases the maximum number of weeks of additional TRA for all eligible workers from 26 to 52. In all other respects, the regulations and operating instructions related to additional TRA are unchanged, except for the case where a worker who undergoes remedial training may qualify for up to 36 more weeks of additional TRA (see below).

States must continue to apply the regulatory definition of additional TRA (20 CFR 617.3(m)(2)), and the regulations on weeks of additional TRA (20 CFR 617.15(b)), which continue to be in effect until they are superseded by new regulations, except that all occurrences of "26 weeks" in the regulations are interpreted as referring to "52 weeks" for workers covered by certifications that are issued pursuant to petitions received on or after November 4, 2002.

Statutory Change: Section 116(b) of the 2002 Act amends section 233(f) of the 1974 Act to read:

(f) Workers treated as participating in training. For purposes of this part, a worker shall be treated as participating in training during any week which is part of a break in training that does not exceed 30 days if—

(1) The worker was participating in a training program approved under section 236 of this title before the beginning of such break in training, and

(2) The break is provided under such program.

Administration: A State must continue to pay TRA to a worker who is receiving TRA while participating in approved training during scheduled or other normal breaks in the training that last for up to 30 days. The regulations which govern breaks in training, 20 CFR 617.15(d), continue in effect, except that the number "14" in that section is interpreted as "30" and the number "15" found in section 617.15(d)(3) is interpreted as "31" until they are superseded by new regulations. In addition, the reference to "14-day break in training" in 20 CFR 617.22(f)(3)(ii) is interpreted as "30-day break in training".

Statutory Change: Section 116(c) of the 2002 Act amends section 233 of the 1974 Act by adding the following subsection at the end:

(g) Notwithstanding any other provision of this section, in order to assist an adversely affected worker to complete training approved for the worker under section 236 which includes a program of remedial education (as described in section 236(a)(5)(D)), and in accordance with regulations prescribed by the Secretary, payments may be made as trade readjustment allowances for up to 26 additional weeks in the 26-week period that follows the last week of entitlement to trade readjustment allowances otherwise payable under this chapter.

Administration: 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.

For a worker who must undergo remedial education as part of the worker's retraining plan, the maximum number of weeks of additional TRA is 78, or 26 more than the maximum for workers who do not participate in remedial education. States must also apply the definition of additional TRA

(20 CFR 617.3(m)(2)) as well as the regulations on weeks of additional TRA (20 CFR 617.15(b)), which continue to be in effect until they are superseded by new regulations, except that all occurrences of "26 weeks" in the regulations shall be interpreted as referring to "78 weeks" for workers who undergo remedial education and are covered by certifications that are issued pursuant to petitions received on or after November 4, 2002. In addition, Stat4es must pay the weeks of the TRA for trainees in remedial education on the basis of one week of this additional TRA for one week of remedial education, up to the 26-week maximum. For example, of a worker undergoes 15 weeks of remedial education, then participates in occupational training, the State may not pay more than 15 weeks of this additional TRA for trainees in remedial education. If a worker undergoes more than 26 weeks of remedial education, the worker may not receive more than the maximum of 26 weeks of this additional TRA. However many weeks a worker is eligible for, those weeks must be a fixed, continuous time period of that many weeks. The weeks of additional TRA for remedial education must follow the last week of entitlement to any other TRA otherwise payable.

D.5. TRA-Related Provisions That Are Unchanged

Most of the statutory provisions related to trade readjustment allowances remain the same as they were before the 2002 Act. Except for the specific provision discussed above, the TRA provisions found in sections 231 through 234 of the 1974 Act (19 U.S.C. 2291 through 19 U.S.C. 2294) must be administered according to regulations published at 20 CFR 617.10 through 617.19 until those regulations are superseded by regulations implemented as a result of the enactment of the 2002 Act. In summary, the unchanged TRA-related provisions are:

1. Qualifying requirements for TRA that are unchanged are:

A. The worker's separation must have occurred between the impact date and the expiration date that are specified in the certification under which the worker is covered.

