

9001(b) of Pub. L. 100-647, set out as an Effective and Termination Dates of 1988 Amendments note under section 58c of this title.

#### EFFECTIVE DATE

Section effective Aug. 23, 1988, and applicable with respect to investigations initiated under this part on or after that date, see section 1401(c) of Pub. L. 100-418, set out as an Effective Date of 1988 Amendment note under section 2251 of this title.

### PART 2—ADJUSTMENT ASSISTANCE FOR WORKERS

#### EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-210, div. A, title I, §151, Aug. 6, 2002, 116 Stat. 953, as amended by Pub. L. 108-429, title II, §2004(a)(21), Dec. 3, 2004, 118 Stat. 2591, provided that:

“(a) IN GENERAL.—Except as otherwise provided in sections 123(c) [set out as a note under section 2331 of this title], 141(b) [set out as a note under section 2401 of this title], 201(d) [set out as a note under section 35 of Title 26, Internal Revenue Code], and 202(e) [set out as a note under section 6050T of Title 26], and subsections (b), (c), and (d) of this section, the amendments made by this division [enacting sections 1431a, 1583, 2318, and 2401 to 2401g of this title, sections 35, 6050T, and 7527 of Title 26, and section 300gg-45 of Title 42, The Public Health and Welfare, amending sections 58c, 482, 1318, 1330, 1411, 1505, 1509, 2075, 2171, 2271 to 2273, 2275, 2291, 2293, 2295 to 2298, 2317, 2346, and 2395 of this title, sections 4980B, 6103, 6724, and 7213A of Title 26, sections 1165, 2862, 2918, and 2919 of Title 29, Labor, section 1324 of Title 31, Money and Finance, and section 300bb-5 of Title 42, renumbering section 35 of Title 26 as section 36 of Title 26, repealing sections 2318, 2322, and 2331 of this title, enacting provisions set out as notes under sections 58c, 482, 1583, 1625, 1654, 2071, 2075, 2082, 2101, 2251, 2271, 2331, and 2401 of this title, sections 35 and 6050T of Title 26, and section 2918 of Title 29, and amending provisions set out as a note below] shall apply to petitions for certification filed under chapter 2 or 3 of title II of the Trade Act of 1974 [this part and part 3 of this subchapter] on or after the date that is 90 days after the date of enactment of this Act [Aug. 6, 2002].

“(b) WORKERS CERTIFIED AS ELIGIBLE BEFORE EFFECTIVE DATE.—Notwithstanding subsection (a), a worker shall continue to receive (or be eligible to receive) trade adjustment assistance and other benefits under chapter 2 of title II of the Trade Act of 1974 [this part], as in effect on September 30, 2001, for any week for which the worker meets the eligibility requirements of such chapter 2 as in effect on such date, if on or before such date, the worker—

“(1) was certified as eligible for trade adjustment assistance benefits under such chapter as in effect on such date; and

“(2) would otherwise be eligible to receive trade adjustment assistance benefits under such chapter as in effect on such date.

“(c) WORKERS WHO BECAME ELIGIBLE DURING QUALIFIED PERIOD.—

“(1) IN GENERAL.—Notwithstanding subsection (a) or any other provision of law, including section 285 of the Trade Act of 1974 [Pub. L. 93-618, set out as a Termination Date note below], any worker who would have been eligible to receive trade adjustment assistance or other benefits under chapter 2 of title II of the Trade Act of 1974 [this part] during the qualified period if such chapter 2 had been in effect during such period, shall be eligible to receive trade adjustment assistance and other benefits under chapter 2 of title II of the Trade Act of 1974, as in effect on September 30, 2001, for any week during the qualified period for which the worker meets the eligibility requirements of such chapter 2 as in effect on September 30, 2001.

“(2) QUALIFIED PERIOD.—For purposes of this subsection, the term ‘qualified period’ means the period beginning on January 11, 2002, and ending on the date

that is 90 days after the date of enactment of this Act [Aug. 6, 2002].

“(d) ADJUSTMENT ASSISTANCE FOR FIRMS.—

“(1) IN GENERAL.—Notwithstanding subsection (a) or any other provision of law, including section 285 of the Trade Act of 1974 [set out as a Termination Date note below], and except as provided in paragraph (2), any firm that would have been eligible to receive adjustment assistance under chapter 3 of title II of the Trade Act of 1974 [part 3 of this subchapter] during the qualified period if such chapter 3 had been in effect during such period, shall be eligible to receive adjustment assistance under chapter 3 of title II of the Trade Act of 1974, as in effect on September 30, 2001, for any week during the qualified period for which the firm meets the eligibility requirements of such chapter 3 as in effect on September 30, 2001.

“(2) QUALIFIED PERIOD.—For purposes of this subsection, the term ‘qualified period’ means the period beginning on October 1, 2001, and ending on the date that is 90 days after the date of enactment of this Act [Aug. 6, 2002].”

#### TERMINATION DATE

Section 285, formerly section 284, of Pub. L. 93-618, title II, Jan. 3, 1975, 88 Stat. 2041; renumbered §285, Pub. L. 96-417, title VI, §613(a), Oct. 10, 1980, 94 Stat. 1746; and amended Pub. L. 97-35, title XXV, §2512, Aug. 13, 1981, 95 Stat. 888; Pub. L. 98-120, §2(b), Oct. 12, 1983, 97 Stat. 809; Pub. L. 99-107, §3, Sept. 30, 1985, 99 Stat. 479; Pub. L. 99-155, §2(b), Nov. 14, 1985, 99 Stat. 814; Pub. L. 99-181, §2, Dec. 13, 1985, 99 Stat. 1172; Pub. L. 99-189, §2, Dec. 18, 1985, 99 Stat. 1184; Pub. L. 99-272, title XIII, §13007(a), Apr. 7, 1986, 100 Stat. 304; Pub. L. 100-418, title I, §1426(a), Aug. 23, 1988, 102 Stat. 1251; Pub. L. 103-66, title XIII, §13803(a)(1), Aug. 10, 1993, 107 Stat. 668; Pub. L. 103-182, title V, §505, Dec. 8, 1993, 107 Stat. 2152; Pub. L. 105-277, div. J, title I, §1012(d), Oct. 21, 1998, 112 Stat. 2681-901; Pub. L. 106-113, div. B, §1000(a)(5) [title VII, §702(d)], Nov. 29, 1999, 113 Stat. 1536, 1501A-319; Pub. L. 107-210, div. A, title I, §111(c), Aug. 6, 2002, 116 Stat. 936; Pub. L. 110-89, §1(d), Sept. 28, 2007, 121 Stat. 982, provided that:

“(a) ASSISTANCE FOR WORKERS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), trade adjustment assistance, vouchers, allowances, and other payments or benefits may not be provided under chapter 2 [this part] after December 31, 2007.

“(2) EXCEPTION.—Notwithstanding paragraph (1), a worker shall continue to receive trade adjustment assistance benefits and other benefits under chapter 2 for any week for which the worker meets the eligibility requirements of that chapter, if on or before December 31, 2007, the worker is—

“(A) certified as eligible for trade adjustment assistance benefits under chapter 2 of this title [this part]; and

“(B) otherwise eligible to receive trade adjustment assistance benefits under chapter 2.

