**WorkforceGPS**

**Transcript of Webinar**

**Subpart F, Part 1: Trade Adjustment Assistance (TAA) Final Rule**

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GRACE MCCALL: And welcome to "Subpart F Training, Part One." So without further ado, I'd like to turn things over to one of our speakers for today, Tim Theberge, lead policy analyst, OTAA/ETA. Take it away, Tim.

TIM THEBERGE: Thank you, Grace. So good morning or good afternoon, depending on where you are joining us from today. My name is Tim Theberge. I am with the Office of Trade Adjustment Assistance. I am one of your presenters today, along with Julie Baker.

JULIE BAKER: Hi, everybody. This is Julie.

MR. THEBERGE: Julie is my supervisor in OTAA and we are going to be your presenters for today's session. This is Subpart F, Part One. This is a two-part webinar due to how much is contained within Subpart F and how much we want to cover.

I want to remind you that today's PowerPoint is available for your download in the file share pod at the bottom of your screen, and remind you that that does include the speakers' notes. So although you can follow along with us live, for your reference the speakers' notes are also included in the presentation.

Lastly, please consider having a copy of the Final Rule open so that you can follow along. You can download that from the file share as well. As a printing advisory, that is 129 pages of regulatory bliss.

Lastly, if you have questions today, please make sure you enter them through the chat. Due to the hundreds of people on these webinars, we are using the chat to filter those questions in and respond to them.

So with that, away we go. So here are today's objectives. We're going to be providing major updates, the scope and general procedures, leveraging Trade funds to fill gaps in training supply, the criteria for the approval of training, selection of training programs, and training of re-employed workers.

So Subpart F governs the training portion of the TAA program. Training is an opportunity to gain skills and re-enter the workforce after a total or partial separation, or threat of separation, from adversely-affected employment. The TAA program's goal is to help each trade-affected worker participating in the program obtain suitable employment when possible.

Training under the TAA program should assist a trade-affected worker in obtaining the skills necessary for re-employment as quickly as possible and at a reasonable cost. With those principles in mind, training should allow workers to compete for the highest paying employment achievable given their pre-existing skills, abilities, and education, and the current and projected job market.

As we've said, this is part one of a two-part session.

We use the term "training program" throughout Subpart F's presentation. This term should be considered interchangeable with the term "training plan." We use "training program" because that's the term used by the statute. OK?

So I'm now going to walk you through the major updates in Subpart F. Here's where we start. We are providing language on the intent and purpose of training. We are requiring states to utilize assessments and IEPs – individual employment plans – in the training approval process. Establishing specific requirements regarding the use of labor market information and the documentation requirements for that, to make sure that states are looking at LMI for the determination of appropriate training.

Providing that training funds can be used to create supplemental, customized, group training opportunities, remedial education classes, English language classes, contextualized learning, and other specific group services that may be needed in certain dislocation events. And we are codifying, to be explicit, that no application for unemployment insurance is required to apply for training.

Subpart F sets out the regulations for administering the training benefit under the TAA program. TAA approval of a training program entitles a trade-affected worker to the payment of the costs of that training and all related costs, subject to a number of limitations that are described in this subpart.

Participation in a TAA-approved training program is an eligibility requirement for TRA, with certain exceptions, as explained in Subpart G. That'll be covered on Monday. Under Section 236(a)(6) of the act, however, workers may still be entitled to TRA and other TAA program benefits if other funding sources pay all or part of the costs of a TAA-approved training program.

Subpart F, consistent with the rest of the Final Rule, applies the Federal Travel Regulations – or FTR – from 41 CFR chapter 300 through 304 for use by states in providing TAA program training participants with supplemental assistance in the form of subsistence and transportation benefits. This is not a new policy. You've heard us talk about this in Subpart D and other presentations on this rule as well.

This ensures uniform interpretation of the FTR and access to those benefits. The TAA program training participants travel under the same rules as employees of the Department of Labor. Some key changes covered in this subpart include the expansion of apprenticeship training; approvable part-time training; parameters for serving adversely-affected incumbent workers, or AAIWs; the benchmark requirements to meet completion TRA eligibility; and procedures for amending approved training programs.

But wait; there's more. We specifically allow for training that will lead to self-employment. We are codifying that on-the-job training can only be approved if it will lead to suitable employment, the allowability of part-time training, the allowability of a training program to include multiple types of training at multiple providers – again, this is not new – that a trade-affected worker in part-time training may not be disqualified from unemployment insurance for continuing in training or refusing work to which they are referred.

And we are allowing training to be selected from the eligible training provider list, but we are codifying the statutory prohibition of limiting training to the eligible training provider list.

We received questions on whether we established a limitation on training benefits, also referred to as a lifetime benefit. The department did consider imposing a deadline by which trade-affected workers would have to begin training to retain access to the benefit. However, it was determined that there was no legal basis to do so.

The states must ensure that trade-affected workers who apply for training past the expiration of their certification meet the six criteria for the approval of training. For purposes of determining suitable employment, states must look at the wages and skill level of adversely-affected employment, which is often not their most recent separation when they're coming in years after the fact. You're looking at the wages from their adversely-affected employment. OK? Next.

We are providing a non-inclusive list of training-related costs. We get these questions all the time, so we have provided, again, a non-inclusive list of what training-related costs would be. I encourage you to read the preamble on that as well.

We are providing guidelines to the states on determining reasonable cost under the Trade program. We are codifying the requirements for the approval of distance learning. And we are explicitly allowing for the approval of training that leads to an advanced degree.

The new Final Rule explicitly allows for apprenticeships. Again, apprenticeships were always an allowable form of training, but it really wasn't spelled out in the old rules because of how old they were, frankly. We are defining apprenticeship for the purposes of the TAA program. We are establishing criteria for their approval.