B. The worker must have had, during the 52-week period ending with the week in which the worker's qualifying separation occurred, 26 weeks of employment at wages of $30 or more per week in adversely affected employment with a single firm or subdivision of a firm. The statutory provisions regarding the definition of weeks of employment continue to apply.

C. The worker must be entitled to, or would be entitled to if the worker applied for, unemployment insurance for a week within the benefit period in which the worker's qualifying separation took place or which began, or would have begun, by reason of filing of a claim for unemployment insurance by such worker after such qualifying separation.

D. The worker would not be disqualified for extended compensation under the Federal-State Extended Unemployment Compensation Act of 1970 by reason of the work acceptance and job search requirements in section 202(a)(3) of such Act for weeks in which the worker is not in approved training.

E. The worker is enrolled in an approved training program, or has completed the approved training program, or has a waiver from these requirements.

2. The prohibition against paying TRA to any worker who has failed to begin participation in training, or has ceased to participate in training, without justifiable cause, is unchanged.

3. The statutory provisions related to weekly amounts of TRA are unchanged.

4. The requirement that, in order to be eligible for additional TRA, a worker make a *bona fide* application for training within 210 days of the later of the worker's most recent qualifying separation or the first certification of eligibility to apply for adjustment assistance that covers the worker remains unchanged. Under the NAFTA–TAA program, this requirement was irrelevant because no waivers of the training requirement were permitted under that program. Therefore, a worker not only had to file a bona fide training plan, the worker was required to be enrolled in training within the 6/16-week time limits in order to receive any TRA. However, the possibility that a worker could receive a waiver of up to six-months' duration of the 8/16-week time limits implies that it is possible for a worker to file a bona fide training plan, and enroll in training, more than 210 days after the later of the dates mentioned above and before the worker's basic TRA entitlement is exhausted. Hence, this provision of the law is still applicable.

5. The statutory provisions in section 233(c) related to adjustment of amounts payable are unchanged.

6. The provisions in Section 234 on application of State laws are unchanged.

E. Job Retraining

E.1. Cap on Training Funds

Statutory Change: Section 117 of the 2002 Act amends section 236(a)(2)(A) of the 1974 Act by increasing the cap on training funds that can be allocated to the States to $220 million per year.

Administration: These funds must cover training, including necessary transportation and subsistence allowances, for all eligible workers, including those covered by certifications issued under the NAFTA–TAA program. States apply for training funds in the same way as before, by submitting form ETA 9023 through the appropriate Regional office.

E.2. Employer-Based Training

Statutory Change: Section 118(a) of the 2002 Act amends section 236(a)(5)(A) of the 1974 act by changing "on-the-job training" to "employer-based training, including (i) on-the-job training and (ii) customized training." In addition, section 118(b) of the 2002 Act amends section 236(c)(8) of the 1974 Act to read "the employer is provided reimbursement of not more than 50 percent of the wage rate of the participant, for the cost of providing the training and additional supervision related to the training." (**Note:** the previous language of section 236(c)(8), which is replaced, was "the employer certifies to the Secretary that the employer will continue to employ such worker for at least 26 weeks after completion of such training if the worker desires to continue such employment and the employer does not have due cause to terminate such employment.")

Finally, section 118(c) of the 2002 Act adds a subsection to the end of section 236 of the 1974 act as follows:

> (c) For purposes of this section, the term "customized training" means training that is—
>
> (1) Designed to meet the special requirements of an employer or group of employers;
>
> (2) Conducted with a commitment by the employer or group of employers to employ an individual upon successful completion of the training; and
>
> (3) For which the employer pays for a significant portion (but in no case less than 50 percent) of the cost of such training, as determined by the Secretary.

Administration: The previous requirement for on-the-job training, that the employer promise to continue to employ a worker in on-the-job training for at least 26 weeks after the completion of the training (provided that the worker wants to continue employment and the employer does not have due cause to terminate the employment) is not applicable to workers covered by certifications issued pursuant to petitions filed on or after November 4, 2002. The definitions of

on-the-job and customized training, and the approval criteria for such training, are now very similar to the equivalent definitions and approval criteria for such training under the dislocated worker program of WIA. On-the-job training is job training that occurs at a firm where the trainee is employed by the firm. Customized training is training designed to the specific requirements of a firm or group of firms, but conducted by a separate training vendor. In customized training, the trainee is not employed by the firm or group of firms for which the training is designed.