“(b) OTHER ASSISTANCE.—

“(1) ASSISTANCE FOR FIRMS.—Technical assistance may not be provided under chapter 3 [part 3 of this subchapter] after December 31, 2007.

“(2) ASSISTANCE FOR FARMERS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), adjustment assistance, vouchers, allowances, and other payments or benefits may not be provided under chapter 6 [part 6 of this subchapter] after December 31, 2007.

“(B) EXCEPTION.—Notwithstanding subparagraph (A), an agricultural commodity producer (as defined in section 291(2) [19 U.S.C. 2401(2)]) shall continue to receive adjustment assistance benefits and other benefits under chapter 6, for any week for which the agricultural commodity producer meets the eligibility requirements of chapter 6, if on or before December 31, 2007, the agricultural commodity producer is—

“(i) certified as eligible for adjustment assistance benefits under chapter 6; and

“(ii) is otherwise eligible to receive adjustment assistance benefits under such chapter 6.”

[Amendment by Pub. L. 110-89 to section 285 of Pub. L. 93-618, set out above, effective Oct. 1, 2007, see section 1(e) of Pub. L. 110-89, set out as an Effective Date of 2007 Amendment note under section 2317 of this title.]

[Amendment by Pub. L. 106-113 to section 285 of Pub. L. 93-618, set out above, effective as of July 1, 1999, see section 1000(a)(5) [title VII, §702(e)] of Pub. L. 106-113, set out as an Effective Date of 1999 Amendment note under section 2317 of this title.]

[Amendment by Pub. L. 103-182 to section 285 of Pub. L. 93-618, set out above, effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], see section 506(a) of Pub. L. 103-182, set out as an Effective Date of 1993 Amendment note under section 2271 of this title.]

[Parts 2 and 3 of this subchapter applicable as if amendments by sections 13007 and 13008 of Pub. L. 99-272, amending section 285 of Pub. L. 93-618, set out above, and sections 2317 and 2346 of this title, had taken effect Dec. 18, 1985, see section 13009(c) of Pub. L. 99-272, set out as an Effective Date of 1986 Amendment note under section 2291 of this title.]

#### SUBPART A—PETITIONS AND DETERMINATIONS

### § 2271. Petitions

#### (a) Filing of petitions; assistance; publication of notice

(1) A petition for certification of eligibility to apply for adjustment assistance for a group of workers under this part may be filed simultaneously with the Secretary and with the Governor of the State in which such workers' firm or subdivision is located by any of the following:

(A) The group of workers (including workers in an agricultural firm or subdivision of any agricultural firm).

(B) The certified or recognized union or other duly authorized representative of such workers.

(C) Employers of such workers, one-stop operators or one-stop partners (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)), including State employment security agencies, or the State dislocated worker unit established under title I of such Act [29 U.S.C. 2801 et seq.], on behalf of such workers.

(2) Upon receipt of a petition filed under paragraph (1), the Governor shall—

(A) ensure that rapid response assistance and appropriate core and intensive services (as described in section 134 of the Workforce Investment Act of 1998 (29 U.S.C. 2864)) authorized under other Federal laws are made available to the workers covered by the petition to the extent authorized under such laws; and

(B) assist the Secretary in the review of the petition by verifying such information and providing such other assistance as the Secretary may request.

(3) Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that the Secretary has received the petition and initiated an investigation.

#### (b) Hearing

If the petitioner, or any other person found by the Secretary to have a substantial interest in the proceedings, submits not later than 10 days

after the date of the Secretary's publication under subsection (a) of this section a request for a hearing, the Secretary shall provide for a public hearing and afford such interested persons an opportunity to be present, to produce evidence, and to be heard.

(Pub. L. 93-618, title II, §221, Jan. 3, 1975, 88 Stat. 2019; Pub. L. 99-272, title XIII, §13002(a), Apr. 7, 1986, 100 Stat. 300; Pub. L. 103-182, title V, §503(a), Dec. 8, 1993, 107 Stat. 2151; Pub. L. 107-210, div. A, title I, §112(a), Aug. 6, 2002, 116 Stat. 937; Pub. L. 108-429, title II, §2004(a)(4), Dec. 3, 2004, 118 Stat. 2590.)

#### REFERENCES IN TEXT

The Workforce Investment Act of 1998, referred to in subsec. (a)(1)(C), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, as amended. Title I of the Act is classified principally to chapter 30 (§2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

#### AMENDMENTS

2004—Subsec. (a)(2)(A). Pub. L. 108-429 substituted “assistance and appropriate” for “assistance, and appropriate”.

2002—Subsec. (a). Pub. L. 107-210 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “A petition for a certification of eligibility to apply for adjustment assistance under this subpart may be filed with the Secretary of Labor (hereinafter in this part referred to as the ‘Secretary’) by a group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) or by their certified or recognized union or other duly authorized representative. Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that he has received the petition and initiated an investigation.”

1993—Subsec. (a). Pub. L. 103-182 substituted “assistance under this subpart” for “assistance under this part”.

1986—Subsec. (a). Pub. L. 99-272 inserted “(including workers in any agricultural firm or subdivision of an agricultural firm)” after “group of workers”.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-210 applicable to petitions for certification filed under this part or part 3 of this subchapter on or after the date that is 90 days after Aug. 6, 2002, except as otherwise provided, see section 151 of Pub. L. 107-210, set out as a note preceding this section.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-182, title V, §506, Dec. 8, 1993, 107 Stat. 2152, provided that:

“(a) IN GENERAL.—The amendments made by sections 501, 502, 503, 504, and 505 [enacting sections 2322 and 2331 of this title and amending this section, sections 2272, 2273, 2275, 2317, and 2395 of this title, and provisions set out as a note preceding this section] shall take effect on the date the Agreement [North American Free Trade Agreement] enters into force with respect to the United States [Jan. 1, 1994].

“(b) COVERED WORKERS.—

“(1) GENERAL RULE.—Except as provided in paragraph (2), no worker shall be certified as eligible to receive assistance under subchapter D of chapter 2 of title II of the Trade Act of 1974 [former 19 U.S.C. 2331 et seq.] (as added by this subtitle) whose last total or partial separation from a firm (or appropriate subdivision of a firm) occurred before such date of entry into force.

“(2) REACHBACK.—Notwithstanding paragraph (1), any worker—

“(A) whose last total or partial separation from a firm (or appropriate subdivision of a firm) occurs—

“(i) after the date of the enactment of this Act [Dec. 8, 1993], and

“(ii) before such date of entry into force, and

“(B) who would otherwise be eligible to receive assistance under subchapter D of chapter 2 of title II of the Trade Act of 1974,

shall be eligible to receive such assistance in the same manner as if such separation occurred on or after such date of entry into force.”

#### TERMINATION DATE

No trade adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this part after Dec. 31, 2007, except as otherwise provided, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding this section.

#### DECLARATION OF POLICY; SENSE OF CONGRESS

Pub. L. 107-210, div. A, title I, §125, Aug. 6, 2002, 116 Stat. 946, provided that:

“(a) **DECLARATION OF POLICY.**—Congress reiterates that, under the trade adjustment assistance program under chapter 2 of title II of the Trade Act of 1974 [this part], workers are eligible for transportation, child-care, and healthcare assistance, as well as other related assistance under programs administered by the Department of Labor.

