**WorkforceGPS**

**Transcript of Webinar**

**TAA Final Rule: Quality Petition Filing for Trade Adjustment Assistance (TAA) Program**

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LAURA CASERTANO: With that, I'm going to get myself right out of the way. Again, I want to welcome everyone to today's webinar and if you haven't done so already, please introduce yourself in the chat on the bottom left-hand corner of your screen. If you're just joining us, please make sure to introduce yourself and I'm going to turn things over to your moderator today, Susan Worden. She's the supervisory program analyst. Susan, take it away.

SUSAN WORDEN: Thanks so much, Laura. My name is Susan Worden and I am one of the managers here in the office of Trade Adjustment Assistance. I am doing moderator duty for the main presenter today. Thor, if you want to introduce yourself and then hand it back to me to do the introduction to the presentation for today.

THOR HONG: Hey everybody. This is Thor. It's great to have everybody. Great to have so many people from around the country, familiar names and people that I don't know. So it's great to see everybody here today.

MS. WORDEN: All right. So let's do a quick overview of what we'll be talking about today. It's a very important topic here in the Office of Trade Adjustment Assistance. As hopefully just about everybody in the audience knows, the petition filing is the gateway to eligibility for the Trade program. Nothing happens without it, so we're all excited to have a very robust audience here today to hear all about how to file quality petitions.

We'll be talking about the – what is involved in filing quality petitions, going through the petition part by part to help you understand how petitions are read from the investigator's perspective and why the different sections need to be filled out in the way that they do. We'll be talking as well a bit about the importance of the petition filing process as a trigger for initiating rapid response and career services activities.

We'll also be talking about some new provisions that came up as a result of the TAA final rule that was published on September 21st regarding successor-in-interest and amendments. And with that, I am going to turn it back to the star of the show, who is Thor Hong. Thor, take it away.

THOR HONG: Thank you, Susan. Appreciate it. So as Susan kind of queued up here, the main event really is to talk about petitions. It is the building block of every investigation that we do and really what I want to do today is kind of give you all sort of the insider's look at, once you file the petition and sort of shoot it off, it doesn't just disappear into the ether.

You know, real humans read it. We don't have any kind of algorithm that reads your petitions. So we read the petitions and everything that we do with the investigation kind of jumps off from the petition. So this is going to be the main topic today and along with a couple other things, as Susan mentioned.

So as we go through the presentation, feel free to put any questions that come up in the chat, sort of as soon as they come up. You don't need to wait for a particular time. We've got a team standing by behind the scenes that's going to be answering questions directly via the chat in some cases, and in other cases, we may wait to answer certain questions until certain breaks that we have planned for during the presentation so we can sort of highlight particular points.

So in terms of when we say – we don't just say filing petitions, filing quality petitions; right? So when we say quality, what does that mean? Well, we're talking about the specific ways that you can write your petition filing so that it comes across as clearly as possible to the DOL investigator who reads it; OK?

So the benefit of making everything in the petition perfectly clear is that it saves the investigator some time actually. So they can – if everything is perfectly clear in the petition, they can move straight into their information gathering process and not need to spend a lot of time clarifying various aspects of the petition or what was your intended scope and so forth.

As many of you may be aware, we do have a new petition form for – I noticed in the poll that a lot of the people on this call actually have never filed a petition. So for you all, it's kind of irrelevant whether there's a new form, but we do have a new form. It was launched in September as part of the new regulations rollout.

For those of you who are familiar with the old form, what's changed is mostly superficial, so the arrangement and formatting. There's a different number of pages, different number of sections on the new form. But in terms of substance and content, the new form includes basically the same information as the old one.

So yeah, in the next few slides, we're basically going to look at what an investigator is looking for specifically when they read a petition which hopefully gives you some context that helps you know how to best present information in your own filings, whenever that is that you make your next petition filing.

All right. So for a petition filing to be considered valid, of course, there is some regulatory language around this, certain minimum pieces that every petition has to have. They're summarized here. I'm not going to focus on these really because it's pretty much straight out of the regulations and it also hasn't substantially changed with the exception of the fact that now you can have a group of two workers that may be the subject of a valid petition filing.

So three workers is no longer the minimum number of workers that you have to have. So I just bring these up to kind of point out that an issue that some of you may not be aware of, and that's sort of what we want to highlight here, is that a petition can be valid. You know, it can include all of these elements but still be a little confusing or a little bit ambiguous. And so what we're going to talk about is the specific ways that you can avoid that kind of situation.

All right. So what are the elements of a high-quality petition? So when you're thinking about a petition filing, always remember that for the DOL investigator who's reading it, it's most likely their first introduction to the particular layoff situation that has come to your attention and is the reason that you're filing the petition in the first place.

So always keep that in mind. You know, you all are the ones that are on the ground. You're closer to these situations than we are and so think of the petition as your opportunity to get the investigator fully up to speed on everything that you know. So these first five bullets there, those – that's kind of the meat of the content here.

So those five bullets summarize what the investigator needs to have an understanding of at the beginning of every single TAA investigation. So what we're going to do is get into a little bit more detail on each one of those. Ideally, the perfect petition meets all five of those criteria. It has all five of those elements. Sometimes, it might have a little bit less than five. That's fine.

But that can add a little bit of time at the front end of the investigation, because if one of these points isn't there or is a little bit unclear, sorting that out can be – it becomes the first thing that the investigator does before they can move forward. And so if you don't want the investigator kind of burning that time, you want to just think a little bit extra about whether your petition includes all five of these elements.

And don't forget the pro tip here at the bottom. If you can, always file your petition on the website. The online filing is quicker. It populates information straight into our system. We don't have to wait for it or wait to receive it like we do if you send the petition in the mail. Or even if you sent it by fax, there can be a little bit of a lag. So online filings please.