The Final Rule provides that the length of the work-based portion of an apprenticeship that is supportable by the trade is limited to 130 weeks. But we are allowing the related instruction component of apprenticeships to exceed 130 weeks. This is a change from what you've read in guidance or statements that we've made prior to this Final Rule.

We are codifying the requirements for the approval of customized training. We are clarifying the approval and calculations of supplemental assistance; that's travel and subsistence. And we are codifying that supplemental assistance follows the Federal Travel Regulations.

The last of the major updates. We are providing guidance to the states on the establishment of a "soft cap" on a reasonable cost of training. We are codifying the approval of training for adversely-affected incumbent workers. We are establishing regulations on training benchmarks that must be met. And we are providing rules on amending an approved training program.

So that's the major updates to the training portion of the Trade regulations scope. So this is covered at 618.600. This is new, provides the scope of Subpart F.

This section has been added to give the reader a helpful overview of Subpart F. This section explains that the goal of training is to help trade-affected workers obtain the skills necessary to get back to work as quickly as possible at a reasonable training cost. The type of re-employment aimed for is suitable employment. Obtaining suitable employment is an aspirational goal, but not a requirement. Training that leads to re-employment that pays as much or more than the trade-affected worker's adversely-affected employment is another aspirational goal and is always preferred.

20 CFR 618.605 covers general procedures. This is a new provision. Discusses general procedures for trade-affected workers to apply for training, as well as other procedures states must follow in making determinations on applications for training.

Section 618.605 paragraph (a) was developed in conjunction with Subpart C, in accordance with Section 235 of the act. It requires states to ensure that every trade-affected worker has an initial assessment, and that a comprehensive and specialized assessment has been made available to them, which is required under Subpart C.

Assessments assist in the development of an IEP, as described in Subpart C, and must be in place before approving an application for training. If not in place, the information necessary to determine eligibility for training must be collected and documented in the trade-affected worker's case file.

The use of assessments in the development of a worker's IEP is essential to ensure proper coordination with WIOA. Assessments are the foundation of the worker's IEP and they ensure that the appropriate re-employment services, which may include training, are added to the IEP.

Paragraph (b) addresses applications for training, as well as for transportation and subsistence payments. It reflects more accurately that applications must be made to the states in accordance with their policies and procedures. Because the use of forms will vary from state to state, the department is not establishing specific requirements for their use or content, and instead referenced compliance with state policies and procedures.

Paragraph (c) clarifies liable and agent state responsibilities as they apply to various types of decisions, and that decisions on whether to provide TAA program-funded transportation and subsistence payments are determinations to which apply the Subpart H sections 618.820, 618.824, and 618.828. That covers determinations of eligibility, notices, liable and agent state responsibilities, and appeals and hearings.

In order to comply with OMB's uniform guidance and documentation requirements to ensure access to due process, copies of such applications and all determinations by the state on whether to approve or deny training – including whether to approve TAA Program-funded transportation and subsistence – must be included in the trade-affected worker's file. The documentation may be made through paper or electronic records or a combination thereof.

Paragraph (e) is new. It provides and authorized under Section 225 of the act. Paragraph (e) allows training for trade-affected workers any time after their certification date without regard to whether such worker has applied for or exhausted UI.

This provision was added because the department has discovered, through monitoring and oversight activities, that many states use the application for or filing of a UI claim to be the sole trigger for providing trade-affected workers with access to the TAA program. Relying on this as the sole outreach strategy to assist trade-affected workers in applying for training may cause a delay in services.

Section 225 of the act makes clear that states must provide whatever assistance is necessary to enable trade-affected workers to prepare applications for program benefits, including training, in as timely a fashion as possible. States should use multiple strategies for providing trade-affected workers with access to TAA program benefits and services.

Now we're going to talk about leveraging Trade funds to address a lack of available training.

Section 618.605 paragraph (d)(1) requires states to explore, identify, and secure training opportunities to ensure trade-affected workers return to employment as soon as possible. States must use all necessary and reasonable means to find appropriate training where no appropriate training opportunities exist.

States, in collaboration with local workforce development boards, One-Stop partners, and other partners, must explore how to make new training opportunities available either by approving out-of-area training or by encouraging training providers to provide needed training in the local area, as well as exploring ways in which work-based training – OJT, apprenticeships – and other types of training programs could be adapted to accommodate workers in disciplines that lack training opportunities.

Paragraph (d)(2) provides that TAA program funds may be used to create customized, group training opportunities. Funds may be used to create trainings including, but not limited to, remedial education classes, English language training, or contextualized occupational training, in order to serve a particular dislocation event where available education and training programs are not sufficient.

Contextualized learning is training that combines academic and occupational training. The department, through its oversight efforts, has observed that a large-scale dislocation event can overburden a local area's resources for adult basic education or English language education. TAA program funds can be used to add additional capacity when that occurs.

Paragraph (d)(3) requires states to coordinate with other public and private agencies, in cooperation with local workforce development boards established under WIOA, to ensure a wide range of training opportunities are available for trade-affected workers in demand occupations.

Access to training in sought-after fields is vital for TAA recipients because these workers have generally lost high-paying jobs requiring specific skills that may not be replaced in the evolving economy. Communities of workers with similar skills are sometimes subject to mass layoffs and that such workers may need to be retrained for entirely new occupations.

As this can happen, especially in more rural areas, the department encourages states to work with local workforce development boards in addressing these dislocations at the community or regional level and not just from the viewpoint of an individual worker. This is also a situation in which customized group trainings could be an efficient method of training trade-affected workers. This also allows states to use the TAA program funds to support basic skills training and English language learning programs.

Julie?

MS. BAKER: Thank you, Tim. All right. I'm going to move forward. We have had a few questions come in that we've been answering privately. So continue to keep asking your questions in the chat and we will get back to everyone or just you, as the case may be.

So criteria for approval of training, 20 CFR 618.610, implements all six statutory criteria for training approval from Section 236(a)(1)(A) through (F). The introductory language in this section adds a new requirement that a state must refer to a trade-affected worker's initial or comprehensive and specialized assessments and IEP, if available, before approving training.