“(b) **SENSE OF CONGRESS.**—It is the sense of Congress that the Secretary of Labor, working independently and in conjunction with the States, should, in accordance with section 225 of the Trade Act of 1974 [19 U.S.C. 2275], provide more specific information about benefit allowances, training, and other employment services, and the petition and application procedures (including appropriate filing dates) for such allowances, training, and services, under the trade adjustment assistance program under chapter 2 of title II of the Trade Act of 1974 to workers who are applying for, or are certified to receive, assistance under that program, including information on all other Federal assistance available to such workers.”

### § 2272. Group eligibility requirements; agricultural workers; oil and natural gas industry

#### (a) In general

A group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) shall be certified by the Secretary as eligible to apply for adjustment assistance under this part pursuant to a petition filed under section 2271 of this title if the Secretary determines that—

(1) a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated; and

(2)(A)(i) the sales or production, or both, of such firm or subdivision have decreased absolutely;

(ii) imports of articles like or directly competitive with articles produced by such firm or subdivision have increased; and

(iii) the increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm or subdivision; or

(B)(i) there has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

(ii)(I) the country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

(II) the country to which the workers' firm has shifted production of the articles is a beneficiary country under the Andean Trade Preference Act [19 U.S.C. 3201 et seq.], African Growth and Opportunity Act [19 U.S.C. 3701 et seq.], or the Caribbean Basin Economic Recovery Act [19 U.S.C. 2701 et seq.]; or

(III) there has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

#### (b) Adversely affected secondary workers

A group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) shall be certified by the Secretary as eligible to apply for trade adjustment assistance benefits under this part pursuant to a petition filed under section 2271 of this title if the Secretary determines that—

(1) a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility under subsection (a) of this section, and such supply or production is related to the article that was the basis for such certification (as defined in subsection (c)(3) and (4) of this section); and

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss of business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation determined under paragraph (1).

#### (c) Definitions

For purposes of this section—

(1) The term “contributed importantly” means a cause which is important but not necessarily more important than any other cause.

(2)(A) Any firm, or appropriate subdivision of a firm, that engages in exploration or drilling for oil or natural gas shall be considered to be a firm producing oil or natural gas.

(B) Any firm, or appropriate subdivision of a firm, that engages in exploration or drilling for oil or natural gas, or otherwise produces oil or natural gas, shall be considered to be producing articles directly competitive with imports of oil and with imports of natural gas.

(3) **DOWNSTREAM PRODUCER.**—The term “downstream producer” means a firm that performs additional, value-added production processes for a firm or subdivision, including a firm that performs final assembly or finishing, directly for another firm (or subdivision), for articles that were the basis for a certification

of eligibility under subsection (a) of this section of a group of workers employed by such other firm, if the certification of eligibility under subsection (a) of this section is based on an increase in imports from, or a shift in production to, Canada or Mexico.

(4) SUPPLIER.—The term “supplier” means a firm that produces and supplies directly to another firm (or subdivision) component parts for articles that were the basis for a certification of eligibility under subsection (a) of this section of a group of workers employed by such other firm.

(Pub. L. 93-618, title II, §222, Jan. 3, 1975, 88 Stat. 2019; Pub. L. 97-35, title XXV, §2501, Aug. 13, 1981, 95 Stat. 881; Pub. L. 98-120, §3(a), Oct. 12, 1983, 97 Stat. 809; Pub. L. 99-272, title XIII, §13002(a), Apr. 7, 1986, 100 Stat. 300; Pub. L. 100-418, title I, §1421(a)(1)(A), (b)(1), Aug. 23, 1988, 102 Stat. 1242, 1243; Pub. L. 103-182, title V, §503(a), Dec. 8, 1993, 107 Stat. 2151; Pub. L. 107-210, div. A, title I, §113, Aug. 6, 2002, 116 Stat. 937; Pub. L. 108-429, title II, §2004(a)(5), Dec. 3, 2004, 118 Stat. 2590.)

#### REFERENCES IN TEXT

The Andean Trade Preference Act, referred to in subsec. (a)(2)(B)(ii)(II), is title II of Pub. L. 102-182, Dec. 4, 1991, 105 Stat. 1236, as amended, which is classified generally to chapter 20 (§3201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of this title and Tables.

The African Growth and Opportunity Act, referred to in subsec. (a)(2)(B)(ii)(II), is title I of Pub. L. 106-200, May 18, 2000, 114 Stat. 252, as amended, which is classified principally to chapter 23 (§3701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables.

The Caribbean Basin Economic Recovery Act, referred to in subsec. (a)(2)(B)(ii)(II), is title II of Pub. L. 98-67, Aug. 5, 1983, 97 Stat. 384, as amended, which is classified principally to chapter 15 (§2701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

#### AMENDMENTS

2004—Subsec. (b). Pub. L. 108-429 made technical amendment to heading and inserted “pursuant to a petition filed under section 2271 of this title” after “under this part” in introductory provisions.

2002—Subsec. (a). Pub. L. 107-210, §113(a)(1)(A), inserted heading and amended text generally. Prior to amendment, text read as follows: “The Secretary shall certify a group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) as eligible to apply for adjustment assistance under this subpart if he determines—

“(1) that a significant number or proportion of the workers in such workers’ firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

“(2) that sales or production, or both, of such firm or subdivision have decreased absolutely, and

“(3) that increases of imports of articles like or directly competitive with articles produced by such workers’ firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.”

Subsec. (b). Pub. L. 107-210, §113(a)(1)(C), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 107-210, §113(b)(1), substituted “this section” for “subsection (a)(3) of this section” in introductory provisions.

Pub. L. 107-210, §113(a)(1)(B), redesignated subsec. (b) as (c).

Subsec. (c)(3), (4). Pub. L. 107-210, §113(b)(2), added pars. (3) and (4).

1993—Subsec. (a). Pub. L. 103-182 substituted “assistance under this subpart” for “assistance under this part”.

1988—Pub. L. 100-418, §1421(a)(1)(A), struck out last sentence which defined “contributed importantly” for purposes of par. (3), designated remaining provisions as subsec. (a), and added subsec. (b).

Subsec. (a)(3). Pub. L. 100-418, §1421(b)(1), directed the general amendment of par. (3) adding provisions relating to provision of essential goods or services by such workers’ firm, or appropriate subdivision thereof, which amendment did not become effective pursuant to section 1430(d) of Pub. L. 100-418, as amended, set out as an Effective Date note under section 2397 of this title.

1986—Pub. L. 99-272 inserted “(including workers in any agricultural firm or subdivision of an agricultural firm)” after “group of workers”.

1983—Pub. L. 98-120, §3(a)(2), substituted “For purposes of paragraph (3), the term ‘contributed importantly’ means a cause which is important, but not necessarily more important than any other cause” for “For purposes of paragraph (3), the term ‘substantial cause’ means a cause which is important and not less than any other cause” in provision following par. (3).

Par. (3). Pub. L. 98-120, §3(a)(1), substituted “contributed importantly to such total or partial separation, or threat thereof, and to such decline” for “were a substantial cause of such total or partial separation, or threat thereof, and of such decline”.

1981—Pub. L. 97-35 substituted provisions defining “substantial cause” and applicability of such term in par. (3) for provisions defining “contributed importantly” and applicability of such term in par. (3).

