

1 **CHAPTER 849. EMPLOYMENT AND TRAINING SERVICES FOR DISLOCATED**  
2 **WORKERS ELIGIBLE FOR TRADE BENEFITS**

3  
4 **PROPOSED RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS***  
5 ***REGISTER*. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS**  
6 **SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE *TEXAS REGISTER*.**  
7

8 **ON SEPTEMBER 23, 2014, THE TEXAS WORKFORCE COMMISSION PROPOSED THE**  
9 **BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.**

10  
11 Estimated Publication Date of the Proposal in the *Texas Register*: **October 10, 2014**

12 Estimated End of Comment Period: **November 10, 2014**

13  
14 The Texas Workforce Commission (Commission) proposes amendments to the following  
15 sections of Chapter 849, relating to Employment and Training Services for Dislocated Workers  
16 Eligible for Trade Benefits:

17  
18 Subchapter A. General Provisions, §§849.1 - 849.3

19 Subchapter B. Trade Services Responsibilities, §849.11 and §849.12

20 Subchapter C. Trade Services, §§849.21 - 849.23

21  
22 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

23 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

24 **PART III. IMPACT STATEMENTS**

25 **PART IV. COORDINATION ACTIVITIES**

26  
27 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

28 The purpose of the proposed Chapter 849 rule change is to align changes to the Trade  
29 Adjustment Assistance (TAA) program statutes, Agency operations, and program requirements.

30  
31 TAA is a federal program that provides a path for employment growth and opportunity through  
32 aid to workers who have lost their jobs as a result of foreign trade. The TAA program seeks to  
33 provide these trade-affected workers with opportunities to obtain the skills, resources, and  
34 support they need to become reemployed.

35  
36 TAA offers a variety of benefits and services to support workers in their search for  
37 reemployment. This includes job training, job search and relocation allowances, and income  
38 support. The Commission's workforce partners administer these services using federal funds.

39  
40 The Trade Act of 1974 has been amended numerous times since its enactment in January 1975  
41 and has continued to evolve. The benefits and services available to adversely affected workers  
42 depend on which of the following versions of the Trade Act a worker is certified under:

43  
44 --Trade Adjustment Assistance Reform Act of 2002: reauthorized the TAA program through  
45 Fiscal Year 2007;

1 --Trade and Globalization Adjustment Assistance Act (TGAAA) of 2009: overhauled the TAA  
2 program and expanded TAA coverage to more workers and firms in the service sector, and  
3 expanded workers' opportunities for training, health insurance coverage, and reemployment;  
4 --Omnibus Trade Act of 2011: extended the TGAAA of 2009 amendments for six weeks;  
5 --Trade Adjustment Assistance Extension Act (TAAEA) of 2011: changed the group eligibility  
6 requirements and individual benefits and services available under TAA for some workers; and  
7 --Reversion 2014: the sunset provisions of the TAAEA, effective January 1, 2014, which largely  
8 revert the TAA program to the provisions of the 2002 amendments with some provisions  
9 carried forward from the 2011 TAAEA.

10  
11 Rule revisions are needed to implement the changes regarding program requirements, individual  
12 benefits, and services available.

13  
14 To ensure appropriate delivery of services, amendments are necessary to address statutory  
15 changes and clarify operational and procedural guidance. These changes include moving  
16 functions from the state level to the Board level that update roles and responsibilities as well as  
17 better defining the responsibilities of participants.

18  
19 The intent of these amendments is to provide maximum flexibility for the Boards, ensure  
20 compliance with laws and regulations, and integrate and align the Trade program requirements  
21 with other workforce programs.

## 22 23 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

24 (Note: Minor editorial changes are made that do not change the meaning of the rules and,  
25 therefore, are not discussed in the Explanation of Individual Provisions.)

### 26 27 **SUBCHAPTER A. GENERAL PROVISIONS**

28 **The Commission proposes the following amendments to Subchapter A:**

#### 29 30 **§849.1. Purpose**

31 Section 849.1(a)(2), regarding the laws under which coordination and integration of services to  
32 dislocated workers are conducted, adds reference to the Trade Act, including the federal statutes  
33 relating to the Trade Act of 1974.

34  
35 Section 849.1(a)(4), referencing the Trade Act and the federal statutes relating to the Trade Act  
36 of 1974, is removed.

#### 37 38 **§849.2. Definitions**

39 Section 849.2(1), the definition of "Alternative Trade Adjustment Assistance for Older Workers"  
40 (ATAA):

41 --adds Reemployment Trade Adjustment Assistance (RTAA), which is similar to the ATAA  
42 benefit. The availability of RTAA depends on the Trade law under which the US Department of  
43 Labor (DOL) issues a Trade certification. Both ATAA and RTAA provide a subsidy for older  
44 workers who secure subsequent employment; and

45 --removes reference to the requirement that new employment must be within 26 weeks of  
46 separation because eligibility standards for ATAA and RTAA are different.

1  
2 New §849.2(2) defines "benchmarking," as a process established by the Trade Adjustment  
3 Extension Act of 2011 (TAAEA) to ensure worker success by monitoring workers' academic  
4 status and progress in training. Benchmarking is conducted no less often than once every sixty  
5 (60) days and designed to monitor and ensure the worker progresses toward completing the  
6 approved training based on:  
7 --maintaining satisfactory academic standing; and  
8 --staying on schedule to complete training within the time frame identified in the approved  
9 training plan.