So here is a table showing the six criteria and the applicable paragraphs within Section 618.610. So I'm about to go through each of these criteria one-by-one with you over the next few slides, but I wanted to give you a table of reference so that when you want to refer to this later, you can just take a look at the chart here in this PowerPoint.

OK. Criterion one and two. Criteria one is implemented by paragraph (a) and it provides the definition of "suitable employment." One change here I just wanted to point out. The department did not include language about suitable employment available outside the commuting area in the area in which a worker desires to relocate with the assistance of a relocation allowance.

The department determined that the language, which was contained in 20 CFR 617.22(a)(1)(i), created confusion as to whether an application for a relocation allowance is required before determining whether suitable employment is available outside the commuting area. And so this change clarifies that only a trade-affected worker's stated intent to relocate to a different area is necessary. And this change is intended to eliminate undue delay in the training approval process.

Criterion two is implemented by paragraph (b). Paragraph (b)(1) emphasizes that for the trade-affected worker to benefit from appropriate training, the training must improve the worker's chances of obtaining employment than would occur without training.

The training should also improve the worker's chances of either earning higher wages than would otherwise be the case, or that the training will place the worker on a career pathway to do so. Approved training can provide the worker with access to a career pathway that will lead to higher earnings, even if the initial placement does not.

Paragraph (b)(2) requires that a worker be capable of undertaking, making satisfactory progress in, and completing the training. However, the department substituted "knowledge, skills, and abilities" for "mental and physical capabilities" as the test for determining whether a worker can go through the training. This change complies with laws that forbid the denial of training to an otherwise qualified trade-affected worker because of a disability.

Criterion three. This is implemented by paragraph (c). This criterion requires states to assess, based on labor market information, whether trade-affected workers who complete an approved training program are likely to find employment using the skills and education acquired while in the training.

This criterion does not limit approval only to training programs that result in suitable employment, except for training programs that include OJT, which must lead to suitable employment with the employer offering the OJT.

It is not always feasible to train trade-affected workers for suitable employment. Obtaining suitable employment is a goal, not an inflexible requirement, for the approval of training – again, except for OJT. However, the expectation is that all training leads to employment and that is an inflexible requirement.

Paragraph (c)(1) requires that when initially approving such training, there must be a projection based on labor market information of employment opportunities expected to exist at the time of completion of the training program. This criterion requires the state to review current local labor market data and trends. As such, states should use real-time sources of state labor market information.

Paragraphs (c)(2) through (6) are based on established administrative guidance. They were made after consideration of department monitoring and oversight findings and technical assistance requests.

Paragraph (c)(2) requires states to measure expected job market conditions using pertinent labor market data, including job order activity, short-term projections data, job vacancy surveys, business visitation programs, and local and regional strategic plans.

Paragraph (c)(2) also indicates that labor market information should be documented in the trade-affected worker's case file, and that the state should work with the local workforce development board and its One-Stop partners to understand current labor market conditions and opportunities for work-based learning.

Paragraph (c)(3) places a new obligation on the state when determining whether criterion three is met, as part of the process of approving training for a trade-affected worker who desires to relocate upon completion of training.

Under paragraph (c)(3), the state must document the labor market information in the area to which the worker intends to relocate. This is because that is the area where the worker will be seeking employment upon completion of training and that is the relevant labor market.

Paragraph (c)(4) recognizes that a demand for a single trade-affected worker trained in a specific occupation can exist in the local labor market and permits the state to determine that a reasonable expectation of employment exists in occupations where there are limited job openings. States must verify with businesses in the commuting area, or in the area of intended relocation, that such demand exists for a worker with such training. And these efforts must be documented in the trade-affected worker's case file.

This situation may exist in smaller labor market areas or in larger areas where only a few skilled specialists are needed to meet the current demand, for example taxidermy or boat repair. However, states must ensure that they do not create an excess supply of trained workers where there is a limited opportunity.

In occupations with limited demand, the state must consider the number of workers currently enrolled in training that are likely to meet that demand prior to enrolling additional workers in training for that occupation.

OK. Section 618.610 paragraph (c)(5) – we're still on criterion three – recognizes that self-employment may be a viable employment goal. States must review the labor market conditions to determine that the skills to be obtained in the training will lead to self-employment that will provide the trade-affected worker with wages or earnings at or near their wages in adversely-affected employment.

And paragraph (c)(6) codifies the requirement in Section 236(c)(B)(i) of the act that an OJT can only be approved that can reasonably be expected to lead to suitable employment with the employer offering the OJT.

And I just wanted to say, I think we got a question about that a little bit earlier. And I think this gives you the definitive answer of there is a – we have a whole world of suitable employment and what that means. We also have specific provision for OJT. But it is very cut and dry here that the OJT can only be approved that can reasonably be expected to lead to suitable employment with the employer that offers the OJT.

OK. We've got another question here. Why did the department limit the consideration of labor market conditions to a worker's intended commuting area, since some workers might be inclined to travel longer distances for the right job?

Well, the answer to this is the department clarifies that the intent of this language is to limit the geographical area in which a trade-affected worker must seek suitable employment before training can be approved. It does not limit the employment that a worker may accept.

OK. I'm going to move to the next question. In criterion three, requiring states to assess whether the number of workers enrolled in a given training will cover demand in the local labor market, would states have to contact all providers who offer the type of training under consideration? And if so, what geographic parameters should be used to determine which providers must be contacted?

OK. This is in regards to that limited demand occupation. The department clarifies that Section 618.610(c)(4) does not apply to most proposed training programs and it is specific to proposed training programs for limited demand occupations. The department encourages the state, during the training approval process, to use any available means to evaluate the likelihood of the worker to successfully compete for and obtain a position after completing proposed training in the limited demand occupation.