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-210 applicable to petitions for certification filed under this part or part 3 of this subchapter on or after the date that is 90 days after Aug. 6, 2002, except as otherwise provided, see section 151 of Pub. L. 107-210, set out as a note preceding section 2271 of this title.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-182 effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], see section 506(a) of Pub. L. 103-182, set out as a note under section 2271 of this title.

#### EFFECTIVE DATE OF 1983 AMENDMENT

Section 3(b) of Pub. L. 98-120 provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to petitions for certification filed under section 221 of the Trade Act of 1974 [19 U.S.C. 2271] on or after October 1, 1983.”

#### EFFECTIVE DATE OF 1981 AMENDMENT AND TRANSITION PROVISIONS

Amendment by Pub. L. 97-35 applicable to petitions filed on or after Oct. 1, 1983, with transition provisions applicable, see section 2514 of Pub. L. 97-35, set out as a note under section 2291 of this title.

#### TERMINATION DATE

No trade adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this part after Dec. 31, 2007, except as otherwise provided, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

#### WORKERS COVERED BY CERTIFICATION NOTWITHSTANDING OTHER LAW

Section 1421(a)(1)(B) of Pub. L. 100-418 provided that: “Notwithstanding section 223(b) of the Trade Act of

1974 [19 U.S.C. 2273(b)], or any other provision of law, any certification made under subchapter A of chapter 2 of title II of such Act [this subpart] which—

“(i) is made with respect to a petition filed before the date that is 90 days after the date of enactment of this Act [Aug. 23, 1988], and

“(ii) would not have been made if the amendments made by subparagraph (A) [amending this section] had not been enacted into law, shall apply to any worker whose most recent total or partial separation from the firm, or appropriate subdivision of the firm, described in section 222(a) of such Act [19 U.S.C. 2272(a)] occurs after September 30, 1985.”

### § 2273. Determinations by Secretary of Labor

#### (a) Certification of eligibility

As soon as possible after the date on which a petition is filed under section 2271 of this title, but in any event not later than 40 days after that date, the Secretary shall determine whether the petitioning group meets the requirements of section 2272 of this title and shall issue a certification of eligibility to apply for assistance under this subpart covering workers in any group which meets such requirements. Each certification shall specify the date on which the total or partial separation began or threatened to begin.

#### (b) Workers covered by certification

A certification under this section shall not apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm before his application under section 2291 of this title occurred—

(1) more than one year before the date of the petition on which such certification was granted, or

(2) more than 6 months before the effective date of this part.

#### (c) Publication of determination in Federal Register

Upon reaching his determination on a petition, the Secretary shall promptly publish a summary of the determination in the Federal Register together with his reasons for making such determination.

#### (d) Termination of certification

Whenever the Secretary determines, with respect to any certification of eligibility of the workers of a firm or subdivision of the firm, that total or partial separations from such firm or subdivision are no longer attributable to the conditions specified in section 2272 of this title, he shall terminate such certification and promptly have notice of such termination published in the Federal Register together with his reasons for making such determination. Such termination shall apply only with respect to total or partial separations occurring after the termination date specified by the Secretary.

(Pub. L. 93-618, title II, § 223, Jan. 3, 1975, 88 Stat. 2019; Pub. L. 103-182, title V, § 503(a), Dec. 8, 1993, 107 Stat. 2151; Pub. L. 107-210, div. A, title I, § 112(b), Aug. 6, 2002, 116 Stat. 937.)

#### REFERENCES IN TEXT

For the effective date of this part, referred to in subsec. (b)(2), see Effective and Termination Date note set out preceding section 2271 of this title.

#### AMENDMENTS

2002—Subsec. (a). Pub. L. 107-210 substituted “40 days” for “60 days”.

1993—Subsec. (a). Pub. L. 103-182 substituted “assistance under this subpart” for “assistance under this part”.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-210 applicable to petitions for certification filed under this part or part 3 of this subchapter on or after the date that is 90 days after Aug. 6, 2002, except as otherwise provided, see section 151 of Pub. L. 107-210, set out as a note preceding section 2271 of this title.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-182 effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], see section 506(a) of Pub. L. 103-182, set out as a note under section 2271 of this title.

#### TERMINATION DATE

No trade adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this part after Dec. 31, 2007, except as otherwise provided, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

### § 2274. Study by Secretary of Labor when International Trade Commission begins investigation

#### (a) Subject matter of study

Whenever the International Trade Commission (hereafter referred to in this part as the “Commission”) begins an investigation under section 2252 of this title with respect to an industry, the Commission shall immediately notify the Secretary of such investigation, and the Secretary shall immediately begin a study of—

(1) the number of workers in the domestic industry producing the like or directly competitive article who have been or are likely to be certified as eligible for adjustment assistance, and

(2) the extent to which the adjustment of such workers to the import competition may be facilitated through the use of existing programs.

#### (b) Report; publication

The report of the Secretary of the study under subsection (a) of this section shall be made to the President not later than 15 days after the day on which the Commission makes its report under section 2252(f) of this title. Upon making his report to the President, the Secretary shall also promptly make it public (with the exception of information which the Secretary determines to be confidential) and shall have a summary of it published in the Federal Register.

(Pub. L. 93-618, title II, § 224, Jan. 3, 1975, 88 Stat. 2020; Pub. L. 97-35, title XXV, § 2513(a), Aug. 13, 1981, 95 Stat. 889; Pub. L. 100-418, title I, § 1401(b)(1)(B), Aug. 23, 1988, 102 Stat. 1239.)

#### AMENDMENTS

1988—Subsec. (a). Pub. L. 100-418 substituted “section 2252” for “section 2251”.

Subsec. (b). Pub. L. 100-418 substituted “section 2252(f)” for “section 2251”.

1981—Subsec. (c). Pub. L. 97-35 struck out subsec. (c) which related to availability of information to workers.

## EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 effective Aug. 23, 1988, and applicable with respect to investigations initiated under part 1 (§2251 et seq.) of this subchapter on or after that date, see section 1401(c) of Pub. L. 100-418, set out as a note under section 2251 of this title.

## EFFECTIVE DATE OF 1981 AMENDMENT AND TRANSITION PROVISIONS

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, with transition provisions applicable, see section 2514 of Pub. L. 97-35, set out as a note under section 2291 of this title.

## TERMINATION DATE

No trade adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this part after Dec. 31, 2007, except as otherwise provided, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

**§ 2275. Benefit information for workers**

(a) The Secretary shall provide full information to workers about the benefit allowances, training, and other employment services available under this part and about the petition and application procedures, and the appropriate filing dates, for such allowances, training and services. The Secretary shall provide whatever assistance is necessary to enable groups of workers to prepare petitions or applications for program benefits. The Secretary shall make every effort to insure that cooperating State agencies fully comply with the agreements entered into under section 2311(a) of this title and shall periodically review such compliance. The Secretary shall inform the State Board for Vocational Education or equivalent agency and other public or private agencies, institutions, and employers, as appropriate, of each certification issued under section 2273 of this title and of projections, if available, of the needs for training under section 2296 of this title as a result of such certification.

(b)(1) The Secretary shall provide written notice through the mail of the benefits available under this part to each worker whom the Secretary has reason to believe is covered by a certification made under this subpart—

(A) at the time such certification is made, if the worker was partially or totally separated from the adversely affected employment before such certification, or

(B) at the time of the total or partial separation of the worker from the adversely affected employment, if subparagraph (A) does not apply.