10  
11 New §849.2(5), the definition of "HCTC--Health Coverage Tax Credit," is removed. HCTC  
12 expired January 1, 2014; TAA participants will no longer receive HCTC to assist them in paying  
13 their health coverage premiums.

14  
15 New §849.2(6), the definition of "Individual Employment Plan," is removed.

16  
17 New §849.2(6) defines "job search allowance" as a cash benefit provided to Trade-certified  
18 workers to support out-of-area job search when suitable employment is not available within the  
19 Commission-established local commuting area. Trade-certified workers receive a job search  
20 allowance as a benefit to support out-of-area job search.

21  
22 New §849.2(8) defines "relocation allowance," as a cash benefit provided to a Trade-certified worker to  
23 support relocation of the worker's household and family when suitable employment is not available to the  
24 worker within the Commission-established local commuting area and relocation is necessary to secure  
25 suitable employment.

26  
27 New §849.2(9) defines "Reemployment and Training Plan" (REP), as an employability development plan  
28 and service strategy that identifies the results of a comprehensive and objective assessment of the  
29 participant's knowledge, skills, abilities, and interests; employment goals; a description of training services;  
30 the appropriate combination of services for the participant to achieve employment goals and objectives;  
31 and the benchmarks for successful completion of the plan.

32  
33 New §849.2(10) clarifies the definition of "suitable employment" by removing "prior to a referral to Trade-  
34 approved training." Suitable employment is any employment that meets the requirements of 19 United  
35 States Code (USC) §2296 and results in work of a substantially equal or higher skill level as compared to  
36 the worker's past adversely affected employment with wages of not less than 80 percent of the worker's  
37 average weekly wage.

38  
39 New §849.2(11) amends the definition of "Trade Act" to clarify that the Trade Act of 1974, as amended,  
40 includes the Trade Adjustment Assistance Reform Act of 2002; the Trade and Globalization Adjustment  
41 Assistance Act of 2009; the Omnibus Trade Act of 2010; the Trade Adjustment Assistance Extension Act  
42 of 2011; and the sunset provisions of the Trade Adjustment Assistance Extension Act of 2011, referred to  
43 as Reversion 2014.

1 New §849.2(17) amends the definition of "waiver of the training requirement" to specify that a waiver must  
2 be approved by state merit staff. Only state merit staff can approve services and benefits for Trade-  
3 certified workers.

4  
5 Certain paragraphs have been renumbered to reflect additions.

6  
7 **§849.3. Trade Service Strategy**

8 Section 849.3(b)(3) clarifies that training supported under the Trade Act may include demand  
9 and targeted occupations as well as occupations in which there is a reasonable expectation of  
10 employment.

11  
12 Section 849.3(c) clarifies that coenrollment with Workforce Investment Act (WIA) services must not  
13 interfere with the timely provision of TAA services.

14  
15 Section 849.3(d)(1) - (5) is removed.

16  
17 New §849.3(d)(1) - (12) retains the services previously located in §849.3(d)(1) - (5) and adds additional  
18 services, set forth in the order they are provided. Boards must ensure that the following services are  
19 provided to dislocated workers:

20 (1) Explanation of benefits and services available under the Trade Act, to include applicable  
21 deadlines;

22 (2) Assessment of education, skills, and service needs;

23 (3) Information on training available locally and regionally, including information on how to  
24 apply for financial aid supported under the Higher Education Act of 1965;

25 (4) Individual career counseling, including job search and placement counseling;

26 (5) Short-term prevocational services;

27 (6) Issuance of a waiver of the training requirement where suitable work is unavailable, training  
28 is determined not to be feasible or appropriate, and the worker meets applicable eligibility  
29 criteria;

30 (7) Development of an REP;

31 (8) Referral to training services where suitable employment is unavailable;

32 (9) Assistance in filing requests for job search and/or relocation allowances;

33 (10) Support services available under the WIA Title I dislocated worker program;

34 (11) Case management; and

35 (12) Follow-up services upon completion of training.

36  
37 **SUBCHAPTER B. TRADE SERVICES RESPONSIBILITIES**

38 **The Commission proposes the following amendments to Subchapter B:**

39  
40 **§849.11. General Board Responsibilities**

41 Section 849.11(c)(4), relating to Boards' monitoring requirements, adds benchmarking as the  
42 required means of ensuring progress toward goals and objectives.

43  
44 Section 849.11(c)(5), the requirement that the Commission be notified if a participant drops out  
45 of training, is removed because this is no longer a monitoring responsibility or requirement of the  
46 Boards.