All right. So we're going to skip past the first two sections of the petition because if you can write your name and sign your name, that should be pretty self-explanatory. So we're going to just go into the second fillable page. On this page, what the investigator – and don't worry if it's tiny. You don't have to read all of the lines there. It's just sort of to have a representation of the format.

So when the investigator is reading this page, what they're trying to figure out is, what is the location of the actual worksite that they're going to be looking at? And also, are you filing for workers at just one location or are you filing on behalf of workers at more than one location. OK.

So for Section 3, which is the top part here – excuse me. That's where you're going to put all the information of the invest – excuse me. The employer's corporate headquarters or the employer's parent company; all right? So this part in Section 3, the top part of that page, may or may not be where the actual group of workers works. However, Section 4 – that's what Section 4 is for; OK? Where the workers are actually based.

So in Section 4, the lower part of that page, that's the address of the office, the factory, mine, warehouse – whatever it is. If you're trying to cover workers at more than one location, you should attach additional sheets of this page so that there's a section for – completed for each work site that you are filing for. And don't worry. You don't have to remember that. That is an instruction that's on the form.

But in most cases, Section 3 and 4 will be two different addresses unless the workers that you're trying to cover are actually at the employer's headquarters offices. In that instance, Sections 3 and 4 would contain the same address. Otherwise, they should be different. And the investigator is always going to assume that the address that you've included in Section 4 is the one that we are looking at.

OK. Right. So before – I just remembered one other thing I wanted to say here. So in terms of teleworkers – because some of you might be wondering with COVID and everything, there's a lot of people working from home more than usual. Keep in mind that for the purposes of specifying the actual work location in Section 4, we do not need to know any individual worker's personal home address where they happen to have their home office set up from; OK?

So what we're looking for is only the employer's address; right? So not the individual worker, but the employer's address where the work operations are based. So that's the specific office where they're managed from or the manufacturing facility where the production takes place, etc.

OK. Moving onto which workers. Now, when we say which workers, we're not talking about individual worker's names, of course, because this is about group eligibility, TAA. But when we say which workers, we're talking about this other big question that the investigator has when they're reading your petition. The investigator needs to know whether we're looking into the entire worksite or if we're looking at a group of workers that actually comprises a smaller subdivision of some sort at that site.

To let you know how we read it, our default is to assume that your petition covers everybody at the location specified in Section 4. If the workers are actually a smaller subdivision at that location – for example, if it's the IT department or the finance division only, something like that, make sure that you notate that specifically on Line A, which is the top line of this section; OK? Line A.

And an example of that would be, let's say you've got Acme Corporation as your – the worker's employer and they've got a big office building and you've put the address here in Section 4 but it's only the billing department that has been impacted by trade, as far as you know. So what you would do is on A, on Line A, you would say Acme Corporation, billing department; OK? So simple as that.

When you do that, try to use, if you can, the official name of the department or unit because that enables the investigator and the employer to quickly get on the same page in terms of which group that we're talking about. And I'll clarify what I mean by that. So, for example, if the subdivision that the group of workers is in – let's say it's some kind of IT division; right? So you're aware of some IT workers at this business location that have been impacted by trade.

But maybe that employer doesn't literally call that group of workers the IT division, quote unquote. Maybe they call it technology solutions or maybe they have some other name for that group. So try – when you put that subdivision in Line A, try to use that terminology that the employer uses because when the investigator is asking the employer questions about that group, it's just super helpful if we already have the actual name. Because then the employer knows, if we're asking about the technology solutions group, they know exactly what we're talking about instead of if we say IT division and maybe they don't actually have a group called IT division; right?

Yeah. So moving on to type of work. Investigators, we work with all kinds of different industries all across the U.S. You know, we've got a lean, mean crew here in OTAA. We just have kind of a handful of investigators for the whole country and so when we see these petition forms, we're trying to get up to speed as quickly as possible.

One of the things that we need to know is, what do the workers actually do? OK. And to clarify, it's not necessarily what the employer does at large, but what does the group of workers do specifically for that employer; all right? Now, what you would put that in is Line F, where it says work activities of the group of workers on whose behalf the petition is filed. That's where you're going to put just a little one-line description of what the workers do; what is their role within the employer?

So try to be specific. You want to make sure that the type of work you describe aligns with the type of location that you have put an address for. And that's a key thing, and I'll tell you why that matters.

So for example, if the worksite address that you put in Section 4 is actually a downtown office building but then in Line F, you said that the group of workers manufactures heavy duty truck tires, for example, that kind of becomes a red flag for the investigator because as we're reading that, suddenly we're thinking, OK. I wonder if they're trying to cover the workers at the office or the workers that are on the production line. Because those workers are definitely not at the office.

So when you're completing your petition, try to kind of keep that in mind, that you want to have that agreement between the type of work and the actual location that you've specified. You also don't want to be too vague. So say in Line A, you haven't maybe distinguished between a certain subdivision of workers and let's say hypothetically you had put the location or the address as some part of the Microsoft campus; right? Out of Washington.

If you put the type of work as software, that doesn't really give us a whole lot to go on; right? So the investigator reading that sort of doesn't know – unless you've specified it in Line A, we don't really know what part of Microsoft you're actually referring to. And for a large company like that, we definitely need to know specifically what is the division or what is the organizational unit of Microsoft that you believe has been impacted by trade?

Because we have to know that so we can then ask Microsoft, or whatever the employer is, specifically about that group. So – and I know there's not a lot of space there on Line F, but just adding a few words to that description really goes a long way.

All right. So the alleged trade impact; OK? So the whole reason that you sent in the petition in the first place because you think there's been a trade impact. So that is the last page of the petition and this is the place in Section 5 where you want to tell the investigator everything that you know about how workers are actually being impacted by trade.