(2) The Secretary shall publish notice of the benefits available under this part to workers covered by each certification made under this subpart in newspapers of general circulation in the areas in which such workers reside.

(Pub. L. 93-618, title II, §225, as added Pub. L. 97-35, title XXV, §2502, Aug. 13, 1981, 95 Stat. 881; amended Pub. L. 100-418, title I, §1422, Aug. 23, 1988, 102 Stat. 1244; Pub. L. 103-182, title V, §503(b), Dec. 8, 1993, 107 Stat. 2151; Pub. L. 107-210, div. A, title I, §123(b)(1), Aug. 6, 2002, 116 Stat. 944.)

## AMENDMENTS

2002—Subsec. (b). Pub. L. 107-210 struck out “or subpart D of this part” after “this subpart” in pars. (1) and (2).

1993—Subsec. (b). Pub. L. 103-182 inserted reference to subpart D in pars. (1) and (2).

1988—Pub. L. 100-418 designated existing provisions as subsec. (a) and added subsec. (b).

## EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-210 applicable with respect to petitions filed under this part on or after the date that is 90 days after Aug. 6, 2002, except with respect to certain workers, see section 123(c) of Pub. L. 107-210, set out as an Effective Date of Repeal note under section 2331 of this title.

## EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-182 effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], see section 506(a) of Pub. L. 103-182, set out as a note under section 2271 of this title.

## EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 effective on date that is 30 days after Aug. 23, 1988, see section 1430(e) of Pub. L. 100-418, set out as an Effective Date note under section 2397 of this title.

## EFFECTIVE DATE AND TRANSITION PROVISIONS

Section effective Aug. 13, 1981, with transition provisions applicable, see section 2514 of Pub. L. 97-35, set out as an Effective Date of 1981 Amendment note under section 2291 of this title.

## TERMINATION DATE

No trade adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this part after Dec. 31, 2007, except as otherwise provided, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

## SUBPART B—PROGRAM BENEFITS

## Division I—Trade Readjustment Allowances

**§ 2291. Qualifying requirements for workers****(a) Trade readjustment allowance conditions**

Payment of a trade readjustment allowance shall be made to an adversely affected worker covered by a certification under subpart A of this part who files an application for such allowance for any week of unemployment which begins more than 60 days after the date on which the petition that resulted in such certification was filed under section 2271 of this title, if the following conditions are met:

(1) Such worker’s total or partial separation before his application under this part occurred—

(A) on or after the date, as specified in the certification under which he is covered, on which total or partial separation began or threatened to begin in the adversely affected employment,

(B) before the expiration of the 2-year period beginning on the date on which the determination under section 2273 of this title was made, and

(C) before the termination date (if any) determined pursuant to section 2273(d) of this title.

(2) Such worker had, in the 52-week period ending with the week in which such total or

partial separation occurred, at least 26 weeks of employment at wages of \$30 or more a week in adversely affected employment with a single firm or subdivision of a firm, or, if data with respect to weeks of employment with a firm are not available, equivalent amounts of employment computed under regulations prescribed by the Secretary. For the purposes of this paragraph, any week in which such worker—

(A) is on employer-authorized leave for purposes of vacation, sickness, injury, maternity, or inactive duty or active duty military service for training,

(B) does not work because of a disability that is compensable under a workmen's compensation law or plan of a State or the United States,

(C) had his employment interrupted in order to serve as a full-time representative of a labor organization in such firm or subdivision, or

(D) is on call-up for purposes of active duty in a reserve status in the Armed Forces of the United States, provided such active duty is "Federal service" as defined in section 8521(a)(1) of title 5,

shall be treated as a week of employment at wages of \$30 or more, but not more than 7 weeks, in case of weeks described in subparagraph (A) or (C), or both (and not more than 26 weeks, in the case of weeks described in subparagraph (B) or (D)), may be treated as weeks of employment under this sentence.

(3) Such worker—

(A) was entitled to (or would be entitled to if he applied therefor) unemployment insurance for a week within the benefit period (i) in which such total or partial separation took place, or (ii) which began (or would have begun) by reason of the filing of a claim for unemployment insurance by such worker after such total or partial separation;

(B) has exhausted all rights to any unemployment insurance, except additional compensation that is funded by a State and is not reimbursed from any Federal funds, to which he was entitled (or would be entitled if he applied therefor); and

(C) does not have an unexpired waiting period applicable to him for any such unemployment insurance.

(4) Such worker, with respect to such week of unemployment, would not be disqualified for extended compensation payable under the Federal-State Extended Unemployment Compensation Act of 1970 by reason of the work acceptance and job search requirements in section 202(a)(3) of such Act.

(5) Such worker—

(A)(i) is enrolled in a training program approved by the Secretary under section 2296(a) of this title, and

(ii) the enrollment required under clause (i) occurs no later than the latest of—

(I) the last day of the 16th week after the worker's most recent total separation from adversely affected employment which meets the requirements of paragraphs (1) and (2),

(II) the last day of the 8th week after the week in which the Secretary issues a certification covering the worker,

(III) 45 days after the later of the dates specified in subclause (I) or (II), if the Secretary determines there are extenuating circumstances that justify an extension in the enrollment period, or

(IV) the last day of a period determined by the Secretary to be approved for enrollment after the termination of a waiver issued pursuant to subsection (c) of this section,

(B) has, after the date on which the worker became totally separated, or partially separated, from the adversely affected employment, completed a training program approved by the Secretary under section 2296(a) of this title, or

(C) has received a written statement under subsection (c)(1) of this section after the date described in subparagraph (B).

**(b) Withholding of trade readjustment allowance pending beginning or resumption of participation in training program; period of applicability**

(1) If—

(A) the Secretary determines that—

(i) the adversely affected worker—

(I) has failed to begin participation in the training program the enrollment in which meets the requirement of subsection (a)(5) of this section, or

(II) has ceased to participate in such training program before completing such training program, and

(ii) there is no justifiable cause for such failure or cessation, or

(B) the certification made with respect to such worker under subsection (c)(1) of this section is revoked under subsection (c)(2) of this section,

no trade readjustment allowance may be paid to the adversely affected worker under this division for the week in which such failure, cessation, or revocation occurred, or any succeeding week, until the adversely affected worker begins or resumes participation in a training program approved under section 2296(a) of this title.

(2) The provisions of subsection (a)(5) of this section and paragraph (1) shall not apply with respect to any week of unemployment which begins—

(A) after the date that is 60 days after the date on which the petition that results in the certification that covers the worker is filed under section 2271 of this title, and

(B) before the first week following the week in which such certification is made under subpart A of this part.

**(c) Waivers of training requirements**

**(1) Issuance of waivers**

The Secretary may issue a written statement to an adversely affected worker waiving the requirement to be enrolled in training described in subsection (a)(5)(A) of this section if the Secretary determines that it is not fea-

sible or appropriate for the worker, because of 1 or more of the following reasons:

**(A) Recall**

The worker has been notified that the worker will be recalled by the firm from which the separation occurred.

**(B) Marketable skills**

The worker possesses marketable skills for suitable employment (as determined pursuant to an assessment of the worker, which may include the profiling system under section 303(j) of the Social Security Act (42 U.S.C. 503(j)), carried out in accordance with guidelines issued by the Secretary) and there is a reasonable expectation of employment at equivalent wages in the foreseeable future.