1  
2 Certain paragraphs have been renumbered to reflect additions.  
3

4 **§849.12. Participant Responsibilities**

5 Section 849.12(1) adds that, in addition to Unemployment Insurance, dislocated workers eligible  
6 for Trade benefits must apply for Trade Readjustment Allowances (TRA).  
7

8 Section 849.12(5) adds that dislocated workers eligible for Trade benefits are required to accept  
9 a job offer "and/or retain employment," if the position meets the criteria for suitable  
10 employment.  
11

12 Section 849.12(7) specifies that dislocated workers eligible for Trade benefits are required to  
13 "fully participate in Trade-approved training."  
14

15 Section 849.12(8) specifies that dislocated workers eligible for Trade benefits are required to  
16 notify the case manager prior to modifying coursework rather than within one week of having  
17 dropped out.  
18

19 New §849.12(9) requires dislocated workers eligible for Trade benefits to maintain a satisfactory  
20 academic status and progress in training as stipulated in the REP.  
21

22 Certain paragraphs have been renumbered to reflect additions.  
23

24 **SUBCHAPTER C. TRADE SERVICES**

25 **The Commission proposes the following amendments to Subchapter C:**  
26

27 **§849.21. Activities Prior to Certification of a Trade Petition**

28 Section 849.21(a) replaces the reference to "Texas Workforce Centers" with "Workforce  
29 Solutions Offices" to clarify that Workforce Solutions Offices provide services.  
30

31 Section 849.21(b) removes the reference to "in local workforce development areas."  
32

33 Section 849.21(b)(3) specifies that when filing Trade petitions, Boards must ensure layoff  
34 assistance is provided to companies, workers, and labor unions.  
35

36 Section 849.21(6)(iii) removes the requirement to provide HCTC information during orientation  
37 to Trade benefits. HCTC expired on January 1, 2014; therefore, TAA participants will no longer  
38 receive HCTC to assist them in paying their health coverage premiums.  
39

40 Section 849.21(6)(v)(I) - (III), the requirement to provide a signed waiver of training ensuring  
41 eligibility for HCTC and other Trade benefits that have regulatory time limits, is removed.  
42

43 Section 849.21(7) specifies that Boards must coordinate with the appropriate UI field specialist  
44 when providing layoff assistance.  
45

46 Certain clauses and subclauses have been renumbered to reflect additions.

1  
2 **§849.22. Post Certification of a Trade Petition**

3 Section 849.22(a) sets forth in new paragraphs (1) and (2) that Boards must ensure that:

- 4 (1) Trade-certified workers referred to WIA intensive or training services are coenrolled in  
5 WIA dislocated worker services, consistent with WIA eligibility criteria, the needs of the  
6 worker, and a Board's policies and procedures; and  
7 (2) the coenrollment of Trade-certified workers in WIA Title I dislocated worker services shall  
8 not interfere with the timely provision of TAA services.  
9

10 Section 849.22(b) clarifies that Boards must ensure trade-affected workers are provided WIA  
11 intensive or training services and adds three additional criteria--described in new §849.22(b)(7) -  
12 (9)--to be met and documented in the REP.  
13

14 Section 849.22(b)(4) removes the requirement that training must be in the commuting area as  
15 defined in the Texas Unemployment Compensation Act.  
16

17 Section 849.22(b)(6) retains the provision that training is available at a reasonable cost for the  
18 selected occupation and removes the language stating that the availability is "based on a review  
19 of Board-approved training as set forth in §849.23(a)(1) - (4) of this subchapter in the workforce  
20 area for like training."  
21

22 New §849.22(b)(7) - (9) adds the following as criteria that Boards must ensure, prior to referring  
23 a trade-affected worker to WIA intensive or training services, are met and documented in the  
24 REP:

- 25 (7) Training can be fully completed and the degree or credential secured within the maximum  
26 time frames established under the trade-affected worker's Trade Act certification;  
27 (8) No portion of required training costs are borne by the worker; and  
28 (9) Part-time training is approved only where permitted by the trade-affected worker's Trade Act  
29 certification, and the worker is aware that TRA support during periods of part-time training will  
30 be unavailable.  
31

32 Section 849.22(c)(1) - (3) is removed.  
33

34 New §849.22(c) provides that Boards must ensure the approval of Trade benefits and services is  
35 accomplished by state merit staff, including approval of training, waiver issuance, and waiver  
36 continuation, and the associated review and approval of waiver continuation.  
37

38 New §849.22(d) provides that Boards must ensure that any denial of Trade benefits or services is  
39 accomplished by forwarding a recommendation to the Agency's TAA unit for issuance of a  
40 formal appealable decision.  
41

42 **§849.23. Training Referrals**

43 Section 849.23(a)(1) - (5) specifies that Boards must ensure that referrals to Trade-funded  
44 training are Board approved, and that training:

- 45 (1) meets the nine criteria established in §849.22(b)(1) - (9);

- 1 (2) uses training providers that are licensed under applicable state law or exempt from such
- 2 requirements, or possessing accreditation recognized by the US Department of Education;
- 3 (3) is occupationally specific;
- 4 (4) meets the needs of employers for demand or targeted occupations, or ensures the participant
- 5 has a reasonable expectation of employment; and
- 6 (5) can be completed and a degree or credential secured within the maximum time frame
- 7 established under the worker's Trade certification.

8  
9 Section 849.23(a)(1)(B) removes the requirement for the Commission to approve prevocational  
10 or vocational skills training referrals.

11  
12 Section 849.23(a)(2) removes the requirement for training to meet the time limitations for Trade  
13 benefits.

14  
15 New §849.23(4) clarifies that training must offer a reasonable expectation of employment.

16  
17 New §849.23(5) clarifies the requirement that training can be completed with a degree or  
18 credential secured within the statutory time frames established under the worker's Trade  
19 certification.

20  
21 Section 849.23(b)(1) adds that employer-based training includes on-the-job training, customized  
22 training, and apprenticeship programs.

23  
24 Section 849.23(b)(3) specifies that workers' remedial training, including literacy, particularly  
25 English as a Second Language, Adult Education and Literacy, or GED training, must be  
26 considered.