All right. Moving on to criterion four and five. Criterion four is implemented by paragraph (d) and is simpler, better organized, and free of outdated references. Otherwise, it's very, very similar.

So we're going to look more at criterion five. This is implemented by paragraph (e). It modernizes the criterion's personal qualification language as a new requirement directing the state to review the trade-affected worker's initial assessment, and the comprehensive and specialized assessment and IEP, if available, to determine if the proposed training is appropriate based on the worker's current skills.

It stresses that the duration of the approved training must be commensurate with the worker's financial resources and provides considerations for determining whether the worker has sufficient financial resources when the worker's remaining available weeks of UI and TRA payments will not equal or exceed the duration of training. This information must be documented by the state.

States should consider factors beyond just financial aid and federal work study programs when determining whether workers have alternative means to support themselves financially if their TAA-approved training program lasts longer than the worker's TRA benefit.

States should consider whether TAA program recipients have access to supports like Supplemental Nutrition Assistance Program – SNAP – or Temporary Assistance for Needy Families benefits, or if recipients are equipped to attain part-time employment.

Moving on to criterion six. This is implemented by paragraph (f). Paragraph (f)(1) provides that the determination must be appropriate, given the trade-affected worker's knowledge, skills, abilities, background, and experience as identified in criterion five, which was in the last paragraph, paragraph (e).

States should compare the trade-affected worker's ability to undertake the training program against the worker's employment goals as identified through the criteria used in criterion three – which is paragraph (c) – and then determine if the training program is suitable based on that comparison. So you're comparing what you've got in criterion five to what you've got in criterion three and making sure the training program is beautiful.

States should also examine the trade-affected worker's IEP, if available; but at minimum, they must have the worker's stated employment goal.

For example, if a trade-affected worker's stated employment goal is to be a welder, and their assessment results, education, past work history, and skills are all compatible with welding, and there is a demand for welders in the local labor market, and the training program will result in the worker being able to meet any certification standards required for a welding position, then the training program for this worker can be considered suitable.

Paragraph (f)(2) discusses reasonable cost. Reasonable cost is a critical determinant in approving training programs. The amount of training funds available to the states is limited by the statute and discussed in more detail in Subpart I.

When training is approved, a trade-affected worker is entitled to payment of all the costs of the approved training. Due to these conditions, states must control training costs and approve only that training available at a reasonable cost.

Paragraph (f)(2) also provides examples of training-related costs that must be considered in the approval of training. The department has expanded the list of examples to reflect common costs associated with training programs and to ensure that states fully understand the costs of a training program before they approve it. The list is not all-inclusive.

States must ensure that training funds are expended wisely, are available for the maximum number of trade-affected workers, and will support workers to ensure that they will complete their selected training program.

Paragraph (f)(2) also requires the state to ensure and document that the training program costs are reasonable by researching costs for similar training programs. States must exhaust alternatives before purchasing equipment or related materials for workers, to ensure that those purchases are truly necessary.

States are generally prohibited from approving training when the costs of the training are unreasonably high in comparison with the average costs of training other workers in similar occupations at other providers.

However, there may be instances where a higher cost training program is the better investment of funds, so the Final Rule allows a state to approve higher cost training if it is expected to achieve a higher likelihood of employment, employment retention, or wage replacement; or achieve comparable results in a significantly shorter duration, resulting in reduced weeks of TRA or a more rapid return to employment.

Based on this standard, higher cost training must not be approved unless there is a clear difference in the quality and results of the training, or unless comparable results can be achieved in a significantly shorter period of time. The latter standards are consistent with the act's intent to get trade-affected workers back into employment as rapidly as possible.

States should have well-defined policies and procedures addressing this topic to ensure consistency and clear explanations to workers. The definition of "reasonable cost" is further addressed later on in Subpart F, in Section 618.650.

States are also prohibited from approving training where transportation or subsistence payments for training outside the trade-affected worker's commuting area adds substantially to the total cost of training, if other appropriate training in the commuting area is available at a lower cost.

OK. Question here. Would criterion six for training approval be met if self-employment were to provide workers with earnings equivalent to or near their previous earnings?

So states should compare the trade-affected worker's ability to undertake the training program against the worker's self-employment goal and determine if the training program is suitable based on that comparison.

The department affirms that the example would meet the "suitable for the worker" part of criterion six, if the training program being considered meets the conditions for a trade-affected worker to be qualified to undertake and complete a training – from criterion five – and if the self-employment will satisfy criterion three and provide the trade-affected worker with work of a substantially equal or higher skill level than the worker's past adversely-affected employment, and self-employment wages are projected to result in earnings equivalent to 80 percent of the worker's adversely-affected wages.

So a note on methods for tracking and reporting self-employment earnings. The Final Rule does not prescribe a specific method for the tracking of wages for self-employed trade-affected workers. Consistent with administrative guidance, the TAA program allows for the collection and reporting of supplemental wage information consistent with WIOA.

Also, The department encourages states to refer trade-affected workers to self-employment assistance programs to assist the workers in estimating or calculating future wages or earnings and other aspects of self-employment that are outside the purview of the TAA program.

Ok. Next question. Is "entrepreneurial training" an approvable type of training or a viable employment goal?

So while a trade-affected worker's employment goal may be self-employment, the department does not consider a training program consisting of only entrepreneurial training as an approvable training program under the TAA program. Occupational training is a required component.

The department maintains that allowing a training program consisting of only entrepreneurial training conflicts with the goal of TAA-approved training, which is that training provided must, at a reasonable cost and as quickly as possible, assist a trade-affected worker in obtaining the necessary skills to have a reasonable expectation of employment.

OK. Another question. If the intent of the provision at 20 CFR 618.610(e)(3) in criterion five is to prevent workers from failing to complete trainings because of a lack of financial support, then wouldn't the relevant criterion be whether a worker has sufficient financial resources to support completion of a training program?