Please do not leave anything out. As I was mentioning before, the investigator doesn't know the background of this situation; right? Because the petition is the first thing that we're hearing about. We haven't had those conversations with the workers that you might have had. We haven't had those conversations with the employer that you might have had. So in this section, be as specific as you can in making your case that these workers that you've identified should be considered TAA eligible; all right? So this is where you make your case.

If there is any – if there isn't enough space in Section 5 to get everything down, don't worry. Go ahead and add attachments. We have the ability to – excuse me. We have the ability to add attachments. So if you have any documentation of any kind of the trade impact that you're describing, or if you have any other kind of written evidence that backs up the claim of a trade impact, please do add that and include that so that we can review that as part of your petition.

So don't worry. You know, the form itself does not have to hold all the information. You can attach whatever other supplemental information you need. One other thing about Section 5. If your petition is connected to an ITC determination, go ahead and include the ITC determination number in this section; OK? The specific ITC determination number.

All right. Company contact info. So you might think that this part is very straightforward, and generally it is. But this is where some petitions can kind of get tripped up a little bit; all right? Now, what you want to make sure that you have here is a valid e-mail address for a contact that is associated with the employer.

Please do, if you can, double check to make sure that the e-mail address and the name of the official are spelled correctly. Just a quick check on that can go a long way. One of the things that we do on our end – actually, the first thing that we do is once we've reviewed the petition, is actually to reach out to the employer by e-mail. That's how we do that outreach. So that's how we send them official documentation with some of the relevant links to information that they need to have from us.

So if we already have that e-mail address, that's great. That's one less thing that we have to spend time tracking down. If we don't have the e-mail address, then we have to kind of figure that out before we can kind of go anywhere. So just FYI, especially for those of you that have not filed a TAA petition before but maybe you will in the future.

So to kind of summarize this section, we're going to kind of take a pause here. But the summary I'd sort of give is basically those five elements of the high quality petition, sort of going through each one of those and making sure that your petition contains all five of those elements really can put investigators in position to quickly get right into our information-gathering process and not need to spend time going back and forth with you, kind of getting clarifications from your end about what it is exactly that you want us to investigate.

If your petition contains all five of those elements, we can really get straight into our information gathering which can – it can save some time. And when you want the workers to be served as soon as possible, which we do, of course, then that goes a long way. So this sort of is not the end of the presentation but this is the end of the first kind of segment here. And so what I want to do now is just take a minute, see if there's any kind of burning questions about any of this content. I know that the chat has been active, so there might be some –

MS. WORDEN: Yeah.

MR. HONG: – questions. Yeah. I'll just – I'll turn it over to you, Susan, to see if you have any questions that we've got already.

MS. WORDEN: Lots of good questions, some that may ask you to repeat information you've already shared. First, what is the minimum number of, it says employees, to file a petition? Under the new –

MR. HONG: Just two.

MS. WORDEN: Two. OK. So – (inaudible) –

MR. HONG: Two. Yep.

MS. WORDEN: It's been reduced – (inaudible) – two. OK. And so a very important question –

MR. HONG: Short answer there.

MS. WORDEN: – especially for this audience because a lot of the folks in this room have never filed a petition before; who is authorized to file a petition?

MR. HONG: Yep. That's a great question. We actually have a slide on that. It's actually the next slide so I'll just leave that up here. Yep. There's a few different types of people that are authorized to submit a petition. Basically, anybody on this phone call probably is authorized, anybody from the state, the American Job Center kind of level, the state government level, and then unions and groups of workers can submit on their own behalf as long as there's at least two of them. So yeah. There's – those are kind of who's authorized. And if you want to look at that, that citation at the top of this slide in the regulations is where you would find that information.

MS. WORDEN: Yeah. And I just want to qualify, as the head of the data division, I can attest to the fact that we have had a growing number of the total petitions that have been submitted by state and local officials. And we want that to continue. So those of you in the audience who have never filed a petition, please keep in mind that not only do we have today's live presentation but this is also recorded. So we really encourage you to skill up on filing petitions. The more the merrier.

So yeah. A couple more questions, Thor. One of the questions was, one of the people in the audience noticed that one of the pieces of information that seems to no longer be there. It says when the application was revised, why did it not include a line for specific department or units? And I know that we've got Amy Chen in the background who basically makes mention of the fact that the petition form was designated to solicit minimal information to kind of get the ball rolling. I don't know if you want to qualify that further.

MS. CHEN: So yeah. This is Amy Chen on the phone. So the petition form was created to solicit the minimal amount of information. We do allow for attachments for that very reason. It could be HR division, IT, technology services or whatever. But what we wanted was one form that allows us to get the bare minimum to start – get the ball rolling.

The idea of this particular presentation is to share with you what's not a minimal petition but a much better petition so we can expedite the identification of the worker groups so when we start the investigation, instead of spending some time trying to narrow down who the worker group is, we use the information on the petition.

The petition for – keep in mind, can be used for large corporations with many different units, whether it's accounting, HR, so on. But also is appropriate for smaller firms who may only have three or five workers and consequently, there are no units; OK? Hopefully that answers your question.

MR. HONG: Yeah. The one other thing that I would add to that response that Amy just provided is that regardless of whether the line is included or not in the petition, we're sort of giving you this context that that information is definitely appreciated and is needed if you are trying to identify a smaller subdivision at any given worksite, as I mentioned. In many cases, there is not a smaller subdivision at the location that the petitioner actually wants to cover, and so that's why we usually assume that it's everybody.

But if it's a large work location or if it is this smaller group, this team of like 15 people out of an office that has a few-hundred people, you want to just definitely include that. Even though it doesn't say on the form to include it, please do include that information so that the investigator has that to work with.