Current TAA regulations published at 20 CFR 617.23(c)(1) require that States give priority, insofar as possible, to on-the-job training when designing a reemployment program for an eligible worker. States shall also give priority, insofar as possible, to customized training for eligible workers. These forms of training ensure that workers obtain job skills which are necessary to obtain employment in a particular occupation.

E.3. Length of Training

The limit of 104 weeks on the length of a TAA-approved training program is not statutory. That limit is in the regulations (20 CFR 617.22(f)(2)). The new limits on weeks of TRA that are contained in the 2002 Act are interpreted to mean that Congress intended to match the maximum number of weeks of training with the maximum number of weeks of income support (UI plus TRA). The 2002 Act allows up to 26 weeks of TRA for workers who must complete some remedial education before beginning their retraining programs. Therefore, the intent of the statute is interpreted as allowing a maximum of 130 weeks of training in cases where workers require remedial education before they can enroll in occupational training. The number of weeks of training that are between 104 and 130 cannot be more than the number of weeks of the remedial training. For example, if a worker's remedial training lasts for only 10 weeks, then the maximum number of weeks of training for that worker would be 114 weeks. Even if the remedial training is more than 26 weeks, the maximum number of weeks for the total retraining plan cannot exceed 130.

E.4. Statutory Training-Related Provisions That Are Unchanged

Most of the statutory provisions related to job retraining remain the same as they were prior to the 2002 Act. Except for the two specific provisions discussed above, the job training provisions found in section 236 of the 1974 Act (19 U.S.C. 2296) shall be administered according to regulations published at 20 CFR 617.22 through 617.25 until those regulations are superseded by regulations implementing the 2002 Act. In summary, the unchanged training-related provisions are:

1. The six criteria for approving training which are found in section 236(a)(1) of the 1974 Act (19 U.S.C. 2296(a)(1));

2. The prohibitions against non-duplication of payments which are found in sections 236(a)(4), 236(a)(6), and 236(a)(7) of the 1974 Act (19 U.S.C. 2296(a)(4), 2296(a)(6), and 2296(a)(7));

3. The types of training that may be approved for eligible workers which are found in section 236(a)(5) of the 1974 Act (19 U.S.C. 2296(a)(5));

4. Supplementary assistance to defray the costs of transportation and subsistence expenses when training is provided in facilities which are not within the commuting distance of the worker's regular place of residence provided in section 236(b) of the 1974 Act (19 U.S.C. 2296(b));

5. Criteria for approving on-the-job and customized training (except for criterion 8 discussed above) which are found in section 236(c) of the 1974 Act (19 U.S.C. 2296(c));

6. The prohibition against finding a worker ineligible for unemployment insurance because of participation in approved training found in section 236(d) of the 1974 Act (19 U.S.C. 2296(d); and

7. The definition of the term "suitable employment," used for the purposes of Section 236 only, found in section 236(e) of the 1974 Act (19 U.S.C. 2296(e).

F. Job Search Allowances

Statutory Change: Section 121 of the 2002 Act amends section 237 of the 1974 Act to read as follows:

Sec. 237. Job Search Allowances

(a) Job Search Allowance Authorized—

(1) In General.—An adversely affected worker covered by a certification issued under subchapter A of this chapter may file an application with the Secretary for payment of a job search allowance.

(1) Approval of Applications.—The Secretary may grant an allowance pursuant to an application filed under paragraph (1) when all of the following apply:

(A) Assist Adversely Affected Worker.—The allowance is paid to assist an adversely affected worker who has been totally separated in securing a job within the United States.

(B) Local Employment Not Available.—The Secretary determines that the worker cannot reasonably be expected to secure suitable employment in the commuting area in which the worker resides.

(C) Application.—The worker has filed an application for the allowance with the Secretary before—

(i) The later of—

(I) The 365th day after the date of the certification under which the worker is certified eligible; or

(II) The 365th day after the date of the worker's last total separation; or

(ii) The date that is the 182nd day after the date on which the worker concluded training, unless the worker received a waiver under section 231(c).