27  
28 Section 849.23(b)(3)(A) removes the requirement for the training provider to submit  
29 amendments to the IEP.

30  
31 Section 849.23(b)(3)(B) removes the requirement that the case manager approves amendments  
32 before the Commission makes the final determinations regarding extended training.

33  
34 Certain paragraphs have been renumbered to reflect additions.

35  
36 **PART III. IMPACT STATEMENTS**

37 Randy Townsend, Chief Financial Officer, has determined that for each year of the first five  
38 years the rules will be in effect, the following statements will apply:

39  
40 There are no additional estimated costs to the state and to local governments expected as a result  
41 of enforcing or administering the rules.

42  
43 There are no estimated cost reductions to the state and to local governments as a result of  
44 enforcing or administering the rules.

1 There are no estimated losses or increases in revenue to the state or to local governments as a  
2 result of enforcing or administering the rules.

3  
4 There are no foreseeable implications relating to costs or revenue of the state or local  
5 governments as a result of enforcing or administering the rules.

6  
7 There are no anticipated economic costs to persons required to comply with the rules.

8  
9 There is no anticipated adverse economic impact on small or microbusinesses as a result of  
10 enforcing or administering the rules.

11  
12 Economic Impact Statement and Regulatory Flexibility Analysis

13 The Agency has determined that the proposed rules will not have an adverse economic impact on  
14 small businesses as these proposed rules place no requirements on small businesses.

15  
16 Richard C. Froeschle, Director of Labor Market and Career Information, has determined that  
17 there is no significant negative impact upon employment conditions in the state as a result of the  
18 rules.

19  
20 Reagan Miller, Director, Workforce Development Division, has determined that for each year of  
21 the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the  
22 proposed rules will be to align changes to TAA statutes, Agency operations, and program  
23 requirements.

24  
25 The Agency hereby certifies that the proposal has been reviewed by legal counsel and found to  
26 be within the Agency's legal authority to adopt.

27  
28 **PART IV. COORDINATION ACTIVITIES**

29 In the development of these rules for publication and public comment, the Commission sought  
30 the involvement of Texas' 28 Boards. The Commission provided the concept paper regarding  
31 these rule amendments to the Boards for consideration and review on July 22, 2014. The  
32 Commission also conducted a conference call with Board executive directors and Board staff on  
33 July 25, 2014, to discuss the concept paper. During the rulemaking process, the Commission  
34 considered all information gathered in order to develop rules that provide clear and concise  
35 direction to all parties involved.

36  
37 Comments on the proposed rules may be submitted to TWC Policy Comments, Workforce  
38 Policy and Service Delivery, attn: Workforce Editing, 101 East 15th Street, Room 440T, Austin,  
39 Texas 78778; faxed to (512) 475-3577; or e-mailed to TWCPolicyComments@twc.state.tx.us.  
40 Comments must be received or postmarked no later than 30 days from the date this proposal is  
41 published in the *Texas Register*.

42  
43 The rules are proposed under Texas Labor Code §301.0015 and §302.002(d), which provide the  
44 Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it  
45 deems necessary for the effective administration of Agency services and activities.



1 The proposed rules affect Title 4, Texas Labor Code, particularly Chapters 301 and 302.  
2  
3  
4

1 CHAPTER 849. EMPLOYMENT AND TRAINING SERVICES FOR DISLOCATED  
2 WORKERS ELIGIBLE FOR TRADE BENEFITS

3  
4 SUBCHAPTER A. GENERAL PROVISIONS

5  
6 §849.1. Purpose.

7  
8 (a) The ~~purpose~~purposes of this ~~chapter is~~ rule are to ensure:

9  
10 (1) statewide availability of services under the federal and state statutes and  
11 regulations relating to services to dislocated workers eligible for Trade benefits  
12 through the ~~Texas Workforce Centers~~Workforce Solutions Offices consistent  
13 with Chapter 801 of this title relating to Local Workforce Development Boards  
14 ~~the One-Stop Service Delivery Network~~;

15  
16 (2) coordination and integration of services to dislocated workers eligible for  
17 Trade benefits through the Workforce Solutions Offices ~~Texas Workforce~~  
18 ~~Centers~~ consistent with state law, the Trade Act, and the Workforce Investment  
19 Act (WIA). For the purposes of this subchapter, references to the "Trade Act"  
20 ~~shall include references to the federal statutes relating to the Trade Act of~~  
21 1974, as amended; and

22  
23 (3) provision of Rapid Response services, as set forth in §849.21(b) of this  
24 chapter, upon receipt of a filed petition for Trade certification with the U.S.  
25 Department of Labor (DOL); ~~and~~

26  
27 ~~(4) co-enrollment of Trade-certified workers in WIA, as appropriate, consistent~~  
28 ~~with the Trade Act and WIA. For purposes of this subchapter, references to the~~  
29 ~~"Trade Act" shall include references to the federal statutes relating to the Trade~~  
30 ~~Act of 1974 and the Trade Act of 2002.~~

31  
32 (b) The purposes of services to dislocated workers eligible for Trade benefits under the  
33 Trade Act ~~and WIA~~ are to:

34  
35 (1) ensure that dislocated workers eligible for Trade benefits are assisted in rapid  
36 reattachment to employment;

37  
38 (2) fund such services to develop or enhance the vocational skills necessary to  
39 meet employers' needs when rapid reattachment to the workforce cannot be  
40 obtained; and

41  
42 (3) provide other such services, as may be funded under state or federal programs,  
43 for post-employment activities, as needed.

