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## COMMUNIQUE

**DATE:** November 15, 2011

**TO:** Workforce Florida, Inc., and Regional Workforce Boards

**FROM:** Lois A. Scott, Program Manager, Workforce Program Support 

**SUBJECT:** Availability of Equitable Tolling of Deadlines for Trade-affected Workers

**PURPOSE:**

To transmit Training and Guidance Letter (TEGL) 8-11 that provides information on the availability of equitable tolling of deadlines for workers covered under Trade Adjustment Assistance (TAA) Certifications. Also, this correspondence will explain our process and responsibility for ensuring that affected workers are aware of their enrolled in training deadlines.

**BACKGROUND:**

As outlined under Section 617.4 of the Code of Federal Regulations (CFR), states are required to provide TAA benefits information and assistance to workers as stated in their agreements with the Secretary of Labor to implement the TAA program. The regulation requires states to provide the following:

- All information to workers about benefits allowances, training and other TAA employment services, the petition and application procedures, and the appropriate filing deadlines for trade readjustment allowances (TRA), training and services; and
- Any information and assistance needed to allow the groups of workers, including unorganized workers, to prepare applications for program benefits.

Additionally, Section 20 CFR 617.50(d) as well as TEGL 11-02, Change 1 explains and describes the good cause waiver of time limits for late filing of any claim. The regulation applies to workers seeking TRA or TAA Training under certifications covered under the 2002 and 2009 amendments for meeting the enrolled in training deadlines.

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## **DEFINITION OF EQUITABLE TOLLING:**

Equitable tolling is a legal doctrine that permits the suspension of statutory and administrative deadlines; allowing for “good cause” based on late filing, agency error, or when the individual acted with due diligence to meet deadlines. It should be noted that equitable tolling will be applied when workers have missed applicable deadlines that affect Trade Readjustment Allowances (TRA) and other TAA benefits e.g., job search, relocation allowances and training.

## **ACTION REQUIRED:**

The Regional Workforce Boards should ensure that staff are aware of this guidance which is currently in effect. Every effort must be made to conduct TAA Information Meetings with the trade-affected workers to discuss the services and benefits for which they qualify, take a TAA Bona fide Application upon meeting the worker based on the first appointment and properly case note and document visits, etc. As the central office continues to review its current processes, we will ensure that individuals covered under a certified Trade Act petition are made aware of appropriate deadlines as it relates to the individual worker. It is imperative that we continue to work together to identify workers covered under these certifications in order that we officially notify covered individuals.

For additional clarification regarding the availability of equitable tolling, please refer to Attachment I of the TEGL - Questions and Answers.

## **REFERENCES:**

Chapter 2 of Title II of the Trade Act of 1974, as amended; Trade and Globalization Adjustment Assistance Act of 2009; Division B, Title I, Subtitle I of the American Recovery and Reinvestment Act of 2009; Trade Adjustment Assistance Reform Act of 2002; 20 CFR Part 617; TEGL 22-08, Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade and Globalization Adjustment Assistance Act of 2009; TEGL No. 11-02, Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade Act of 2002, and its Change 1.

## **AUTHORITY:**

United States Department of Labor

## **ATTACHMENT:**

<http://wdr.doleta.gov/directives/attach/TEGL/TEGL08-11.PDF>