**(C) Retirement**

The worker is within 2 years of meeting all requirements for entitlement to either—

(i) old-age insurance benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.) (except for application therefor); or

(ii) a private pension sponsored by an employer or labor organization.

**(D) Health**

The worker is unable to participate in training due to the health of the worker, except that a waiver under this subparagraph shall not be construed to exempt a worker from requirements relating to the availability for work, active search for work, or refusal to accept work under Federal or State unemployment compensation laws.

**(E) Enrollment unavailable**

The first available enrollment date for the approved training of the worker is within 60 days after the date of the determination made under this paragraph, or, if later, there are extenuating circumstances for the delay in enrollment, as determined pursuant to guidelines issued by the Secretary.

**(F) Training not available**

Training approved by the Secretary is not reasonably available to the worker from either governmental agencies or private sources (which may include area career and technical education schools, as defined in section 2302 of title 20, and employers), no training that is suitable for the worker is available at a reasonable cost, or no training funds are available.

**(2) Duration of waivers**

**(A) In general**

A waiver issued under paragraph (1) shall be effective for not more than 6 months after the date on which the waiver is issued, unless the Secretary determines otherwise.

**(B) Revocation**

The Secretary shall revoke a waiver issued under paragraph (1) if the Secretary determines that the basis of a waiver is no longer applicable to the worker and shall notify the worker in writing of the revocation.

**(3) Agreements under section 2311**

**(A) Issuance by cooperating States**

Pursuant to an agreement under section 2311 of this title, the Secretary may authorize a cooperating State to issue waivers as described in paragraph (1).

**(B) Submission of statements**

An agreement under section 2311 of this title shall include a requirement that the cooperating State submit to the Secretary the written statements provided under paragraph (1) and a statement of the reasons for the waiver.

(Pub. L. 93-618, title II, § 231, Jan. 3, 1975, 88 Stat. 2020; Pub. L. 97-35, title XXV, § 2503, Aug. 13, 1981, 95 Stat. 881; Pub. L. 99-272, title XIII, § 13003(a)(1), (2), (b), Apr. 7, 1986, 100 Stat. 300, 301; Pub. L. 100-418, title I, § 1423(a)(1)-(3), Aug. 23, 1988, 102 Stat. 1244, 1245; Pub. L. 102-318, title I, § 106(a), July 3, 1992, 106 Stat. 294; Pub. L. 107-210, div. A, title I, §§ 114, 115, Aug. 6, 2002, 116 Stat. 939; Pub. L. 109-270, § 2(b)(1), Aug. 12, 2006, 120 Stat. 746.)

REFERENCES IN TEXT

The Federal-State Extended Unemployment Compensation Act of 1970, referred to in subsec. (a)(4), is title II of Pub. L. 91-373, Aug. 10, 1970, 84 Stat. 708, as amended, which is classified generally as a note under section 3304 of Title 26, Internal Revenue Code. Section 202(a)(3) of such Act, referred to in subsec. (a)(4), is set out in the note under section 3304 of Title 26. For complete classification of this Act to the Code, see Tables.

The Social Security Act, referred to in subsec. (c)(1)(C)(i), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Act is classified generally to subchapter II (§ 401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2006—Subsec. (c)(1)(F). Pub. L. 109-270 substituted “area career and technical education schools” for “area vocational education schools” and made technical amendment to reference in original act which appears in text as reference to section 2302 of title 20.

2002—Subsec. (a)(3)(B). Pub. L. 107-210, § 114(a), inserted “, except additional compensation that is funded by a State and is not reimbursed from any Federal funds,” after “any unemployment insurance”.

Subsec. (a)(5)(A). Pub. L. 107-210, § 114(b), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (a)(5)(C). Pub. L. 107-210, § 115(b), struck out “certified” after “statement”.

Subsec. (c). Pub. L. 107-210, § 115(a), inserted heading and amended text generally, substituting provisions relating to issuance and duration of waivers of training requirements for provisions relating to approval of training programs, written certifications, revocation, and reports.

1992—Subsec. (a)(2). Pub. L. 102-318 added subpar. (D) and substituted “subparagraph (A) or (C), or both (and not more than 26 weeks, in the case of weeks described in subparagraph (B) or (D))” for “paragraph (A) or (C), or both” in closing provisions.

1988—Subsec. (a)(5). Pub. L. 100-418, § 1423(a)(1), amended par. (5) generally. Prior to amendment, par. (5) read as follows: “Such worker, unless the Secretary has determined that no acceptable job search program is reasonably available—

“(A) is enrolled in a job search program approved by the Secretary under section 2297(c) of this title, or

“(B) has, after the date on which the worker became totally separated, or partially separated, from

the adversely affected employment, completed a job search program approved by the Secretary under section 2297(c) of this title.”

Subsec. (b). Pub. L. 100-418, §1423(a)(2), amended subsec. (b) generally, substituting provisions relating to withholding of trade readjustment allowance pending beginning or resumption of participation in training program, and period of applicability, for provisions relating to mandatory training or job-search.

Subsec. (c). Pub. L. 100-418, §1423(a)(3), amended subsec. (c) generally, substituting provisions relating to approval of training programs, written certifications, revocation of certification, and annual report, for provisions relating to withholding of trade readjustment allowance pending beginning or resumption of participation in job search program.

1986—Subsec. (a)(2). Pub. L. 99-272, §13003(b), substituted provisions restricting to no more than 7 the number of weeks to be treated as weeks of employment under this sentence for provisions designated as clauses (i) to (iii), limiting the weeks that may be treated as weeks of employment to 3, 7, and 7, respectively, under certain conditions.

Subsec. (a)(5). Pub. L. 99-272, §13003(a)(1), added par. (5).

Subsec. (c). Pub. L. 99-272, §13003(a)(2), added subsec. (c).

1981—Pub. L. 97-35 designated existing provisions as subsec. (a), substituted provisions respecting applicability of date upon which petition was filed for provisions respecting applicability of date specified in certification under section 2273(a) of this title, substantially revised and reorganized conditions by, among other changes, adding pars. (3) and (4), and added subsec. (b).

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-210 applicable to petitions for certification filed under this part or part 3 of this subchapter on or after the date that is 90 days after Aug. 6, 2002, except as otherwise provided, see section 151 of Pub. L. 107-210, set out as a note preceding section 2271 of this title.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Section 106(b) of Pub. L. 102-318 provided that: “The amendments made by subsection (a) [amending this section] shall apply to weeks beginning after August 1, 1990.”

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 effective on date that is 90 days after Aug. 23, 1988, see section 1430(f) of Pub. L. 100-418, set out as an Effective Date note under section 2397 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT; APPLICATION OF GRAMM-RUDMAN

Pub. L. 99-272, title XIII, §13009, Apr. 7, 1986, 100 Stat. 305, provided that:

“(a) IN GENERAL.—Except as provided in subsections (b) and (c), the amendments made by this part [part 1 (§§13001-13009) of subtitle A, amending this section, sections 2271, 2272, 2292, 2293, 2296, 2297, 2311, 2317, 2319, 2341 to 2344, and 2346 of this title, and provisions set out as a note preceding section 2271 of this title] shall take effect on the date of the enactment of this Act [Apr. 7, 1986].