So the department affirms that the relevant inquiry is whether someone has sufficient financial resources to complete training, but the statutory requirement is limited to the availability of TRA. States are encouraged to review trade-affected workers' financial situations as part of the employment and case management services provided under Subpart C.

OK. Another couple of questions here. What types of documents are needed to verify sufficient financial resources for workers whose UI or TRA runs out prior to the completion of a training program?

So the Final Rule does not provide explicit documentation requirements for verification of financial resources. States are, however, required to retain or describe the documents they used to render a determination in the trade-affected worker's case file.

Would assessments or IEPs completed by partner programs satisfy requirements in criterion five?

So we discussed this in Subpart C. Yes, partner program assessments and IEPs may be used if they meet the requirements established in the Final Rule. Assessments and IEPs from partner programs that do not meet the requirements of the Final Rule may be supplemented by additional information in order to meet those missing requirements. But duplication of effort should be avoided wherever possible.

Are states permitted to pay transportation when travel would be required for workers to take certification tests?

So when tests or exams – such as mid-terms, finals, or licensure exams – are part of an approved training program, transportation costs outside of the commuting area are allowable costs. These tests, especially those that might occur after the classroom training portion of the training has completed, should be documented as part of the training program.

Otherwise, outside of an approved training program, the TAA program may cover the costs of any fees associated with the test as an employment and case management expense, but not transportation. Transportation costs outside of an approved training program would be considered a supportive service, which is not payable using TAA program funds.

Can you provide more clarification of training-related costs, specifically purchasing laptops, tablets, software, et cetera, for workers in TAA-approved trainings? And are states allowed to reimburse a worker?

So the department clarifies that the provision of training-related costs is unchanged from current practice and policy. If materials or supplies are required of all students enrolled in the training, states are required to provide those items for the trade-affected worker to use. Section 618.610(f) does not prohibit a state from reimbursing a worker.

As provided in paragraph (f)(2), training costs may include tuition and related expenses, including books, tools, computers and other electronic devices, internet access, uniforms and other training-related clothing such as goggles and work boots, laboratory fees, and other academic fees required as part of the approved training program. And again, that list is not all-inclusive.

One note on exhausting alternatives before purchasing training equipment. Section 618.610(f)(2)(B) of the Final Rule recommends that states explore other options before purchasing equipment or related materials needed for training. Alternatives could include, for example, an equipment lease agreement. And the department advises states to follow their regular procurement process and comply with uniform guidance – and that's 2 CFR part 200 and 2 CFR part 2900 – paying close attention to the distinction between equipment and supplies.

Most of the questions we get about equipment, actually it turns out that what they're asking about are supplies and not equipment. So there are very different rules for equipment, but it's also very rare that we would have equipment requests under Trade.

OK. I'm going to take a couple of questions that have come in through the participant chat. I do want to let everybody know that an updated PowerPoint – today's PowerPoint in the file share – an updated PowerPoint will be posted in a few days, along with the recording. So if you want to listen to this again and follow along, in a few days you'll receive notice that the recording has been posted and you can also download the PowerPoint.

Ok. Let me ask my colleagues, are there any questions we need to answer on the phone?

MR. THEBERGE: I think I can handle most of them, though I am intrigued by 12, if you want to give that one a quick read. Because I don't see why that would be a difference as indicated, but –

MS. BAKER: OK. All right. No, it's good. I'm going to take it. All right.

MR. THEBERGE: OK.

MS. BAKER: So we have a question specific to one of the questions we just talked about. And I think it was this one. So this is a follow-up question, "Can you clarify about licenses and paying for transportation? So long as an LPN license exam is included in the training approval, transportation to the testing location, not the classroom, can be paid under the approved training program?"

So one thing you have to keep in mind is one big change that happened with this Final Rule is that costs for commuting, costs for any transportation within the commuting area, are supportive services. That is not to be covered by the TAA program.

So only the – if there is in fact a license exam, it's part of the approved training program, it was identified early on that this worker would be taking these courses and then they would need to go take this exam; and if the exam is offered outside of the commuting area, then the TAA program can pay the transportation that is for mile one outside of the commuting area to the exam location itself and then back to the boundary of the commuting area only.

So there is that caveat as well. So it could be that this scenario was brought up and you were told that TAA could not pay for it. It could have been that the exam itself was within the commuting area, so TAA wouldn't be able to pay for it. OK? Hope that helps.

All right. So yes, and we had a follow-up question on that. "Do we mean that if the worker is taking the exam within their commuting area it is not an allowable travel reimbursement?" That is correct. It is not. That is a supportive service.

Now, here's the deal. If you – if there is a fee associated with taking that exam, that's totally payable. If it is outside the commuting area at all, then Trade pays for the outside the commuting area portion of that.

If you have the worker and they are with this Final Rule now co-enrolled in WIOA dislocated worker program, if WIOA has the means to pay that as a supportive service, then that is something that you could look to your partner programs to assist with. But under the TAA program, we pay for the cost starting at mile one outside the commuting area. OK?

I'm going to move forward to our next section, limitations on training approval. This is Section 618.615 and it discussed the various limitations on a state's approval of a training program.

Paragraph (a) of 618.615 retains the single training program per certification rule. A training program may evolve over the trade-affected worker's period of participation in the TAA program. For example, during the training, the state may learn that the worker's program needs an OJT component, additional coursework, or remedial training to ensure employment. Changes to an ongoing training program are considered to be part of the one training program. The only exception is discussed in paragraph (d)(4) for certain workers who perform a period of military service.

This section also retains the state's ability to amend training programs, as explained in Section 618.665. We will talk about that at length in part two.

It also codifies existing policy and operation that allows for a training program to consist of multiple types of training. For example, a single training program could consist of remedial training, occupational training, and an OJT.

Paragraph (b) permits states to approve full- or part-time training, as allowed under Section 236(g) of the act. Part-time training may be appropriate when trade-affected workers cannot undertake full-time training and the part-time training is reasonably expected to help them increase their earnings, ideally by helping them secure suitable employment. States must not approve part-time training that does not meet these requirements.

