

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION
	TAA
	CORRESPONDENCE SYMBOL
	ONR / OWS
	DATE
	August 10, 2004

ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER
NO. 11-02, CHANGE 2

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE LIAISONS
ONE STOP CENTER SYSTEM LEADS

FROM: EMILY STOVER DeROCCO
Assistant Secretary 

SUBJECT: Change 2 to the Operating Instructions for Implementing the
Amendments to the Trade Act of 1974 Enacted by the Trade Act of
2002

1. Purpose. To respond to inquiries and provide clarification on the application of the unemployment insurance (UI) extended benefits (EB) work test for individuals identified as "eligible Trade Adjustment Assistance (TAA) recipients" for Health Coverage Tax Credit (HCTC) purposes.
2. References. The Trade Act of 1974, as amended (Pub. L. 93-618, as amended) ("the Trade Act"); the Trade Adjustment Assistance Reform Act of 2002 (Pub. L. 107-210) ("the 2002 amendments"); 20 CFR Part 617; Training and Employment Guidance Letter (TEGL) No. 11-02 (October 10, 2002); TEGL No. 20-02 (March 3, 2003); General Administration Letter (GAL) No. 7-94 (December 28, 1993); Unemployment Insurance Program Letter (UIPL) No. 24-03 (April 14, 2003) and No. 33-03 (August 18, 2003); TEGL No. 11-02, Change 1 (November 6, 2003); the Federal-State Extended Unemployment Compensation Act of 1970 (EUCA); and 20 CFR 615.
3. Background. The EB work test is an eligibility requirement of the EB program under the Federal-State EUCA of 1970, and in the regulations at 20 CFR 615. The

RECISSIONS	EXPIRATION DATE
None	Continuing

EB work test requires a systematic and sustained work search each week by individuals claiming EB. The EB work test is also applicable to claimants for basic Trade Readjustment Allowances (TRA) under the TAA program, except when the individual is enrolled in and/or participating in an approved TAA training program as provided at 20 CFR 617.17(b)(2).

To meet the EB work test requirements, claimants must: 1) apply for and accept any offer of suitable work to which they are referred by the state workforce agency (SWA); 2) actively engage in seeking work and furnish tangible evidence of such efforts each week; and 3) register for work with the SWA. The EB provisions of a state law must, as a condition of a state's participation in the federal-state unemployment compensation program, be consistent with EUCA and its implementing regulations at 20 CFR 615.

4. Health Coverage Tax Credit (HCTC) Program. The 2002 amendments created the HCTC program which subsidizes private health insurance coverage for, among others, "the eligible TAA recipients." All individuals covered by TAA or NAFTA-TAA certifications and receiving TRA, or who would be eligible to receive TRA except they have not exhausted their regular state UI entitlement, are "eligible TAA recipients," and will be eligible for the HCTC, if they meet other requirements administered by the Internal Revenue Service (IRS). States are responsible for identifying and transmitting the names of these individuals to the IRS' HCTC Program Office in accordance with instructions contained in UIPL No. 24-03, dated April 14, 2003.

5. Guidance. Before identifying an individual as an "eligible TAA recipient" for HCTC purposes, states must ensure all criteria for TRA eligibility, including the EB work test, when appropriate, are met as described in TEGL No. 11-02, and as provided at 20 CFR 617.11(a)(2)(iv). The Department construes the EB work test to be applicable only to those workers who have exhausted regular state UI.

Contradictory guidance was issued to states in TEGL No. 11-02, Change 1, and TEGL No. 20-02 concerning the EB work test as it applies to "eligible TAA recipients" for those individuals who have not yet exhausted their regular state UI benefits. TEGL No. 11-02, Change 1, dated November 6, 2003, incorrectly advised states that the EB work test applied to individuals receiving regular state UI when under a waiver of the TAA training requirement. TEGL No. 20-02 dated March 3, 2003, correctly advised states that the EB work test is required only of those workers who have exhausted regular state UI.

Thus, to be considered an “eligible TAA recipient” for HCTC purposes, a worker must meet all TRA requirements, except that the EB work test does not apply to those workers who have not yet exhausted their regular state UI.

6. Action Required. Please provide this guidance to appropriate staff.

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