(b) Amount of Allowance.—

(1) In General.—An allowance granted under subsection (a) shall provide reimbursement to the worker of 90 percent of the cost of necessary job search expenses as prescribed by the Secretary in regulations.

(2) Maximum Allowance.—Reimbursement under this subsection may not exceed $1,250 for any worker.

(3) Allowance for Subsistence and Transportation.—Reimbursement under this subsection may not be made for subsistence and transportation expenses at levels exceeding those allowable under section 236(b)(1) and (2).

(c) Exception.—Notwithstanding subsection (b), the Secretary shall reimburse any adversely affected worker for necessary expenses incurred by the worker in participating in a job search program approved by the Secretary.

Adminstration: The new job search section is simply a rewriting of the previous job search section. The qualifying conditions are the same as before and the application deadlines are the same as before, except that the new limit for reimbursement per worker per certification is $1,250. Therefore, States must continue to administer job search allowances in accordance with regulations published at 20 CFR 617.30 through 617.35, except that the "$800" in section 617.34(b) is interpreted to be "$1,250." until those regulations are superseded by new regulations.

G. Relocation Allowances

Statutory Change: Section 122 of the 2002 Act amends section 238 of the 1974 Act to read as follows:

Sec. 238. Relocation Allowances

(a) Relocation Allowance Authorized—

(1) In General.—Any adversely affected worker covered by a certification issued under subchapter A of this chapter may file an application for a relocation allowance with the Secretary, and the Secretary may grant the relocation allowance, subject to the terms and conditions of this section.

(2) Conditions for Granting Allowance.—A relocation allowance may be granted if all of the following terms and conditions are met:

(A) Assist An Adversely Affected Worker.—The relocation allowance will assist an adversely affected worker in relocating within the United States.

(B) Local Employment Not Available.—The Secretary determines that the worker cannot reasonably be expected to secure suitable

employment in the commuting area in which the worker resides.

(c) Total Separation.—The worker is totally separated from employment at the time the relocation commences.

(D) Suitable Employment Obtained.—The worker

(i) Has obtained suitable employment affording a reasonable expectation of long-term duration in the area in which the worker wished to relocate; or

(ii) Has obtained a bona fide offer of such employment.

(E) Application.—The worker filed an application with the Secretary before—

(i) The later of—

(I) The 425th day after the date of the certification under subchapter A of this chapter; or

(II) The 425th day after the date of the worker's last total separation; or

(ii) The date that is the 182nd day after the date on which the worker concluded training, unless the worker received a waiver under section 231(c).

(b) Amount of Allowance.—The relocation allowance granted to a worker under subsection (a) includes—

(1) 90 percent of the reasonable and necessary expenses (including, but not limited to, subsistence and transportation expenses at levels not exceeding those allowable under section 235(b)(1) and (2) specified in regulations prescribed by the Secretary, incurred in transporting the worker, the worker's family, and household effects; and

(2) A lump sum equivalent to 3 times the worker's average weekly wage, up to a maximum payment of $1,250.

(c) Limitations.—A relocation allowance may not be granted to a worker unless—

(1) The relocation occurs within 182 days after the filing of the application for relocation assistance; or

(2) The relocation occurs within 182 days after the conclusion of training, if the worker entered a training program approved by the Secretary under section 236(b)(1) and (2)."

Administration: Like the amendment to the job search section, the amendment to the relocation section is simply a rewording of the previous language, except that the one-time payment limit is raised to $1,250. States shall continue to administer relocation allowances in accordance with regulations published at 20 CFR 617.40 through 617.48, except that "$800" found in section 617.45(a)(3) shall be interpreted as "$1,250," until those regulations are superseded by new regulations.

H. Repeal of the NAFTA-TAA Program

Section 123 of the 2002 Act repeals subchapter D of chapter 2 of title II of the 1974 Act, as amended. Section 123 also establishes transition procedures that will be in effect for petitions filed before the effective date of the 2002 Act and workers currently receiving benefits and services under the NAFTA–TAA program.