Paragraph (b) also retains the provision that training is full-time if it is in accordance with the established hours and days – or credit hours – of the training provider.

The provisions on part-time training under the TAA program are new because there was no corresponding language in Part 617 because the act did not allow part-time training when the regulations were last promulgated. A state may approve part-time training, and the maximum duration for part-time approved training is 130 weeks.

Paragraph (b) also implements Section 236(g)(2) of the act's restriction on payment of TRA to adversely-affected workers in part-time training. It also establishes that the training-approval requirements of this section apply to part-time training. A trade-affected worker may participate in part-time training while employed either part-time or full-time. And the state must inform an adversely-affected worker who chooses part-time training that the worker will not be eligible for TRA and may lose HCTC eligibility while engaged in part-time training.

Adversely-affected incumbent workers should also be informed of this in the event they are separated and become an adversely-affected worker. However, adversely-affected incumbent workers are not eligible for either TRA or the HCTC.

Paragraph (b) also has a cross-reference to Subpart G, Section 618.780(b)(1)(i), which provides that a state law cannot disqualify an adversely-affected worker from receiving UI or TRA because such worker is enrolled in or participating in a training program approved under Subpart F.

However, an adversely-affected worker enrolled in part-time training is not eligible for TRA and adversely-affected incumbent workers are ineligible for TRA. Therefore, paragraph (b)(2)(v) only specifies that state law cannot disqualify an adversely-affected worker for UI because of part-time training.

Paragraph (b) also cross-references Subpart G, 618.780(b)(1)(ii), which allows a trade-affected worker to refuse work to which the state agency referred the worker because such work would either stop or interfere with participation in TAA-approved training. Because adversely-affected workers enrolled in part-time training are not eligible for TRA and incumbent workers are not eligible for TRA, paragraph (b)(2)(vi) specifies that this applies to UI or other program benefits.

This is where you really may want to follow along. It gets complicated.

Paragraph (c) adds language to clarify the process by which pre-TAA program workers who are part of a group of workers that has not yet received a certification under Subpart B can transition to training under the TAA program from training originally approved under another program, such as WIOA.

OK. Continuing limitations on training approval. Section 618.615 paragraph (d) provides a general statement of appropriate duration, requiring that the duration of training be appropriate to the skill level needed to facilitate re-employment. So the training must be of suitable duration to achieve the desired skill level in the shortest possible time.

Paragraph (d) also describes factors that may impact the length of training, including a trade-affected worker's full- or part-time employment status, the need for supportive services from partner programs, and scheduled breaks in training.

The paragraph goes on to explain the maximum duration of approvable training. For most workers, the availability of income support is critical to their ability to engage in training. The department interprets the act to mean that the maximum number of weeks of training are intended to align with the maximum number of available weeks of income support.

So there is a maximum of 130 weeks of income support available to an adversely-affected worker that is totally separated. And this includes regular state-funded UI, plus basic, additional, and completion TRA.

So therefore, paragraph (d)(3)(i) changes the 104-week regulatory limit on weeks of training to a total of up to 130 weeks, except as otherwise provided for OJT and apprenticeship and as provided for certain workers who perform a period of duty in the Uniformed Services. The requirement is to count actual weeks of training when measuring the duration of training. And scheduled breaks in training are not counted as weeks in training.

So just to back-check a little bit, we changed from – the old rule had 104 weeks and that was old and outdates. So now it is 130 weeks and that itself is not new to any of you.

OK. Paragraph (d) provides a pathway for approving a training program that exceeds the period during which TRA is available, as allowed under Section 236(a)(9) of the act, but it's still within the maximum duration of training. It cross-references criterion five at 618.610(e)(3), which provides the requirements for determining whether a trade-affected worker has sufficient financial resources available to support the worker through the completion of the training.

Many training participants fail to complete training because they run out of income support. And notably, while adversely-affected workers are eligible for TRA, adversely-affected incumbent workers are not.

However, adversely-affected incumbent workers will become adversely-affected workers if they are separated from adversely-affected employment. Thus, both adversely-affected workers and adversely-affected incumbent workers should be made aware of these limitations. And attention must also be paid to ensuring an adversely-affected incumbent worker has adequate financial resources to complete training.

A state can approve a training program for longer than the duration of income support available if the state determines that the trade-affected worker has sufficient personal resources to support themselves while completing the training program. This does not mean that a trade-affected worker is expected to obtain personal loans or other such funds that they do not already possess.

The worker must attest to the state that they have sufficient resources to sustain themselves while in training. And the department – sorry, I just wanted to stop there. The worker must attest to the state that they have sufficient resources to sustain themselves while in training.

Paragraph (d) also implements Section 233(i) of the act, which creates an exception to the duration-of-training requirements for trade-affected workers who are also U.S. Armed Forces reservists ordered to active duty. As Congress has made clear, these workers should not be penalized for serving their country.

The exception tolls the duration-of-training requirement so that workers returning from an involuntary call to active duty can re-enroll in a training program upon their return, begin a new training program, or repeat parts of the training, as necessary.

Paragraph (e) requires that training must be within the Unites States. Paragraph (e) clarifies this provision, explaining that both the trade-affected worker and the training provider – including providers of distance training – cannot be physically located outside the United States.

Certain criteria for training approval, such as suitable employment, cannot be met if the worker is physically located outside of the United States. This provision is also consistent with Congress's intent in Section 2 of the act "to foster the economic growth of and full employment in the United States" and "to safeguard American industry and labor."

The department affirms that adversely-affected workers are allowed to continue in approved training, regardless of their employment status, after their initial approval of a training program, as long as they continue to successfully follow their approved training program and the requirements to amend their training program. Determining whether suitable employment exists is the requirement for the approval of training and not a factor in determining whether approved training can continue.