44  
45 §849.2. Definitions.

1 The following words and terms, when used in this chapter, shall have the following  
2 meanings unless the context clearly indicates otherwise.

3  
4 (1) ~~ATAA/RTAA~~—Alternative Trade Adjustment Assistance for Older  
5 Workers/Reemployment Trade Adjustment Assistance (ATAA/RTAA)--  
6 Benefits ~~are~~ available to workers in an eligible worker group who are at least  
7 50 years of age and who obtain different, full-time employment following  
8 separation within 26 weeks of separation from adversely affected employment,  
9 at wages less than those earned in the adversely affected employment. These  
10 workers may receive up to half of the difference between the worker's old  
11 wage and the new wage, as set forth in the Trade Act.

12  
13 (2) Benchmarking--a process conducted no less often than once every sixty (60)  
14 days and designed to monitor and ensure the worker progresses toward  
15 completing the approved training based on two criteria:

16  
17 (A) Maintaining satisfactory academic standing; and

18  
19 (B) Staying on schedule to complete training within the time frame identified  
20 in the approved training plan.

21  
22 (3)(2) Bona Fide Application for Training--any document developed by a Board or  
23 provided by the Commission that meets the requirements of 20 CFR  
24 §617.3(h)(1)(i), and is signed and dated by the participant, which includes the  
25 participant's name, Trade petition number, and specific occupational training.

26  
27 (4)(3) Contextual Learning--learning, which includes English and basic skills,  
28 presented in the context of the selected vocational skills training.

29  
30 (5) ~~HCTC Health Coverage Tax Credit. This benefit provides a tax credit of 65%~~  
31 ~~of the cost of coverage of the eligible individual and qualified family members~~  
32 ~~under qualified health insurance, as set forth in the Trade Act.~~

33  
34 (5)(4) Employer-Based Training--training services specifically designed to meet  
35 an employer's staffing and skill needs, including on-the-job and customized  
36 training, and apprenticeship programs, ~~as defined by WIA and the Trade Act.~~

37  
38  
39 (6) ~~IEP Individual Employment Plan. An individual employment plan and~~  
40 ~~service strategy that must identify the results of a comprehensive and objective~~  
41 ~~assessment of the knowledge, skills, abilities, and interests; employment goals;~~  
42 ~~a description of the training services; and the appropriate combination of~~  
43 ~~services for the participant to achieve employment goals and objectives.~~

1 (6) Job Search Allowance--cash benefit provided to Trade-certified workers to  
2 support out-of-area job search when suitable employment is not available  
3 within the Commission-established local commuting area.

4  
5 (7) Rapid Response Services--as defined by WIA §134; 20 CFR 652 Subpart. C;  
6 20 CFR §665.300, §665.310, §665.320; and the Trade Act.

7  
8 (8) Relocation allowance--A cash benefit provided to a Trade-certified worker to  
9 support relocation of the worker's household and family when suitable  
10 employment is not available to the worker within the Commission-established  
11 local commuting area and relocation is necessary to secure suitable  
12 employment.

13  
14 (9) Reemployment and Training Plan (REP)--An employability development  
15 plan and service strategy that identifies the results of a comprehensive and  
16 objective assessment of the participant's knowledge, skills, abilities, and  
17 interests; employment goals; a description of training services; the appropriate  
18 combination of services for the participant to achieve employment goals and  
19 objectives; and benchmarks for successful completion of the plan.

20  
21 (10)(8) Suitable Employment--any employment ~~prior to a referral to Trade-~~  
22 ~~approved training~~ that meets the requirements of 19 ~~USCU.S.C.~~ §2296 (as  
23 referenced in 20 CFR 617 Subpart. C, Reemployment Services, and in  
24 particular §617.22(a)(1)(i)), which is employment that results in work of a  
25 substantially equal or higher skill level as compared to ~~than~~ the worker's past  
26 adversely affected employment, with wages of not less than 80 percent ~~%~~ of the  
27 worker's average weekly wage.

28  
29 (11)(9) Trade Act--the federal statutes relating to Trade Adjustment Assistance;  
30 and Trade Readjustment Allowances (TRAs). For purposes of this rule,  
31 references to the "Trade Act" shall include references to the federal statutes  
32 relating to the Trade Act of 1974, as amended, which includes ~~and~~ the Trade  
33 Adjustment Assistance Reform Act of 2002; the Trade and Globalization  
34 Adjustment Assistance Act of 2009; the Omnibus Trade Act of 2010; the  
35 Trade Adjustment Assistance Extension Act of 2011; and the sunset provisions  
36 of the Trade Adjustment Assistance Extension Act of 2011, referred to as  
37 Reversion 2014.

38  
39 (12)(10) Trade-Affected Worker--any dislocated worker, as defined in WIA §134,  
40 or secondarily impacted worker as referenced in 19 ~~USCU.S.C.~~ §2272, who  
41 states that his or her job was adversely affected by trade, and ~~or~~ has filed, or  
42 whose company has filed, or who has been assisted in filing a petition for  
43 Trade certification with the USU.S. Department of Labor (DOL).