MS. WORDEN: A related question we got, Thor, that talks about maybe providing more information than seems to be provided on the form is, what if there are workers doing several different types of work at the same location?

MR. HONG: Yeah. That's an interesting –

MS. WORDEN: [Inaudible] yeah.

MR. HONG: Yeah. That's an interesting question. So if you think that that is relevant to how the investigator thinks about the group of workers, please include some kind of narrative about that either within the petition form itself or as an attachment. As we know, every worker's role cannot necessarily be summarized in two or three or five words, and that's OK. You know, we know that workers do a lot of different things but if you can kind of generalize what the group of workers does, that gives us enough information to move forward.

MS. WORDEN: Another question. If the positions are being trade impacted across the board at, say, Acme Corporation, such that it is accounting, human resources, and engineering services, which are all co-located, is indicating positions sufficient in Section 4-F? Is indicating all positions.

MR. HONG: Yes.

MS. WORDEN: Yeah. OK.

MR. HONG: Yep. Yeah. That would be fine.

MS. WORDEN: OK. Great. Question. Did you make mention of something called an ITP, is the question. I'm not sure they got that right.

MR. HONG: I don't think so. Oh. ITC. I think they're probably referring to ITC. Yes. ITC is the International Trade Commission and the U.S. International Trade Commission or USITC is distinct from the U.S. Department of Labor, but we have some overlap with them. The USITC is an organization that is – it's a U.S. government agency and they are looking at a lot of different ways that trade – to kind of put it broadly, they look into a lot of different aspects with how the U.S. sort of fits into the global economy.

So there's a lot of overlap to what the Office of Trade Adjustment Assistance looks at. They will occasionally issue determinations that say that the U.S. sugar industry has been injured, materially injured by reason of increased imports from Mexico that were brought into the U.S. unfairly. Hypothetically.

And sometimes there is a way that workers within the U.S. can be certified for TAA because they were identified in one of those ITC determinations that was issued. So this does happen. And so yeah. It's something to be aware of. For many of you, an ITC determination will not necessarily be something that you'll actually work on, but for many others of you on this call, definitely good to know what ITC is. And we do send out – I don't know if, Susan, you want to mention anything about that.

MS. WORDEN: Yeah. Let's – (inaudible) – that. (Inaudible.)

MR. HONG: That we send out the notifications.

MS. WORDEN: That's what my job covers. Yeah. So whenever we receive an affirmative determination regarding an ITC investigation, we are obligated – we in the Office of Trade Adjustment Assistance are obligated to notify the governor of the relevant state where these worker groups are affected by the determination as well as the company.

We have expanded that to notifying all of the TAA and TRA coordinators in each relevant state. So as we become aware of these determinations, and we have developed a close relationship with the USITC where basically we check their website but they also are in active communication with us.

So we provide notifications that not only let states know if there was an affirmative ITC determination in their state that basically would allow for a potentially expedited eligibility process for the workers, but we also provide all of the specific information that needs to be included in the petition, which tends to be somewhat specialized and would include the ITC number, the location.

We also, where we can, actually provide the names of company officials, which, to Thor's earlier point, is really a crucial piece of information for allowing the investigators to collect the minimal amount of information they need to do those expedited investigations. Wherever possible, if we can do an ITC-related investigation, that's always preferred because the trade impact has already been proved. So that's the hardest piece of the puzzle usually.

So when that's already been verified by the ITC based on our statutory provisions, all we need to do is have contact with the company, verify the worker group on the period of their layoff, and a couple of other minor pieces of information. And we've got plenty of information on that on the TAA website as well as the TAA community. More on that at the end of the presentation. Does that handle it, Thor?

MR. HONG: Yeah. Thanks, Susan, for adding that.

MS. WORDEN: So we've got a couple more questions. Lots of robust questions here.

MR. HONG: Good.

MS. WORDEN: Let's see. I think there's a general question you kind of expected to see which is, as you mentioned, you've got a lean, mean team of investigators here in the national office but obviously it's a little bit frustrating because some of these investigations are longer. There's more petitions than we can necessarily handle in investigations to be able to pass them through as quickly as we want.

But of course that's one of the reasons why we're providing this webinar is we're doing what we can to make sure that the information that is collected in the petition is of high enough quality so that we can work as quickly as we can. I don't know if you wanted to add more to that.

AMY CHEN: This is –

MR. HONG: Yeah. Go ahead, Amy.

MS. CHEN: Go Thor. No. You go, Thor.

MR. HONG: No. Please.

MS. CHEN: So yeah. So as Susan said, we're – or Thor said, we're leaner and meaner here in the national office. I am not leaner. I have gained 10 pounds, but nor am I any meaner, so that's fine. We do try our best, but the first – the reason, as Susan said, is we're doing this webinar is so that we can start investigations in the best possible position. Like we talked about earlier, having – is the HR onboarding versus HR employee benefits division.

So the more that the petitioner can provide us, the more quickly we can resolve any discrepancies or explain to the employer who we're looking at. So yes. We're having some challenges right now, COVID and otherwise, as everyone is – (inaudible) – regulations that we hope can provide transparency with regards to the things we're looking at.

If you had a chance to take a look at the regulations that were like 752 pages, there is a section that does say what we look at. If we look at 20 CRF Section 618, specifically, we do talk about – sorry. Section 618.210 investigations. We do go in pretty deeply about the things we look at – (inaudible) – for certification. So if you think there's information that is relevant to your case such as – (inaudible) – activity or increased imports, you may want to make sure that you bring that to our attention in your allegation; all right? Thor, what were you going to say?

MR. HONG: No. I think that pretty much covers anything that I was going to say.