“(b) JOB SEARCH PROGRAM REQUIREMENTS.—The amendments made by section 13003(a) [amending this section and section 2311 of this title] apply with respect to workers covered by petitions filed under section 221 of the Trade Act of 1974 [section 2271 of this title] on or after the date of the enactment of this Act [Apr. 7, 1986].

“(c) EXTENSION AND AUTHORIZATION.—Chapters 2 and 3 of title II of the Trade Act of 1974 (19 U.S.C. 2271, et seq.) [parts 2 and 3 of this subchapter] shall be applied as if the amendments made by sections 13007 and 13008

[amending sections 2317 and 2346 of this title and provisions set out as a note preceding section 2271 of this title] had taken effect on December 18, 1985.

“(d) APPLICATION OF GRAMM-RUDMAN.—Trade readjustment allowances payable under part I [of subchapter B] of chapter 2 of title II of the Trade Act of 1974 [19 U.S.C. 2291 et seq.] for the period from March 1, 1986, and until October 1, 1986, shall be reduced by a percentage equal to the non-defense sequester percentage applied in the Sequestration Report (submitted under the Balanced Budget and Emergency Deficit Control Act of 1985 [see Short Title note set out under section 900 of Title 2, The Congress] and dated January 21, 1986) of the Comptroller General of the United States for fiscal year 1986.”

#### EFFECTIVE DATE OF 1981 AMENDMENT AND TRANSITION PROVISIONS

Section 2514 of Pub. L. 97-35, as amended by Pub. L. 97-362, title II, §204, Oct. 24, 1982, 96 Stat. 1733, provided that:

“(a)(1) Except as provided in paragraph (2), this subtitle [enacting section 2275 of this title, amending this section and sections 2272, 2274, 2292, 2293, 2296, 2297, 2298, 2311, 2313, 2315, 2317, and 2319 of this title, repealing section 2318 of this title, enacting provisions set out as a note under section 2292 of this title, and amending provisions set out as a note preceding section 2271 of this title and under section 3304 of Title 26, Internal Revenue Code] shall take effect on the date of the enactment of this Act [Aug. 13, 1981].

“(2)(A) The amendments made by section 2501 [amending section 2272 of this title] shall apply with respect to all petitions for certification filed under section 221 of the Trade Act of 1974 [section 2271 of this title] on or after October 1, 1983.

“(B) The amendments made by sections 2503, 2504, 2505, and 2511 [amending this section, sections 2292, 2293, and 2319 of this title, and provisions set out as a note under section 3304 of Title 26, Internal Revenue Code] shall apply with respect to trade readjustment allowances payable for weeks of unemployment which begin after September 30, 1981.

“(C) The amendments made by sections 2506, 2507, and 2508 [amending sections 2296, 2297, and 2298 of this title] shall take effect with respect to determinations regarding training and applications for allowances under sections 236, 237, and 238 of the Trade Act of 1974 [sections 2296, 2297, and 2298 of this title] that are made or filed after September 30, 1981.

“(D)(i) Except as otherwise provided in clause (ii), the provisions of sections 233(d) and 236(a)(2) of the Trade Act of 1974 (as amended by this Act) [sections 2293(d) and 2296(a)(2) of this title], and the provisions of section 204(a)(2)(C) of the Federal-State Extended Unemployment Compensation Act of 1970 (as added by this Act) [set out as a note under section 3304 of Title 26] shall apply to State unemployment compensation laws for purposes of certifications under section 3304(c) of the Internal Revenue Code of 1954 [section 3304(c) of Title 26] on October 31, of any taxable year after 1981.

“(ii) In the case of any State the legislature of which—

“(I) does not meet in a session which begins after the date of the enactment of this Act [Aug. 13, 1981] and prior to September 1, 1982, and

“(II) if in session on the date of the enactment of this Act, does not remain in session for a period of at least 25 calendar days,

the date ‘1981’ in clause (i) shall be deemed to be ‘1982’.

“(b) An adversely affected worker who is receiving or is entitled to receive payments of trade readjustment allowances under chapter 2 of the Trade Act of 1974 [this part] for weeks of unemployment beginning before October 1, 1981, shall be entitled to receive—

“(1) with respect to weeks of unemployment beginning before October 1, 1981, payments of trade readjustment allowances determined under such chapter 2 without regard to the amendments made by this subtitle; and

“(2) with respect to weeks of unemployment beginning after September 30, 1981, payments of trade readjustment allowances as determined under such chapter 2 as amended by this subtitle, except that the maximum amount of trade readjustment allowances payable to such an individual for such weeks of unemployment shall be an amount equal to the product of the trade readjustment allowance payable to the individual for a week of total unemployment (as determined under section 232(a) as so amended [section 2292(a) of this title]) multiplied by a factor determined by subtracting from fifty-two the sum of—

“(A) the number of weeks preceding the first week which begins after September 30, 1981, and which are within the period covered by the same certification under such chapter 2 as such week of unemployment, for which the individual was entitled to a trade readjustment allowance or unemployment insurance, or would have been entitled to such allowance or unemployment insurance if he had applied therefor, and

“(B) the number of weeks preceding such first week that are deductible under section 232(d) (as in effect before the amendments made by section 2504) [section 2392(d) of this title];

except that the amount of trade readjustment allowances payable to an adversely affected worker under this paragraph shall be subject to adjustment on a week-to-week basis as may be required by section 232(b) [section 2392(b) of this title].”

#### TERMINATION DATE

No trade adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this part after Dec. 31, 2007, except as otherwise provided, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

### § 2292. Weekly amounts of readjustment allowance

#### (a) Formula

Subject to subsections (b) and (c) of this section, the trade readjustment allowance payable to an adversely affected worker for a week of total unemployment shall be an amount equal to the most recent weekly benefit amount of the unemployment insurance payable to the worker for a week of total unemployment preceding the worker's first exhaustion of unemployment insurance (as determined for purposes of section 2291(a)(3)(B) of this title) reduced (but not below zero) by—

- (1) any training allowance deductible under subsection (c) of this section; and
- (2) income that is deductible from unemployment insurance under the disqualifying income provisions of the applicable State law or Federal unemployment insurance law.

#### (b) Adversely affected workers who are undergoing training

Any adversely affected worker who is entitled to trade readjustment allowances and who is undergoing training approved by the Secretary shall receive for each week in which he is undergoing any such training, a trade readjustment allowance in an amount (computed for such week) equal to the amount computed under subsection (a) of this section or (if greater) the amount of any weekly allowance for such training to which he would be entitled under any other Federal law for the training of workers, if he applied for such allowance. Such trade readjustment allowance shall be paid in lieu of any training allowance to which the worker would be entitled under such other Federal law.

#### (c) Deduction from total number of weeks of allowance entitlement

If a training allowance under any Federal law other than this chapter is paid to an adversely affected worker for any week of unemployment with respect to which he would be entitled (determined without regard to any disqualification under section 2291(b) of this title) to a trade readjustment allowance if he applied for such allowance, each such week shall be deducted from the total number of weeks of trade readjustment allowance otherwise payable to him under section 2293(a) of this title when he applies for a trade readjustment allowance and is determined to be entitled to such allowance. If such training allowance paid to such worker for any week of unemployment is less than the amount of the trade readjustment allowance to which he would be entitled if he applied for such allowance, he shall receive, when he applies for a trade readjustment allowance and is determined to be entitled to such allowance, a trade readjustment allowance for such week equal to such difference.