H.1. Repeal of the NAFTA–TAA program

Statutory Change: Section 123(a) repeals the NAFTA–TAA program as follows:

(a) In General.—Subchapter D of chapter 2 of title II of such Act (19 U.S.C. 2331) is repealed.

Section 123(b) of the 2002 Act makes conforming amendments to other parts of the 1974 Act as follows:

(b) Conforming Amendments.—

(1) Section 225(b)(1) and (2) of the Trade Act of 1974 (19 U.S.C. 2275(B)(1) and (2)) is amended by striking "or subchapter D" each place it appears.

(2) Section 249A of such Act (19 U.S.C. 2322) is repealed.

(3) The table of contents of such Act is amended—

(A) By striking the item relating to section 249A; and

(B) By striking the items relating to subchapter D of chapter 2 of title II.

(4) Section 284(a) of such Act is amended by striking "or section 250(c)"

H.2. Transition Procedures

Section 123(c) of the 2002 Act establishes an effective date and transition procedures as follows:

(c) Effective Date.—

(1) In General.—The amendments made by this section shall apply with respect to petitions filed under chapter 2 of title II of the Trade Act of 1974, on or after the date that is 90 days after the date of enactment of this Act.

(2) Workers Certified As Eligible Before Effective Date.—Notwithstanding subsection (a), a worker receiving benefits under chapter 2 of title II of the Trade Act of 1974 shall continue to receive (or be eligible to receive) benefits and services under chapter 2 of title II of the Trade Act of 1974, as in effect on the day before the amendments made by this section take effect under subsection (a), for any week for which the worker meets the eligibility requirements of such chapter 2 as in effect on such date.

Administration: Sections 123(c)(1) and 123(c)(2) of the 2002 Act set out the transition procedures for the NAFTA–TAA program. The operating instructions for the NAFTA–TAA program that are contained in General Administration Letter 7–94, along with changes 1, 2, and 3 thereto, continue in effect for petitions received by the State before the effective date of the 2002 Act, which is November 4, 2002. The Governor's agent that now receives NAFTA–TAA petitions must continue to receive NAFTA–TAA petitions, and perform preliminary investigations thereon, until the preliminary investigations are completed on all NAFTA–TAA petitions received on or before November 3, 2002. The State must immediately transmit all such petitions, and all information and documentation gathered during the preliminary investigation, to DOL. Any NAFTA–TAA petition *received* on or after November 4, 2002, is invalid and must be returned to the petitioners with an explanation of the provisions of the 2002 Act that make the petition invalid. The State must also include a blank petition for the new TAA program in case the petitioners want to file such a petition. This instruction also applies to NAFTA–TAA petitions *dated* prior to November 4, 2002, but *received* on or after that date; such petitions are not valid.

Eligible workers who are covered by NAFTA–TAA certifications resulting from petitions received on or before November 3, 2002, regardless of the date that such certifications are issued by DOL, must receive benefits and services under the provisions of the NAFTA–TAA program as in effect on November 3, 2002. Workers being served under NAFTA–TAA certifications are not eligible for waivers under the new waiver provisions established by the 2002 Act for the regular TAA program. In order to be eligible for TRA, such workers are also required to be enrolled in approved training by the end of the 16th week after the worker's most recent qualifying separation, or the end of the 6th week after the issuance of the certification, whichever is later. The new enrollment deadlines in the 2002 Act do not apply to such workers.

In fiscal years 2003 and 2004, there will continue to be a NAFTA–TAA funding stream separate from the TAA funding stream. States must continue to request funds from DOL for NAFTA–TAA benefits and services separately from their requests for funds for TAA benefits and services.

I. Coordination With WIA

Statutory Change: Section 119 of the 2002 Act amends section 235 of the 1974 Act as follows:

Section 235 of the Trade Act of 1974 (19 U.S.C. 2295) is amended by inserting before the period at the end of the first sentence the following: ", including the services provided through one-stop delivery systems described in section 134(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(c))".

Statutory Change: Section 125 of the 2002 Act establishes a Declaration of Policy by the Congress as follows:

(a) Declaration of Policy.—Congress reiterates that, under the trade adjustment assistance program under chapter 2 of title II of the Trade Act of 1974, workers are eligible for transportation, childcare, and healthcare assistance, as well as other related assistance under programs administered by the Department of Labor.