MS. WORDEN: OK. Let's see. So question related to – it says, you say a minimum number of two people to file a petition, but if the human resource manager and the general manager complete and file the petition, can they file it for the one person who's being laid off due to a trade-related issue?

MR. HONG: So the short answer to that would be no. The – this program – so the petitions for TAA, they are for establishing the investigation that accompanies one of these petitions is to establish group eligibility. So if there are less than two workers, that is not a group. That is just one person. So the short answer to that is no. You would need to have at least two or more workers in the group that you are targeting for that to be a valid petition.

MS. WORDEN: OK. Here's a broader question. Says who has the burden of proof in proving a site was trade impacted? The investigator? The employer? The petitioner? Or a combination?

MS. CHEN: All right. So –

MR. HONG: Yeah. That's –

MS. CHEN: Yeah. So like Shrek would say, number two my Lord. No. It's a – so it's – so unlike a court of law, there is no burden of proof. However, under the statute, the Secretary of Labor is charged to conduct a formal investigation once a petition is filed. So once the petition is filed, Department of Labor has to do a full investigation and carry it on through the end.

So if a petition is rather vague in its assertions or rather vague or maybe unprecise in the group of workers, which was the focus of the petition, then Department of Labor cannot terminate the investigation. We have to keep on going on it. So having a well-developed petition from the get-go does help us expedite or not expedite an investigation but to better investigate the case; all right?

So the burden is under statute, the Department of Labor to issue a finding, either certification or denial. Keeping in mind that a denial, if issued, can come back on appeal and then we have to take that case back. And the same group of people who are doing the investigation are the same group of people doing the appeal – (inaudible) –

MR. HONG: Yeah. And one other thing that I would briefly add to that is it is not – as the petitioner, it is not your responsibility to prove that the trade impact is happening. We do like you to share any evidence that you have that it is happening with us. But as Amy just outlined, it is the U.S. Department of Labor that makes the determination so it is not the employer or the workers or the petitioner who make that determination. It is only the Department of Labor that does that.

MS. WORDEN: OK. It looks like we've got a number of other questions; do we want to keep on going with the questions or do we want to move forward and then do some questions at the end? That was a question for you, Thor; do you want to continue with doing questions until we're done? I think questions are going to continue to build and I want to make sure you have time to –

MR. HONG: Yep.

MS. WORDEN: – get through the entire presentation.

MR. HONG: Yes. And sorry. I started to answer your question earlier. I guess I was on mute. But yeah. I definitely want to be mindful of the time here that we get through the rest of the content. So maybe I could pick up with some of the content that we have in the next section and then we do have two more question breaks built in. And so we could sort of cover some more of these questions.

Because obviously with this live format, one of the main values that this session adds is for us to be able to be responsive to everybody's questions, and so we definitely want to answer as many questions as we can. But obviously with the size of this audience, it may not be possible for us to answer every single question that comes up. So yeah. What do you think about that, Susan?

MS. WORDEN: That sounds all right to me, Thor.

MR. HONG: OK. Well, why don't I then go ahead and just get into the next section and then we can cover some additional questions shortly? So as I mentioned, one of the other questions that we already talked about kind of preempted my first slide here, so I won't repeat that. We'll just kind of continue to move forward.

Who does file? So this – I thought this particular audience would be interested in seeing that the people on this call or that the cohort of people that are on this call from the state level actually submit about three quarters of the petition filings that we get. So you've got that going for you. Since the major COVID shutdowns started happening back in March, we've been getting about 60 petitions per month on average. So that's about two per day, obviously, on average.

Some days we get a lot more and sometimes we don't get any. Leading up to COVID, we were actually getting over 100 petitions per month on average, that six months leading up to March. So petitions are a little bit down but we're still getting quite a few, so that's good because we want to get as many workers certified as we can, of course.

Now, who must file? This is something to be aware of that it's not just about who can file petitions but there is actually a mandate in the Trade Act for cooperating state agencies to proactively seek out groups of workers that may be likely to meet TAA criteria and then make sure that petitions are open that we filed on behalf of those groups of workers.

So this is just something worth mentioning for this specific audience here is that if you hear about a group of workers and their work, you have reason to suspect that their work is moving out of the U.S., please do file because that's a mandate within the Trade Act.

Now, obviously you want to know when to file and the short answer to that is as soon as possible. As soon as you hear about a layoff occurring or being threatened, please go ahead and get that petition in so we can start looking at it. The sooner we get a petition, the sooner we can start investigating it and the sooner that we can issue our determination which potentially could be a certification of group eligibility for the workers to apply for benefits.

As always, just that last point there on this slide. If you file a petition and you don't see it posted on the department's website within 10 days, for those of you that don't know or maybe new to our program, every petition is – that's filed that is instituted, where we have a investigation started, all of those petitions are listed on the department's website. So if you don't see that posted within 10 days of submitting, please do follow up with us and make sure that we have it and that there isn't any issue with the validity of your filing.

Rapid response and career services. I'll just touch on this very briefly because it's – this is a point from subpart H of 20 CFR 618. And it's relevant to the audience that we happen to have on this webinar which is the states and our various counterparts at the local levels as well. So one thing to know. States must ensure that rapid response assistance and appropriate career services are made available to workers of any group of – excuse me. Members of any group of workers for whom a petition has been filed.

So this is regardless of whether the petition ultimately results in a TAA certification, this must occur when the petition is filed. And this is also regardless of the size of the layoff and regardless of whether there's been a WARN filing for that particular group of not.

So here is where we've got another question break kind of built in because that's at sort of a little bit of a shorter section there. So Susan, should we go ahead and maybe get to a few more of these audience questions?

MS. WORDEN: Sure. One of the questions – a couple of different questions that are being asked have to do with the online petition and about the attachments. First of all, whether or not the attachments are confidential and the answer to that question is no. They are not. That will be part of what gets posted to our website. We do redact certain personally identifiable information but generally that's not included in the attachment.