All right. We had a lot there. I'm going to answer some questions here. When adversely-affected workers need to drop classes and assume part-time status for a semester, can the state discontinue TRA benefits for the part-time period and reinstate TRA benefits once the worker returns to full-time status the following semester?

So states must temporarily discontinue TRA payments when an adversely-affected worker reduces full-time training to part-time training. Part-time training is approvable; but, before approving, states must consider the worker's approved training program as a whole and the worker's reasons for utilizing only part-time training.

When trade-affected workers indicate they need to drop a class, which will change their status from full-time to part-time, it is appropriate to inquire about why they need to drop the class. If it is due to a barrier to training, a referral to a partner program may be needed. If a worker drops from full-time training to part-time training to meet a financial need, such as to help them increase immediate earnings, they may also gain work experience that helps them secure higher paying employment post-training.

Whenever possible, workers must be enrolled in training that will ensure the fastest possible return to suitable employment.

All right. One more question. Since the criteria for approved trainings under WIOA are generally stricter than those for the TAA program, can workers approved for WIOA trainings be automatically approved for TAA-approved trainings?

While the department supports state and local area efforts to make services as seamless as possible for trade-affected workers, the six criteria for approval of training, promulgated at 618.610, are based on statutory requirements of the act and must be met in order for training to be approved under the TAA program.

The department explains that training eligibility under WIOA for dislocated workers found at WIOA Section 134(c)(3) includes some of the six criteria for approval for a worker to meet training eligibility. The Department encourages states or local areas to incorporate all the elements of the six criteria under the TAA program as part of determining the appropriateness of training for workers.

By aligning the six TAA program criteria process with the WIOA training eligibility, states and local areas can ensure a seamless transition from WIOA-funded training to TAA-funded training for the worker. In that scenario, there would be no extra step required. But without such a policy in place, the state must be able to document that the six criteria have been met.

This does not mean that the WIOA-approved training must stop while TAA program eligibility and training approval are addressed, but rather that the WIOA training cannot be considered TAA-approved training until the state determines that the six criteria have been met.

OK. I'm going to pause there and see if we've got any incoming that need to be addressed. (Pause.)

OK. I can go ahead and address number – this question on here. So question, "Some of our workers are taking all the courses available in a program, but they still drop to part-time. This is still not payable with TRA?" No. Part-time, no TRA. No TRA with part-time training.

What I would suggest in this case, though is it kind of sounds like that the program itself is set up to not have a full-time attendance. This is something where you might want to have that conversation with the training provider.

Talk to them about what is required under the TAA program and really try to make a partnership, really try to make a connection, and see if maybe there is a possibility of them combining some of these classes or offering them at a different schedule to try to expedite the dislocated worker – their whole career pathway through the training. And maybe if the college understands that, they might be able to switch things around.

This is one of the things that the TAACCCT program – the T-A-A-C-C-C-T program – was really emphasizing. So there's a number of products through the Department of Labor website that might be able to help with having that conversation and engaging with your training providers.

And this is something too that I would recommend that if you want more guidance on, you connect with your appropriate regional office and let them know that you're interested in how to improve the communication with your training institution on this. OK?

All right. I'm going to move on because we still have a bit more to complete before we get to the end of this. Moving on to selection of training programs.

This is Section 20 CFR 618.620. And it's authorized by Section 236(a)(5) of the – (audio break) – for the selection of training programs. And this has substantially changed from 20 CFR 617.23 due to statutory changes.

All right. So paragraph (a) – 20 CFR 618.620 paragraph (a) represents a change from the language at 20 CFR 617.23, which outlined the selection criteria for training programs and specified evaluation of a training provider's success by placement rates. The state must document the standards and procedures used to select training providers and trainings in which the training program under this subpart will be approved.

Paragraph (a) updates the language to align with WIOA provisions. The department suggests the state work with partners and partner programs to identify jointly appropriate training programs in their communities that will assist trade-affected workers in obtaining work or place them on a career pathway towards suitable employment leading to higher wages.

Paragraph (a) also a state to choose a training provider from the eligible training provider – or ETP list – established under WIOA, without establishing additional standards or procedures. But Section 236(a)(5) of the Trade Act prohibits states from limiting training available under the TAA program to only those training providers on the ETP list.

All right. Looking at paragraphs (b), (c), and (d). Paragraph (b) addresses types of training. Paragraph (b)(1) describes work-based training and provisions for both adversely-affected workers and adversely-affected incumbent workers.

Although the act no longer mandates work-based learning as the preferred training method, the department maintains that work-based training options like apprenticeship, OJT, and customized training are excellent training options for establishing a career pathway and rapidly returning trade-affected workers to employment.

Successful work-based training requires implementing the business engagement strategies developed under WIOA Section 107(d)(4) in cooperation with the local workforce development boards.

Paragraphs (b)(2)(i) through (iv) are new and based on established administrative guidance. These paragraphs establish criteria for the approval of distance learning. One requires that the provider and trade-affected worker be located within the United States. Two requires the distance learning program to meet the six criteria for approval of training. Three requires the state to establish and monitor milestones of a distance learning program. This ensures that a trade-affected worker continues to make progress towards completing the training.

And four establishes that a trade-affected worker that fails to meet the milestones established in three may be deemed to have ceased participation in training under Subpart G. And although adversely-affected incumbent workers are ineligible for TRA, this may be helpful for states to use as a guideline.

Paragraph (b) also defines the term "higher education," in accordance with Section 236(a)(5)(H) of the act.

Paragraph (c) provides a non-exclusive list of other specific types of approvable training programs. Again, as we mentioned, the department did not retaining the heading here of "preferred training," as there is no longer a preference requirement in the act.

The selection of training, as discussed in this subpart, must be based on the need of the trade-affected worker to return to employment. This paragraph adds career and technical education to the list of approvable types of training because they are included in the Strengthening Career and Technical Education for the 21st Century Act, which supersedes the Carl D. Perkins Career and Technical Education Act of 2006, which superseded the Vocational Education Act of 1963, to which Section 236(a)(1)(D) of the Trade Act refers.