1 (13)(11) Trade Benefits--benefits available to dislocated workers certified by DOL  
2 as eligible for Trade benefits, which are funded through the federal Trade  
3 program administered by DOL.  
4

5 (14)(12) Trade-Certified Worker--any worker meeting the definition of trade-  
6 affected worker who is covered by a certification of eligibility as a result of a  
7 petition and determination of certification under 19 U.S.C. §2273 by the  
8 Secretary of DOL~~the U.S. Department of Labor~~.  
9

10 (15)(13) ~~TRAs~~ Trade Readjustment Allowances (TRA)--Income-support benefits  
11 available to certain trade-affected workers.  
12

13 (16)(14) ~~UI~~ Unemployment Insurance (UI)--UI program, as set forth in Texas  
14 Labor Code §201.001 *et seq.*  
15

16 (17)(15) Waiver of the Training Requirement--~~a any~~ document developed ~~by a~~  
17 ~~Board or provided~~ by the Agency, which may be adapted by a Board, that  
18 ~~Commission that~~ meets the requirements of the Trade Act, and is approved by  
19 state merit staff, which recommends--waiving the requirement to be enrolled in  
20 Trade-funded training in order to receive TRA~~TRAs and the HCTC~~.  
21

22 (18)(16) WARN--The Worker Adjustment and Retraining Notification Act, as set  
23 forth in WIA and the Trade Act.  
24

### 25 §849.3. Trade Service Strategy.

- 26
- 27 (a) Boards shall ensure that their strategic planning process includes an analysis of the  
28 local labor market to:  
29
- 30 (1) determine employer needs;
  - 31
  - 32 (2) determine emerging, targeted, and demand occupations;
  - 33
  - 34 (3) identify employment opportunities, which include those with a potential for  
35 career advancement; and
  - 36
  - 37 (4) identify employer-based training opportunities.
  - 38
- 39 (b) Boards shall set local policies for a Trade service strategy that coordinate various  
40 service delivery approaches to:  
41
- 42 (1) assist dislocated workers eligible for Trade benefits in obtaining suitable  
43 employment as an alternative to referral to training;
  - 44
  - 45 (2) promote the use of WIA core and intensive services to support the rapid  
46 reattachment to the workforce;

1  
2 (3) refer to prevocational and vocational training in demand and targeted  
3 occupations, or occupations in which there is a reasonable expectation of  
4 employment; and

5  
6 (4) assist in job retention and career advancement.  
7

8 (c) Boards shall ensure that dislocated workers eligible for Trade benefits, who are  
9 unable to find suitable employment through WIA core services, are ~~coenrolled~~  
10 ~~enrolled~~ in WIA Title I dislocated worker services consistent with WIA eligibility  
11 criteria, the needs of the worker, and the policies and procedures of the Board~~for~~  
12 ~~referral to Trade-funded intensive and training services.~~ The coenrollment of  
13 workers into WIA Title I dislocated worker services shall not interfere with the  
14 timely provision of TAA services.  
15

16 ~~(d) Boards shall ensure that dislocated workers eligible for Trade benefits receive the~~  
17 ~~following services:~~

18  
19 ~~(1) career counseling;~~

20  
21 ~~(2) job development and placement;~~

22  
23 ~~(3) case management;~~

24  
25 ~~(4) follow-up services upon completion of training; and~~

26  
27 ~~(5) support services, such as child care and transportation, funded through other~~  
28 ~~sources based on applicable Board policy and procedure.~~  
29

30 (d) Boards shall ensure that dislocated workers eligible for Trade benefits receive the  
31 following services:

32  
33 (1) Explanation of benefits and services available under the Trade Act, to include  
34 applicable deadlines;

35  
36 (2) Assessment of education, skills, and service needs;

37  
38 (3) Information on training available locally and regionally, including information  
39 on how to apply for financial aid supported under the Higher Education Act of  
40 1965;

41  
42 (4) Individual career counseling, including job search and placement counseling;

43  
44 (5) Short-term prevocational services;

45  
46 (6) Issuance of a waiver of the training requirement where suitable work is

1 unavailable, training is determined not to be feasible or appropriate, and the  
2 worker meets applicable eligibility criteria;

3  
4 (7) Development of an REP;

5  
6 (8) Referral to training services where suitable employment is unavailable;

7  
8 (9) Assistance in filing requests for job search and/or relocation allowances;

9  
10 (10) Support services available under the WIA Title I dislocated worker program;

11  
12 (11) Case management; and

13  
14 (12) Follow-up services upon completion of training.

15  
16  
17 **SUBCHAPTER B. TRADE SERVICES RESPONSIBILITIES**

18  
19 **§849.11. General Board Responsibilities.**

- 20  
21 (a) Board Planning. A Board shall amend and modify its integrated workforce training  
22 and services plan to incorporate and coordinate the design, policy development, and  
23 management of the delivery of Trade activities and support services with the delivery  
24 of other workforce employment, training, and educational services identified in  
25 Texas Government Code §2308.251 *et seq.*, as well as other training and services  
26 included in the One-Stop Service Delivery Network as set forth in Chapter 801 of  
27 this title.
- 28  
29 (b) Reporting. Boards shall ensure that documentation is maintained as required by the  
30 Commission, including documentation required in the Commission's automated  
31 reporting system.
- 32  
33 (c) Monitoring. A Board shall ensure that the monitoring of program requirements and  
34 participant activities is part of the monitoring required under Chapter ~~802.800~~,  
35 Subchapter DI of this title, relating to monitoring and, in particular, that the  
36 monitoring is ongoing and frequent, as determined appropriate by the Board, and  
37 consists of the following:
- 38  
39 (1) timely and accurate reporting of data required for the provision of services to  
40 the trade-affected worker;
- 41  
42 (2) tracking and reporting of participation;
- 43  
44 (3) tracking and reporting of support services;
- 45