Administration: States shall make every reasonable effort to secure for adversely-affected workers covered by certifications counseling, testing, and placement services, and supportive and other services, provided for under any other Federal law, including the Wagner-Peyser Act and the WIA.

In the One-Stop environment established by WIA, the concept of co-enrollment of trade-certified workers can be further enhanced and expanded to include multiple enrollments with a broader range of service delivery partners and programs. Multiple enrollment resources may include Wagner-Peyser activities, faith-based and community-based programs, vocational rehabilitation services, and veterans' programs.

The timely provision of core and intensive services to trade-impacted workers is an important step toward improving both the efficiency and the effectiveness of the Trade Act programs. Immediately beginning the process of needs assessment improves participation rates and allows individuals more time to consider all of the options available to them. Early intervention services that will be beneficial to trade-impacted workers may include orientation; initial assessment of skill levels, aptitudes, and abilities; provision of labor market information; job search assistance; and financial management workshops.

Properly implemented, co-enrollment or multiple-enrollment of trade-impacted workers in the programs offered in the One-Stop environment, as well as early provision of rapid response services, will enhance the workers' adjustment process and promote the most rapid possible return to employment for all workers. Co-enrollment or multiple-enrollment also allows trade-impacted workers to receive supportive services that may assist in a quicker transition to work.

J. Unamended Provisions of the 1974 Act

Many of the provisions of the 1974 Act remain unchanged; for completeness, these are listed below, along with the citation from the United States Code. Although not all of the provisions listed below are administered by the States, States shall administer applicable provisions according to the law and to regulations published at 20 CFR 617.

1. Section 221(b) (19 U.S.C. 2271(b)) which provides for public hearings on petitions.

2. Section 222(b)(2) (19 U.S.C. 2272(b)(2)) which provides special definitions for "firm" and "directly competitive" in relation to oil and gas exploration and production.

3. Section 223 (19 U.S.C. 2273) is unchanged except for changing "60 days" to "40 days". This section contains definitions of impact date and expiration date of a certification, along with requirements to publish notices in the **Federal Register.**

4. Section 224 (19 U.S.C. 2274) relating to studies by the Secretary whenever the U.S. International Trade Commission conducts an investigation with respect to an industry.

5. Section 225 (19 U.S.C. 2275) containing the requirements for notification to workers who are covered by certifications of benefits and services that they may be eligible to receive.

6. Section 232 (19 U.S.C. 2292) covering the determination of weekly amounts of TRA.

7. Section 234 (19 U.S.C. 2294) relating to the applicability of State unemployment insurance laws.

8. Section 239 (19 U.S.C. 2311) relating to agreements with States.

9. Section 240 (19 U.S.C. 2312) relating to program administration absent an agreement with a State.

10. Section 241 (19 U.S.C. 2313) relating to payments to States.

11. Section 242 (19 U.S.C. 2314) relating to liabilities of certifying and disbursing officers.

12. Section 243 (19 U.S.C. 2315) relating to fraud and recovery of overpayments.

13. Section 244 (19 U.S.C. 2316) relating to penalties for false statements and failure to disclose material facts.

14. Section 247 (19 U.S.C. 2319)—definitions.

15. Section 28 (19 U.S.C. 2320) relating to the Secretary's authority to prescribe regulations.

16. Section 249 (19 U.S.C. 2321) relating to the Secretary's subpoena power.

K. Program Reporting

Trade Act Participant Report (TAPR): The TAPR is unchanged. States must continue to report TAPR data according to instructions set forth in General Administration Letter 11–00.

Form ETA 563: Form ETA 563 is being revised; the new form will be available early in calendar year 2003. For the quarters ending September 30, 2002, and December 31, 2002, States must continue reporting data on form ETA 563 according to the instructions contained in ETA Handbook 315. New instructions will accompany the revised form.

The 2002 Act requires that the States report to the Secretary on each waiver and the reasons for issuing each waiver. Therefore, States should expect a new reporting form along with the revised form ETA 563. This reporting form will be very much like form ETA 9027, which was discontinued in 1997. This new form will also be available early in calendar year 2003, accompanied by full instructions.