And the other question was, was there a limit to the number of pages in the attachment? There is not a limit to the number of pages but there is a limit to the size which is 2 megabytes. So I just wanted to get those out of the way real quick because there were several questions dealing with that sort of issue.

MR. HONG: Could I just jump in real quick on that last point about the – kind of the limit? So if there's something that is too big or too long to submit in the attachment to your petition filing, that's not the only way that you can submit it to us. You are not – as the petitioner, you are not limited in your submission to the Department of Labor to the petition filing itself in terms of your ability to provide information that can be considered in the course of the investigation.

So you will have a specific investigator that is assigned to your petition to investigate that petition and you have the ability to, at any time during the investigation and especially at the beginning of the investigation, you have the ability to submit other information that comes in that would be relevant to the investigation process directly to the investigator. So I just wanted to make mention of that so everybody knows.

MS. WORDEN: OK. Thanks, Thor. Sorry. I'm – (inaudible) – typing some answers to some of the chat window questions. I apologize – (inaudible) – it says, what happens if a company refuses to cooperate with investigators after a petition has been filed?

MR. HONG: Oh. Great question.

MS. CHEN: The short answer is the hammer shall fall.

MR. HONG: Yes.

MS. CHEN: But no. Sorry. This is Amy.

MR. HONG: Go ahead, Amy.

MS. CHEN: I was just going to say, as we mentioned earlier, Department of Labor does have the responsibility to conduct a full investigation. So we have ways of inducing cooperation, let's just say, where necessary. But ultimately, we also don't want to make this a negative experience for the employer who may be a future employer in your particular – your locality. So it's a delicate balance of being firm, making sure the case – (inaudible) – without compromising any relationships that may be going on on the ground; all right?

But there's also information we can obtain without going through the company, such as there could be online – (inaudible) – articles or maybe if what we need is how many people got laid off, maybe the state UI office can provide the information. So there are many different ways of getting information we need without strong-arming the company official; all right? Thor, you were saying?

MR. HONG: Yeah. I was – just to add onto that, yeah. We have a lot of different ways of getting information. Under the Trade Act, the administrator of OTAA has subpoena power. These are all businesses that are operating within the U.S. and they're all subject to U.S. law which includes the TAA program.

So in the event of noncooperation with our investigation process, when push comes to shove, we can subpoena for information that we need. Every employer is required by law to cooperate with our investigation process and by cooperate I mean they are required to submit information that we request that would be used in making a determination.

MS. WORDEN: OK. Let's see. So I'm getting this question a lot. I've been answering it individually but I think it's time to actually answer it publicly. It says, is it possible for OTAA to provide a state with data on who filed petitions for their state? And the answer is, of course, the fact that we do post our petitions to the TAA website. In every state, each state is supposed to designate a dedicated e-mail box that OTAA will send the unredacted petitions to the state.

This helps us to fulfill the obligation that petitions be filed simultaneously with us in the national office as well with the state governor. The way we handle that is we ask states to have a dedicated e-mail box that we can transmit to which we do twice a week. In addition to that, we also have a very large e-mail list of anyone in the state who works for the state that is interested in receiving information on petitions filed. And we send a table of information of the company name, location, as well as the company contact.

We do that twice a week, as well, and using that information, you could very easily cross-reference that using the TAW number with the website database that – where, of course, we provide that information as well. There's also a query able interface on our website where you can narrow down based on your state to find out about recent petition activity.

So there's a number of different options that are available for getting direct access to our petitions. Unredacted copies, like I say, are supposed to go to a dedicated mailbox in each state. We're currently in the process of updating that because we've discovered that a lot of states have abandoned these dedicated e-mail boxes because we've e-mailed them asking them if the e-mails are still correct and we don't get anything back. So we are in the process of updating that, but in any case, redacted petitions are always available on the TAA website and there is a query able interface as well for searching based on locations.

Let's see. Does any federal agency have the task of identifying particular trade events that could create eligibility and communicating that information to state? Other than the USITC, I'm not aware of it. Sorry. I'm going through the questions. Let's see. Anything else? It says, if a new worker group at the same employer is affected by the same trade-affected layoff, once a TAA petition is already filed but it's still pending, is there a way to amend or would a new petition need to be filed? I think this is going to be the last one we answer.

I think that's going to be handled by you and talking about amendments, Thor. So I'll probably leave that to go. We are running a little bit late so maybe we should continue at this point to the rest of the presentation and see if we have time for questions at the end.

MR. HONG: OK. Yeah. That sounds good. And to quickly touch on that question, you'll want to communicate with – directly with the investigator that's working on the petition. Depending on the circumstances, they may be able to roll that group into the existing investigation and in other cases, it may be more appropriate to file a new petition. But I would encourage –

MS. WORDEN: Yeah. I would –

MR. HONG: I would –

MS. WORDEN: Given the new amendments, I think basically you always go first with the investigator and then take it from there, Thor. Because we may have some updates on that.

MR. HONG: Yep. OK. So let's go ahead and get into the final sections. We – I've sort of broken this – the content of this webinar into sort of three different sections. So yeah. Just a few more items to touch on before we wrap up with maybe a few more questions that we have time for.

So with the investigation process itself, I'm not going to detail the entire process here. That's not necessary for our purposes today. What I do want to mention is that as far as the investigation process goes, the thing to remember, which is something that I sort of touched on earlier, is that every investigation that we do starts with the petition; right? So that's the foundation for us.

It gives us clues about where the investigation could potentially lead in terms of the allegation and everything else that we get from you. And the petition also kind of gives us a sense of what specific things to possibly look into. That being said, we're not limited to the allegation that you put in Section 5.