- 1 (4) ensuring progress toward achieving the goals and objectives through  
2 benchmarking, as established in the worker's REP Individual Employment Plan  
3 (IEP), as and defined by WIA and in §849.2(9) §849.2(6) of this chapter; and  
4  
5 ~~(5) notifying the Commission if a participant drops out of training; and~~  
6  
7 ~~(5)(6)~~ monitoring other requirements, as prescribed by the Commission.  
8

9 **§849.12. Participant Responsibilities.**

10 As required by the Trade Act, dislocated workers eligible for Trade benefits shall:

- 11  
12  
13 (1) apply for UI and TRA benefits in the manner, and pursuant to the time limits,  
14 prescribed by federal and state statutes and regulations; ~~and~~  
15  
16 (2) contact the local Workforce Solutions Office Center and register for full-time  
17 work by enrolling in the Commission's automated job matching system;  
18  
19 (3) attend Rapid Response and Trade orientation activities;  
20  
21 (4) report to the employer to whom they are referred for suitable employment;  
22  
23 (5) accept a job offer and/or retain employment, if it meets the criteria for suitable  
24 employment;  
25  
26 (6) attend scheduled appointments with the case manager, if no suitable  
27 employment is available;  
28  
29 (7) fully participate in Trade-approved training ~~that is full time~~ as defined by the  
30 training provider or the Commission;  
31  
32 (8) notify the case manager prior to modifying approved Trade-funded training by  
33 adding or dropping coursework ~~within one week of having dropped out of~~  
34 ~~approved Trade-funded training; and;~~  
35  
36 (9) maintain satisfactory academic status while enrolled in Trade-funded training  
37 and progressing in training as stipulated in the approved REP; and  
38  
39 ~~(10)(9)~~ report to employers, as referred by case managers, upon completing  
40 training.  
41

42 **SUBCHAPTER C. TRADE SERVICES**

43  
44 **§849.21. Activities Prior to Certification of a Trade Petition.**  
45



- 1 (a) Boards shall develop intervention strategies for providing [Workforce Solutions](#)  
2 [Office Texas Workforce Center](#) services, which ensure rapid, suitable, and long-term  
3 employment for trade-affected workers and dislocated workers eligible for Trade  
4 benefits.  
5
- 6 (b) Boards shall ensure that layoff assistance is provided ~~in the local workforce~~  
7 ~~development areas (workforce areas)~~ consistent with WIA Title I Rapid Response  
8 services, including the following:  
9
- 10 (1) contacting the employer immediately on receipt of a filed Trade petition,  
11 WARN letter, or other notification of pending layoff;  
12
- 13 (2) scheduling an on-site meeting with the employer and workers to ensure  
14 notification of Rapid Response services, including availability of UI mass  
15 claims;  
16
- 17 (3) assisting [companies, workers, and labor unions](#) with filing ~~a~~ Trade  
18 ~~petitions~~[petition](#) with DOL, ~~including a request for certification under ATAA;~~  
19
- 20 (4) providing initial assessment of the ~~workers~~[workers'](#) English, math, and reading  
21 levels as well as transferable skills and interests;  
22
- 23 (5) registering for work for purposes of entering information in the Commission's  
24 automated job matching system;  
25
- 26 (6) scheduling on- or off-site services for workers, including:  
27
- 28 (A) orientation to federal Trade Act benefits, which includes the following:  
29
- 30 (i) TRAs;  
31
- 32 (ii) Trade Act-funded employment and training activities; [and](#)  
33
- 34 ~~(iii) Health Coverage Tax Credit (HCTC);~~  
35
- 36 [\(iii\)\(iv\)](#) A bona fide application for training ensuring that the worker has  
37 been notified of all available benefits to which he or she may be  
38 eligible; and  
39
- 40 ~~(v) A signed waiver of training ensuring eligibility for HCTC and other~~  
41 ~~Trade benefits that have regulatory time limits. A waiver is~~  
42 ~~appropriate if the worker has significant barriers to reemployment,~~  
43 ~~such as~~  
44
- 45 ~~(I) obsolete skills in the worker's most recent occupation;~~  
46

1 (H) ~~similar skills to other workers representing an excess supply of~~  
2 ~~similarly skilled workers in the labor market area; and~~

3  
4 (H) ~~limited English language proficiency coupled with limited or~~  
5 ~~no skills in demand in the local labor market area.~~

6  
7 (B) orientation to labor market information, including wage data and the  
8 availability of demand and targeted occupations as defined by the  
9 Board; and

10  
11 (7) coordinating with the appropriate UI field specialist.  
12  
13  
14

15 **§849.22. Post-Certification of a Trade Petition.**

16  
17 (a) Boards shall ensure that:

18  
19 (1) Trade-certified workers referred to WIA intensive or training services are  
20 coenrolled ~~co-enrolled~~ in WIA dislocated worker services, consistent with WIA  
21 eligibility criteria, the needs of the worker, and a Board's policies and  
22 procedures; and

