

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION TAA
	CORRESPONDENCE SYMBOL OTAA
	DATE January 14, 2011

ADVISORY: **TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 16-10, CHANGE 1**

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE LIAISONS
ONE-STOP CENTER SYSTEM LEADS
STATE WORKFORCE ADMINISTRATORS
STATE AND LOCAL WORKFORCE BOARD CHAIRS AND DIRECTORS
STATE LABOR COMMISSIONERS

FROM: JANE OATES /s/
Assistant Secretary

SUBJECT: The Effect of the Omnibus Trade Act of 2010 on Phasing Out Changes to the Trade Act of 1974 Enacted by the Trade and Globalization Adjustment Assistance Act of 2009

- Purpose.** Training and Employment Guidance Letter (TEGL) No. 16-10 (issued December 15, 2010) provided guidance to the State Workforce Agencies or agencies designated by Governors as “Cooperating State Agencies” (CSAs) (also jointly referred to as “states”) for phasing out the amendments to the Trade Act of 1974 enacted by the Trade and Globalization Adjustment Assistance Act of 2009 (TGAAA or the 2009 Amendments). This Change 1 updates that guidance by explaining that the Omnibus Trade Act of 2010 (Omnibus Trade Act), enacted subsequent to TEGL No. 16-10 on December 29, 2010, provided a six-week statutory extension for the application of the 2009 Amendments.
- References.** The Omnibus Trade Act (Pub. L. No. 111-344); the Trade and Globalization Adjustment Assistance Act of 2009, Division B, Title I, Subtitle I of the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5, enacted February 17, 2009); Trade Adjustment Assistance Reform Act of 2002, Division A, Title I, Subtitle A of the Trade Act of 2002 (Pub. L. No. 107-210) (2002 Amendments); the Trade Act of 1974, as amended (Pub. L. No. 93-618, as amended) (Trade Act); TEGL No. 16-10, Instructions for Phasing Out Changes to the Trade Act of 1974 Enacted by the Trade and Globalization Adjustment Assistance Act of 2009.
- Background.** On December 29, 2010, President Obama signed into law the Omnibus Trade Act, which extended for six weeks the December 31, 2010, expiration date of the 2009 Amendments. Therefore, the 2009 Amendments will continue to be in effect for an

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additional six weeks, through February 12, 2011. In addition, the Omnibus Trade Act similarly extended the January 1, 2011, expiration date of the TGAAA provisions enhancing the Health Coverage Tax Credit (HCTC) for certain Trade Adjustment Assistance-eligible workers.

On December 15, 2010, the Department issued TEGL No. 16-10 to explain that certification requirements under the 2009 Amendments would no longer apply to petitions “filed after December 31, 2010,” and benefits and services added by those amendments would not apply to workers covered under certified petitions filed after that date, which the Department interpreted as extending through January 3, 2011. This guidance updates TEGL No. 16-10 and provides new effective dates that are now in place due to the Omnibus Trade Act.

4. **New Effective Date.** The Omnibus Trade Act extended the effective date of the expiration of the TGAAA Amendments to February 12, 2011, a Saturday. Consistent with the interpretation of TEGL No. 16-10 concerning an expiration date that falls on a day that the Federal Government is not open for business, the Department interprets this deadline as making the TAA certification requirements available under the 2009 Amendments applicable to petitions received on or before 11:59 PM EST on Monday, February 14, 2011, which is the next business day after February 12, 2011. Workers covered by certifications of petitions filed before that date and time will continue to be eligible for benefits available under the 2009 Amendments. Petitioners should be encouraged to file petitions online or by fax to ensure timely receipt.

As explained in TEGL No. 16-10, applicable regulations at 29 CFR 90.2 define “date of filing” as the “date on which petitions are received by” the Division of Trade Adjustment Assistance, now the Office of Trade Adjustment Assistance (OTAA). Mail will not be received by OTAA on Saturday, February 12, 2011 or Sunday, February 13, 2011, nor will technical support be available on those non-business days. Therefore, in order to be considered “filed before February 13, 2011” and covered under the 2009 Amendments, a petition must be received by OTAA on or before 11:59 PM on Monday, February 14, 2011. It is not sufficient for a petition to be postmarked before that date. In addition, due to security procedures, mail sent to the Department of Labor is often delayed. Therefore, the Department strongly recommends that petitioners who wish their petitions to be considered under the 2009 Amendments file early and file online or by fax to ensure petition receipt on or before 11:59 PM EST on Monday, February 14, 2011.

A petition is filed in time to be considered under the 2009 Amendments if it is received:

- Via mail at the Office of Trade Adjustment Assistance at Employment and Training Administration (ETA), United States Department of Labor, 200 Constitution Avenue, NW, Washington DC 20210 on or before 5:00 PM EST Monday, February 14, 2011.
- Via fax to 202-693-3585 on or before 11:59 PM EST Monday, February 14, 2011. The Department strongly suggests that petitioners retain the fax cover sheet with the date and time stamp.
- Via online petition processing located on the OTAA’s website, www.doleta.gov/tradeact, and a confirmation email generated by the system is sent to

the worker that indicates the petition was received in the Office of Trade Adjustment Assistance on or before 11:59 PM EST Monday, February 14, 2011.

As long as a petition is received on or before 11:59 PM EST on Monday, February 14, 2011, the fact that it is certified after that date, does not affect covered workers' eligibility to apply for benefits under the 2009 Amendments. The date and time in the EST time zone controls whether a petition is timely.

5. **Action Requested.** States will be notified before Saturday, February 12, 2011 regarding the continued operation of the TAA program.
6. **Inquiries.** State Administrators should direct all inquiries to the appropriate Employment and Training Administration Regional Office.