So there is not a situation where you allege that there has been a shift of work and we don't find a shift of work and so then we issue a denial because we didn't find a shift of work. We are always going to look at every possible way that a group of workers could be certified before we would ever reach the point where we would issue a denial determination.

So that's just something to be aware of. For those of you that are more familiar with our program, you probably knew that but for others, that might be something new. So that is something that works in workers favor because sometimes, as I said, we're not able to prove the specific allegation that was made.

But over the course of our normal investigation process, we come across other information that we are actually able to certify on. So if we can certify on another basis, we always do. So that's just something to be aware of.

Now, the slowdowns in the process, that's everybody's favorite thing; right? You know, why is my investigation taking so long. There's a lot of ways and a lot of reasons for the investigation process to get slowed down. A few of the things are listed here but there's also a lot of other ways that are outside of your control and quite frankly are outside of our control as well.

So, for example, if the employer has shut down and we're having a hard time reaching someone to gather information from. Or if the employer is not being as cooperative as we'd like, we have the ability to go through the subpoena process, but that takes time. If our office has a heavy workload, we're not able to process petitions as quickly as we are when we have less open investigations.

Those are all things that obviously will make our investigation take longer, and those are sort of outside of our control. That being said, there are a few things that you can do as you're filling out your petition that can make things run more smoothly. And so most of the things, specifically probably the top 5 items here on this list, they kind of go back to the point that we covered earlier.

If you haven't clearly identified the appropriate subdivision of workers, if you accidentally maybe mix up the address or if you don't include the e-mail address for an employer contact, they don't – these things don't make the petition invalid. These are all things that an investigator is fully capable of getting cleared up. But for your understanding, any of these issues – incomplete, missing group of workers, etc. – those are things that may add time to the investigation.

So if you want things to move quickly, please do follow kind of all of the specific tips that we talked about earlier in the first segment. Those are all ways that you personally, as the petitioner, can make it easy on the investigator so that we can focus on doing the investigation and not going through kind of a whole line of questioning with you, trying to get a better sense of what the scope is.

So I just want to kind of throw out some of these things as things to keep in mind on your end when you're making your petition filing. There's things that you can do the way that you present information that can make things move a little bit quicker.

All right. So there's – with the new – excuse me. The new regulations that have come out recently, there's a lot of new and revised definitions that you'll want to be familiar with if you work on TAA at any level. I'm not going to go through all of those but I am going to highlight just a couple of those, starting off with successor-in-interest.

Now, what this refers to is if there's an employer that undergoes an ownership change, a merger, acquisition, name change, etc., but there's substantial continuity in what the firm does, who works there, etc., we consider that new entity to be the quote unquote successor-in-interest of the previous iteration of the firm.

And the reason that matters is that for the purposes of TAA, those employed by a successor-in-interest of a firm with an active certification are automatically considered to be part of a certified worker group even without an amendment. So this might be news for a lot of you that have – are kind of old hands with TAA. This is a really good thing to be aware of with petition filing.

This is meant to streamline things a bit so it's easier for workers that are part of that successor-in-interest to just be included right in with a existing certification and you do not need to file an amendment for those workers to be included if the certification is still active.

All right. Staffed workers. So staffed workers refers to something that is not a new concept. It's just a new regulatory term for what we used to refer to as leased workers. In the new regulations, staffed workers are now automatically considered to be part of a certified worker group even if they're not explicitly named in a determination. So that's something to be aware of.

So you're going to see, when determinations are coming out, under the new regulations, the determination is not going to mention the firms by name that have supplied staffed workers to that employer. There are – we are still going to gather that information over the course of our investigation and that information will still be passed along to you at the state level. But we are not going to explicitly name the staffed workers – the firms that have supplied staffed workers in our determinations under the new regulations.

And amendment – so Susan was touching on this a little bit earlier. When we're on the subject of petition filing, it is important to mention amendments as a concept. So first of all, just as a refresher for those that maybe haven't done an amendment in a while or maybe have never encountered this kind of situation, basically what an amendment is, we're not talking about a constitutional amendment. We're talking about the fact that the Department of Labor has the ability to amend any active certification if it finds it appropriate.

Usually, this only happens if some sort of clarification or correction of the scope of the original certification's wording is needed or deemed appropriate by the department. So we can issue amendments of certifications unilaterally. We generally don't do that too often, if at all. Usually we would only issue an amendment upon request and the thing for this audience to know is that amendments are requested through the regular petition-filing process.

So if you're filing an amendment request, you're actually going to use the same process as you would if you were filing a regular petition. And you want to be clear about all the same things on the form as you would be with the regular filing with respect to the company contact information, where the workers work, etc.

And then of course in your allegation, if you're making a amendment request specifically, you definitely want to make sure that you specify the TA-W number of the certification that you're hoping to have amended. Please do not ask for an amendment without specifying which case you would like to have amended, of course.

So that brings us sort of to the end of the – that last section. If you have specific regulatory questions, you can go ahead and hit us on this e-mail address that appears on this slide. And I can turn it back to you, Susan, to maybe – I see we've got about 10 minutes left, so however you want to use these last 10 minutes, if you want to hit a couple more questions and wrap up. Over to you. And Susan, you might be on mute –

MS. WORDEN: I am on –

MR. HONG: – if you're talking.

MS. WORDEN: I am on mute. (Inaudible) – let's see if we can knock out a couple of extra questions before we have to wrap this up. It says, when conducting investigations, do you copy the submitting entity on inquiries, thus enabling them to confirm contact process, e-mail addresses, etc.? I'm not –

MR. HONG: So –

MS. WORDEN: Yeah. Go ahead.

MR. HONG: Yeah. So generally, we would not CC the petitioner on all of the correspondence that's happening if that's what that question is about. You know, usually we would have a couple different tracks of – an investigator would have a couple different tracks of communication going simultaneously.