23  
24 (2) the coenrollment of Trade-certified workers in WIA Title I dislocated worker  
25 services shall not interfere with the timely provision of TAA services.  
26

27 (b) Boards shall ensure that prior to referring a trade-affected worker to WIA intensive  
28 or training services, each of the following ~~nine~~<sup>six</sup> criteria are met and documented in  
29 the REP~~IEP~~:

30  
31 (1) no suitable employment is available;

32  
33 (2) ability of the worker to benefit from training, based on a comprehensive  
34 assessment of the worker's knowledge, skills, and abilities;

35  
36 (3) reasonable expectation of employment following completion of the training;

37  
38 (4) training is reasonably available to the worker, ~~within the commuting area as~~  
39 ~~defined in the Texas Unemployment Compensation Act~~;

40  
41 (5) worker is qualified to undertake and complete the training based on a  
42 comprehensive assessment of the worker's knowledge, skills, abilities, and  
43 interests; ~~and~~  
44  
45  
46

1  
2  
3  
4  
5 (6) training is available at a reasonable cost ~~based on a review of Board approved~~  
6 ~~training as set forth in §849.23(a)(1)–(4) of this subchapter in the workforce~~  
7 ~~area for like training~~ for the selected occupation-;

8  
9 (7) training can be fully completed and the degree or credential secured within the  
10 maximum time frames established under the trade-affected worker's Trade Act  
11 certification;

12  
13 (8) no portion of required training costs are borne by the worker; and

14  
15 (9) part-time training is approved only where permitted by the trade-affected  
16 worker's Trade Act certification, and the worker is aware that TRA support  
17 during periods of part-time training will be unavailable.

18  
19 ~~(e) Boards shall ensure that referrals to training and amendments are submitted timely to~~  
20 ~~the training provider and the Commission's Trade Unit for final determination, as~~  
21 ~~appropriate, and include the following:~~

22  
23 ~~(1) a comprehensive assessment of the worker's knowledge, skills, abilities, and~~  
24 ~~interests;~~

25  
26 ~~(2) an IEP based on the assessment and a Board's demand and targeted occupation~~  
27 ~~list; and~~

28  
29 ~~(3) information regarding the occupation selected in the counseling process.~~

30  
31 (c) Boards shall ensure that the approval of Trade benefits and services is accomplished  
32 by state merit staff, including approval of training, waiver issuance, and the  
33 associated review and approval of waiver continuation.

34  
35 (d) Boards shall ensure that any denial of Trade benefits or services is accomplished by  
36 forwarding a recommendation to the Agency's TAA unit for issuance of a formal  
37 appealable decision.

38  
39  
40  
41 **§849.23. Training Referrals.**

42  
43 (a) Boards shall ensure that referrals to Trade-funded training are Board approved as set  
44 forth in ~~§849.23(a)(1)(A)–(C) of this subsection,~~ and that training, ~~prior to final~~  
45 ~~Commission determination:~~

1 (1) ~~meets~~Meet the ~~nine~~ ~~six~~ criteria established in ~~§849.22(b)(1) - (9)~~§849.22(b)(1)  
2 ~~-6)~~ of this subchapter; ~~and~~

3  
4 ~~(2)(A)~~ uses training providers that are licensed under applicable state law or  
5 exempt from such requirements, or possessing accreditation recognized by the  
6 US Department of Education~~are in the Eligible Training Provider Certification~~  
7 ~~System as defined Chapter 841 of this title;~~

8  
9 ~~(3)(B)~~ is occupationally specific;~~prevocational or vocational skills training as~~  
10 ~~approved by the Commission; or~~

11  
12 ~~(C) training that offers contextual learning opportunities for Limited English~~  
13 ~~Proficient (LEP) clients as approved by the Board.~~

14  
15 ~~(2) Meet the time limitations for Trade benefits;~~

16  
17 ~~(4)(3)~~ meets ~~Meet~~ the needs of employers for demand or targeted occupations, or  
18 ~~that ensures~~ the participant has a reasonable expectation of employment~~bona~~  
19 ~~fide job offer;~~ and

20  
21 ~~(5)(4)~~ can be ~~Be~~ completed and a degree or credential secured ~~during~~ within the  
22 maximum time frame established under the worker's Trade certification~~104~~  
23 ~~weeks of Trade funded benefits, unless otherwise determined by the~~  
24 ~~Commission.~~

25  
26 (b) Boards shall ensure that the following types of intensive and training services are  
27 considered:

28  
29 (1) employer-based training, including on-the-job training, customized training,  
30 and apprenticeship programs;

31  
32 (2) contextual vocational skills training, particularly for Limited English  
33 Proficiency ~~customers~~ (LEP) clients; and

34  
35 (3) remedial training, including literacy, particularly English as a Second  
36 Language ~~(ESL), Adult~~ Education and Literacy~~Basic Education (ABE), or~~  
37 ~~certificate of general equivalence (GED) training, as stand-alone or linear~~  
38 ~~training only when consistent with the needs of the participant to qualify for~~  
39 ~~certain vocational skills training; or the requirements of employer-based~~  
40 ~~training, as identified in the IEP; and~~

41  
42 ~~(A) the training provider has submitted amendments to the IEP; and~~

43  
44 ~~(B) the case manager has approved the amendments in order for the~~  
45 ~~Commission to make the final determination for extended training.~~