L. Alternative Trade ADjustment Assistance for Older Workers

Section 124 of the 2002 Act strikes section 246 of the 1974 Act and replaces it with a demonstration project for alternative trade adjustment assistance for older workers. The statute allows the Secretary up to one year from the date of enactment (August 6, 2002) to establish the ATAA program. Therefore, these operating instructions do not include instructions for administering the ATAA program. However, for completeness and to give States some advance notice of future developments, the general outlines of the ATAA program are described below.

Petitioning workers must be given the opportunity to request that they be considered for certification under the ATAA program. In determining whether to certify a group of workers as eligible for ATAA, the following criteria are to be used:

1. Whether a significant number of the workers at the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry.

An individual worker who is covered by a certification for ATAA must also satisfy all of the following individual qualifying criteria:

1. The worker is covered under a regular TAA certification.

2. The worker has obtained reemployment not more than 26 weeks after the date of the worker's separation from adversely-affected employment.

3. The worker is at least 50 years of age.

4. The worker earns not more that $50,000 per year in wages from reemployment.

5. The worker is employed on a full-time basis as defined by State law of the State in which the worker is reemployed.

6. The worker does not return to the employment from which the worker was separated.

Eligible workers who choose the benefits of ATAA may not receive three of the regular TAA benefits and services—training, TRA, and job search allowances. They may, however, receive relocation allowances if suitable employment is not reasonably available in the commuting area. Eligible workers who choose ATAA receive the following benefits:

1. 50 percent of the difference between the wages the worker receives from reemployment and the wages received by the worker at separation from adversely-affected employment. This payment is subject to the following limitaitons:

A. The payments may not be made for longer than two years.

B. The total of all payments may not exceed $10,000 during the two-year eligibility period.

2. The health insurance tax credit, only for the period in which the worker is participating in ATAA (not to exceed two years). Further guidance and instructions for the ATAA program will be transmitted to the States in the near future.

M. Health Insurance Tax Credit

Sections 201 and 202 of the 2002 Act establish a program of tax credits for health insurance costs. This program will be implemented through the cooperative efforts of the Department of Labor, the Department of Health and Human Services, and the Department of the Treasury (including the

Internal Revenue Service). Guidance and operating instructions for the HITC program will be issued separately.

6. *Action Required.* States are required to implement the amendments to the 1974 Act made by the 2002 Act and set forth in these operating instructions as of the effective date, November 4, 2002. States shall inform all appropriate staff of the contents of these instructions.

7. *Inquiries.* States should direct all inquiries to the appropriate ETA Regional office.

8. *Attachment.* Subtitle A of Title I, and Title II, of the Trade Act of 2002.[1]

[FR Doc. 02–28932 Filed 11–13–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Summary of Decisions Granting in Whole or in Part Petitions for Modification

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of affirmative decisions issued by the Administrators for Coal Mine Safety and Health and Metal and Nonmetal Mine Safety and Health on petitions for modification of the application of mandatory safety standards.

SUMMARY: Under section 101 of the Federal Mine Safety and Health Act of 1977, the Secretary of Labor (Secretary) may allow the modification of the application of a mandatory safety standard to a mine if the Secretary determines either that an alternate method exists at a specific mine that will guarantee no less protection for the miners affected than that provided by the standard, or that the application of the standard at a specific mine will result in a diminution of safety to the affected miners.

Final decisions on these petitions are based upon the petitioner's statements, comments and information submitted by interested persons, and a field investigation of the conditions at the mine. MSHA, as designee of the Secretary, has granted or partially granted the requests for modification listed below. In some instances, the decisions are conditioned upon compliance with stipulations stated in the decision. The term FR Notice appears in the list of affirmative decisions below. The term refers to the **Federal Register** volume and page where MSHA published a notice of the filing of the petition for modification.

FOR FURTHER INFORMATION CONTACT: Petitions and copies of the final decisions are available for examination by the public in the Office of Standards, Regulations, and Variances, MSHA, 1100 Wilson Boulevard, Room 2352, Arlington, Virginia 22209. Contact Barbara Barron at 202–693–9447.