So we would have a line of communication with you as a petitioner and then we have another separate line of communication with the employer, or maybe the employer's customers or any other entities that we may be gathering information from. The petitioner is not going to be directly part of those communications.

However, if you'd like to know the status of an investigation that's happening, you're always welcome to go ahead and shoot an e-mail or make a phone call to the investigator and we would be happy to update you on the status of the investigation, of course, without getting into any detail on the content of the information that we've actually gathered due to CBI and other considerations.

MS. WORDEN: OK. We've got a really good one here, Thor, that I think comes up a lot. This person has actually referenced their state. It says Idaho's employees work in various locations, some on-site in manufacturing, others from home providing phone support to customers. Idaho employees report to some of the states who have certifications.

Question one, would those be covered under the existing petition in the other states? Question two, other workers appear to report to other states under investigation; should Idaho file or wait? So I think the question is, is understanding where the employees are reporting to, to find out whether or not they're covered, regardless of where they happen to live; right?

MR. HONG: Yes. That is the key distinction. So and this goes back to partly what I was starting to allude to in the beginning about teleworkers. If you're a teleworker in Idaho but you're – you are organized for the employer's purposes under a work location in Montana, you are considered, for the purposes of TAA, to be part of the certification that was issued for the Montana workers.

So just because you are – you happen to work from home and you happen to be in another state does not mean that you are not part of that group of workers. If – in Montana, if that is in fact where that particular employee is on paper associated with. If they're associated with that other location that happens to be in another state, they're part of that group regardless of where they happen to live, as long as that's still in the U.S.

MS. CHEN: So – (inaudible) – this is Amy. Is this – this is separate from the agent liable situation. It's possible you have a Idaho resident who is covered by a Montana certification who is residing in Idaho. And then if the Idaho resident is receiving TAA under that Montana or Minnesota or Wyoming, whatever, certification, then that's an agent-liable situation.

But if the Idaho resident is subsequently employed and then laid off from another company, then that Idaho resident could be covered by a new Idaho petition for which the certification has not been issued or may not be issued; OK? So just keep in mind, the agent liable is separate from who should file a petition.

MS. WORDEN: OK. So unfortunately, I think we're down to the last five minutes. Maybe we can answer just one more. Question, it says please clarify Bullet 3 on 425, successor-in-interest. And Thor, I can read that to you. It says, if the states, and basically we're looking at successor-in-interest.

And it says if the state's investigation finds a successor-in-interest relationship exists that could result in a denial of any TAA benefits except RTAA, the state should file a new petition requesting an amendment to a certification; did you want to clarify? Can you clarify that any further or we can leave it alone for follow up? We're going to have to do a dedicated – I think we're going to do dedicated technical assistance to help folks understand these new provisions for staffed workers and concerns.

MR. HONG: Yeah. And I think that particular question is maybe a little bit outside of my area in terms of – yeah. So from an investigator standpoint, we wouldn't really know about that.

MS. WORDEN: Yeah. I could – (inaudible) – briefly which is to say, generally speaking, what held under the previous rule was that we would explicitly state staffed workers and successors-in-interest in the determination. That is no longer happening. Instead, the onus is on the state to ferret that information out.

However, if in fact for whatever reason a successor-in-interest is not covered or is not somehow identified as part of that worker group as a result of that research, then potentially a separate petition may need to be filed because the workers that would be covered under the successor-in-interest's name would not be covered.

As I said, I know this is a confusing issue because we – this is one of the major things that has change under the new provisions with regard to petition filing and OTAA will definitely be doing dedicated technical assistance to understand this more granularly because it's probably something that bears some repeating.

And unfortunately, I think we've reached the end of our presentation time. If you want to wrap up, Thor, and then I'll take over to wrap things up further and then hand it back. Oh. We're there.

MR. HONG: Sure. Yeah.

MS. WORDEN: OK. All right. Well, Thor, I guess we are there. Thank you very much, Thor.

MR. HONG: Yeah. So – I was – yeah. I was just going to say, yeah. Thanks everybody for your attention. You know, I really appreciate everyone kind of taking the time to be part of this presentation and all of your effort on the state level is very much appreciated. And if you have questions about – well, Susan, you may want to hit a couple of those other items here on the slides, but in terms of upcoming things.

But I just wanted to make sure everyone has my contact information. If you have a question about petition filing generally, anything about quality petition filing that we didn't have a chance to answer here or if it's a question you don't have yet but it comes up later, a lot of – a number of people on this call know –

MS. WORDEN: OK. Thor, we've got to cut you off.

MR. HONG: – I will answer those questions. All right. Back to you.

MS. WORDEN: OK. Thank you. OK. Just to let folks know, existing resources that we have to find out more about quality petition filing and other resources. We have the TAA Community that is available through WorkforceGPS. Hyperlink is provided. The TAA Program website which has a lot of the same resources that are provided through the TAA community. Website provided. The federal regulations, so the final rule. Hyperlinked. The Federal Register in its entirety provided. And, of course, the authorizing statute of the Trade Act of 1974 as amended provided through a hyperlink.

I just want to make you really quickly aware of future technical assistance we have that is a follow on to the TAA final rule. There will be a total of four webinars coming between now and December 15th on TRA, integrating services. That'll include co-enrollment, work-based learning and employment and case management services funds flexibilities.

We will also, between now and December 16th, be doing a total of three schedules chats on suitable employment, quality assessments, tools and strategies and trade at the one stop. And of course for those of you that are not familiar with scheduled chats, this is an opportunity for folks to talk in a chat forum, very often all at the same time. But it's a great opportunity for peer sharing as well as technical assistance. And with that, I'll hand it back to Laura.