Paragraph (d) reflects the department's conclusion that TAA program funds can be used to provide training to trade-affected workers seeking to obtain an advanced degree or to complete coursework towards obtaining an unfinished advanced degree. It clarifies that workers who already possess an advanced degree or credential must not be denied further training for that reason alone.

Approved training for advanced degrees is expected to be rare, and states must exercise special care to ensure that the costs are reasonable under criterion six of the six criteria for approval of training.

Question. If a training provider or program is not on the ETP list, can WIOA's dislocated worker program still offer supportive services?

The department affirms that if the training provider or course is already on the ETP list, no additional standards or selection processes are required under the TAA program. Section 618.620 allows the inclusion of providers that are not on the ETP list. States are required, in those cases, to establish standards to ensure that trade-affected workers are provided access to quality training programs.

The department clarifies that states are expected to utilize TAA program funds to pay for the costs of training, while using WIOA funds to provide appropriate supportive services that cannot be funded by the TAA program.

So, yes, WIOA can still provide supportive services for a participant enrolled in trade-approved training even if that provider or course is not on the ETP list.

Would training for an advanced degree impact WIOA performance measures, given the proposed mandatory co-enrollment for WIOA and the TAA program?

So the department is aware of the exclusion of advanced degrees from the measurable skills gain measure. However, this exclusion is not a factor in the training approval criteria in 618.610 and cannot be used by a state to deny training for an advanced degree under the TAA program.

The department explains that services strategies and historical service data are now used in setting performance goals under WIOA. Further, although the enrollment of trade-affected workers in advanced degrees may impact the measurable skills gain indicator, those same workers are likely to have higher employment rates and higher median earnings.

OK. I'm going to just take a look here, see if there's any questions. All right. We're going to move on to training re-employed workers. And it looks like this is the last section before we wrap up today so I'm going to go extra quick.

I wanted to point out, though, we are going into training re-employed workers and we have moved discussion of Section 618.625, Payment Restrictions for Training Programs, to the end of part two. And we'll be moving forward to cover Section 618.630, Training of Re-employed Trade-Affected Workers.

I did want to make a little note here. In response to comments received in Section 618.615 and 618.645 of the Notice of Proposed Rule Making – our NPRM – in the Final Rule the department removed both uses of the phrase "that is not suitable employment" from 618.630(a) and removed the phrase "not in suitable employment" from the section heading since this provision is not contingent on the employment obtained not being suitable.

So I know that sounds pretty convoluted and many of you are really not engaged in the sheer level of minutiae that that is. But I know that some of you are and want to know because you diligently read the NPRM and made comments and you diligently read the Final Rule. So I just wanted to let you know, give you that heads-up.

OK. Next slide here. Training re-employed workers, 618.630 paragraphs (a) and (b). So this addresses adversely affected workers who cannot find suitable employment but who obtain other re-employment.

These adversely-affected workers, while employed, continue to be eligible for TAA program training. They may continue their employment while waiting for their selected training course to begin. Upon approval and enrollment in training, they may choose to terminate their employment, reduce the hours worked, or continue in either full- or part-time employment while a participant in training.

If the worker continues in full- or part-time employment while being a participant in an approved training program, the state must inform the worker in writing that such employment may have negative effects on UI and TRA benefit amounts and duration, due to income earned from the employment – and also because a worker participating in part-time training is not eligible for TRA – which could also lead to the loss of the HCTC, if available.

The state must apply the earnings disregard provisions in Subpart G, as appropriate. The adversely-affected workers may not be determined ineligible or disqualified for UI or TAA program benefits, including TRA, because they left work that is not suitable employment.

However, choosing to continue in such employment, either part- or full-time, may have negative effects on UI and TAA program benefits, including TRA and the possible loss of the HCTC. The wages earned in such employment may impact the weekly benefits payable under UI or TRA.

OK. Tim, I think it's over to you.

MR. THEBERGE: It is. All right. Thanks, Julie. So that is the end of part one of our session for Subpart F. Part two is coming up later this week.

With that, if you have any questions, please submit them via the chat. We do have a few minutes left; we will try to get to them.

There are some resources available for you. They are on this slide. Our TAA community is the best place to go for all of this information. It's taa.workforcegps.org. The department has recently updated its official websites. They moved the agency websites to different parts of the domain, so you may want to update your bookmark for that.

We have provided the link to the Federal Register posting of the Final Rule. This is important because, unlike the electronic Code of Federal Regulations which will only contain the rule text, the Federal Register notice actually has the preamble language as well, which explains a lot of the logic and reasoning used by the department in coming up with our Final Rule.

Lastly is the official version of the Trade Act of 1974 as amended. That's the U.S. Code version. Our website has an unofficial version available to you as well, but we want to make sure you have the official version available for you.

Part two of this subpart is this Friday at 1:00 p.m. Eastern. And then next week we finish off our phase one with Subparts G on Monday, H on Wednesday, and Subpart I on Friday. Again, all of these are at 1:00 p.m. Eastern. If you have not registered for them, you can do so at taa.workforcegps.org.

If you have questions that we did not get to, or if we asked you via the chat to submit them to us separately, this is the email to which we would like you to send that. We have a team of staff standing by to monitor this email address and to answer your questions. So again, if you have any questions that came up that you didn't think to ask today, please submit them to that email address; and/or if we asked you specifically to submit them to that address, please do so.

With that, thank you very much for your attendance today. We greatly appreciate all of the time and effort that you have all put in to these sessions. Hundreds of you have participated on each of our subpart sessions and we do greatly appreciate that.

As many of you pointed out at the beginning, there were some changes in this version that was presented versus what was available to you in the file share. Have no worries. The version we presented will be available to you shortly.

With that, I'm going to turn it back over to Grace.

(END)