Dated at Arlington, Virginia, this 7th day of November, 2002.

Marvin W. Nichols, Jr.,

Director, Office of Standards, Regulations, and Variances.

Affirmative Decisions on Petitions for Modification

Docket No.: M–2002–009–C.
FR Notice: 67 FR 13196.
Petitioner: M & H Coal Company.
Regulation Affected: 30 CFR 75.1100–2(a)(2).
Summary of Findings: Petitioner's proposal is to use only portable fire extinguishers to replace existing requirements where rock dust, water cars, and other water storage equipped with three (3) ten quart pails is not practical; and to use two (2) fire extinguishers near the slope bottom and an additional portable fire extinguisher within 500 feet of the working face for equivalent fire protection. This is considered an acceptable alternative method for the Mercury Slope Mine. MSHA grants the petition for modification for the Mercury Slope Mine with conditions.

Docket No.: M–2002–014–C.
FR Notice: 67 FR 14977.
Petitioner: Laurel Creek Company, Inc.
Regulation Affected: 30 CFR 75.503 [18.41(f) of Part 18].
Summary of Findings: Petitioner's proposal is to use a permanently installed spring-loaded locking device on battery plug connectors, for mobile battery-powered machines used inby the last open crosscut, in lieu of a padlock to prevent the plug connector from accidental disengaging while under load; to install a warning tag that states "Do Not Disengage Under Load" on all battery plug connectors; and to instruct all persons who operate or maintain the battery-powered machines on the safe practices and provisions for complying with its proposed alternative method. This is considered an acceptable alternative method for the Mine No. 4. MSHA grants the petition for modification for the Mine No. 4 with conditions.

Docket No.: M–2002–025–C.
FR Notice: 67 FR 14978.
Petitioner: Rosebud Mining Company.
Regulation Affected: 30 CFR 75.1100–2(e)(2).
Summary of Findings: Petitioner's proposal is to use two (2) fire extinguishers or one fire extinguisher of twice the required capacity at all temporary electrical installations in lieu of using 240 pounds of rock dust. This is considered an acceptable alternative method for the Logansport Mine. MSHA grants the petition for modification for the temporary electrical installations provided the petitioner maintains two portable fire extinguishers having at least the minimum capacity specified for a portable fire extinguisher in 30 CFR 75.1100–1(e) at each of the temporary electrical installations at the Logansport Mine.

Docket No.: M–2002–032–C.
FR Notice: 67 FR 19285.
Petitioner: Fools Gold Energy Corporation.
Regulation Affected: 30 CFR 75.503 [18.41(f) of Part 18].
Summary of Findings: Petitioner's proposal is to use permanently installed spring-loaded locking devices to secure battery plugs on mobile battery-powered machines to prevent unintentional loosening of the battery plugs from battery receptacles, and to eliminate the potential hazards associated with difficult removal of padlocks during emergency situations. This is considered an acceptable alternative method for the No. 4 Mine. MSHA grants the petition for modification for the No. 4 Mine with conditions.

Docket No.: M–2002–033–C.
FR Notice: 67 FR 19285.
Petitioner: Grace Mining, Inc.
Regulation Affected: 30 CFR 75.503 [18.41(f) of Part 18].
Summary of Findings: Petitioner's proposal is to use permanently installed spring-loaded locking devices to secure battery plugs on mobile battery-powered machines to prevent unintentional loosening of the battery plugs from battery receptacles, and to eliminate the potential hazards associated with difficult removal of padlocks during emergency situations. This is considered an acceptable alternative method for the No. 4 Mine. MSHA grants the petition for modification for the No. 4 Mine with conditions.

Docket No.: M–2002–037–C.
FR Notice: 67 FR 19286.
Petitioner: Rivers Edge Mining, Inc.
Regulation Affected: 30 CFR 75.503 [18.41(f) of Part 18].
Summary of Findings: Petitioner's proposal is to use a threaded ring and a spring-loaded device in lieu of a padlock on all battery-plug connectors on mobile battery-powered machines

[1] This *attachment* is available at the following Web site: *www.doleta.gov/tradeact/2002act_index.asp.*