(Pub. L. 93-618, title II, § 232, Jan. 3, 1975, 88 Stat. 2021; Pub. L. 97-35, title XXV, § 2504(a), Aug. 13, 1981, 95 Stat. 883; Pub. L. 99-272, title XIII, § 13003(c), Apr. 7, 1986, 100 Stat. 301; Pub. L. 100-418, title I, § 1423(b), Aug. 23, 1988, 102 Stat. 1246.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original “this Act”, meaning Pub. L. 93-618, Jan. 3, 1975, 88 Stat. 1978, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see References in Text note set out under section 2101 of this title and Tables.

#### AMENDMENTS

1988—Subsec. (b). Pub. L. 100-418, § 1423(b)(1), struck out “, including on-the-job training,” after “approved by the Secretary”.

Subsec. (c). Pub. L. 100-418, § 1423(b)(2), substituted “under section 2291(b)” for “under section 2291(c) or 2296(c)”.

1986—Subsec. (c). Pub. L. 99-272 substituted “under any Federal law other than this chapter” for “under any Federal law,” “section 2291(c) or 2296(c) of this title” for “section 2296(c) of this title”, and “If such training allowance” for “If the training allowance”.

1981—Subsec. (a). Pub. L. 97-35, § 2504(a)(1), substituted provisions setting forth amount of allowance as reduced (but not below zero) by training allowance and income deductions for provisions setting forth amount of allowance as computed by specified percentages of wages and reduced by paid remuneration.

Subsecs. (c), (d). Pub. L. 97-35, § 2504(a)(2)-(4), redesignated subsec. (d) as (c) and struck out references to unemployment insurance and to the inapplicability of former subsecs. (c) and (e) of this section. Former subsec. (c), which related to the computation of unemployment insurance, was struck out.

Subsec. (e). Pub. L. 97-35, § 2504(a)(2), struck out subsec. (e) which related to maximum total for all remuneration and allowances.

Subsec. (f). Pub. L. 97-35, § 2504(a)(2), struck out subsec. (f) which authorized rounding off to whole dollar amounts.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1423(b)(1) effective Aug. 23, 1988, and amendment by section 1423(b)(2) of Pub. L. 100-418 effective on the date that is 90 days after Aug.

23, 1988, see section 1430(a), (f) of Pub. L. 100-418, set out as an Effective Date note under section 2397 of this title.

**EFFECTIVE DATE OF 1981 AMENDMENT AND TRANSITION PROVISIONS**

Amendment by Pub. L. 97-35 applicable to allowances payable for weeks of unemployment which begin after Sept. 30, 1981, with transition provisions applicable, see section 2514 of Pub. L. 97-35, set out as a note under section 2291 of this title.

**TERMINATION DATE**

No trade adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this part after Dec. 31, 2007, except as otherwise provided, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

**REFERENCE TO SUBSECTION (d) DEEMED REFERENCE TO (c)**

Section 2504(b) of Pub. L. 97-35 provided that: "Any reference in any law to subsection (d) of section 232 of the Trade Act of 1974 [subsec. (d) of this section] shall be considered a reference to subsection (c) thereof [subsec. (c) of this section]."

**§ 2293. Limitations on trade readjustment allowances**

**(a) Maximum allowance; deduction for unemployment insurance; additional payments for approved training periods**

(1) The maximum amount of trade readjustment allowances payable with respect to the period covered by any certification to an adversely affected worker shall be the amount which is the product of 52 multiplied by the trade readjustment allowance payable to the worker for a week of total unemployment (as determined under section 2292(a) of this title), but such product shall be reduced by the total sum of the unemployment insurance to which the worker was entitled (or would have been entitled if he had applied therefor) in the worker's first benefit period described in section 2291(a)(3)(A) of this title.

(2) A trade readjustment allowance shall not be paid for any week occurring after the close of the 104-week period (or, in the case of an adversely affected worker who requires a program of remedial education (as described in section 2296(a)(5)(D) of this title) in order to complete training approved for the worker under section 2296 of this title, the 130-week period) that begins with the first week following the week in which the adversely affected worker was most recently totally separated from adversely affected employment—

(A) within the period which is described in section 2291(a)(1) of this title, and

(B) with respect to which the worker meets the requirements of section 2291(a)(2) of this title.

(3) Notwithstanding paragraph (1), in order to assist the adversely affected worker to complete training approved for him under section 2296 of this title, and in accordance with regulations prescribed by the Secretary, payments may be made as trade readjustment allowances for up to 52 additional weeks in the 52-week period that—

(A) follows the last week of entitlement to trade readjustment allowances otherwise payable under this part; or

(B) begins with the first week of such training, if such training begins after the last week described in subparagraph (A).

Payments for such additional weeks may be made only for weeks in such 52-week period during which the individual is participating in such training.

**(b) Limitations on additional payments for training periods**

A trade readjustment allowance may not be paid for an additional week specified in subsection (a)(3) of this section if the adversely affected worker who would receive such allowance did not make a bona fide application to a training program approved by the Secretary under section 2296 of this title within 210 days after the date of the worker's first certification of eligibility to apply for adjustment assistance issued by the Secretary, or, if later, within 210 days after the date of the worker's total or partial separation referred to in section 2291(a)(1) of this title.

**(c) Adjustments of amounts payable**

Amounts payable to an adversely affected worker under this division shall be subject to such adjustment on a week-to-week basis as may be required by section 2292(b) of this title.

**(d) Special adjustments for benefit years ending with extended benefit periods**

Notwithstanding any other provision of this chapter or other Federal law, if the benefit year of a worker ends within an extended benefit period, the number of weeks of extended benefits that such worker would, but for this subsection, be entitled to in that extended benefit period shall be reduced (but not below zero) by the number of weeks for which the worker was entitled, during such benefit year, to trade readjustment allowances under this division. For purposes of this paragraph, the terms "benefit year" and "extended benefit period" shall have the same respective meanings given to them in the Federal-State Extended Unemployment Compensation Act of 1970.

**(e) Week during which worker received on-the-job training**

No trade readjustment allowance shall be paid to a worker under this division for any week during which the worker is receiving on-the-job training.

**(f) Workers treated as participating in training**

For purposes of this part, a worker shall be treated as participating in training during any week which is part of a break in training that does not exceed 30 days if—

(1) the worker was participating in a training program approved under section 2296(a) of this title before the beginning of such break in training, and

(2) the break is provided under such training program.

**(g) Additional weeks to complete training**

Notwithstanding any other provision of this section, in order to assist an adversely affected worker to complete training approved for the worker under section 2296 of this title which includes a program of remedial education (as de-

scribed in section 2296(a)(5)(D) of this title), and in accordance with regulations prescribed by the Secretary, payments may be made as trade readjustment allowances for up to 26 additional weeks in the 26-week period that follows the last week of entitlement to trade readjustment allowances otherwise payable under this part.

(Pub. L. 93-618, title II, §233, Jan. 3, 1975, 88 Stat. 2022; Pub. L. 97-35, title XXV, §2505(a), Aug. 13, 1981, 95 Stat. 883; Pub. L. 98-369, div. B, title VI, §2671, July 18, 1984, 98 Stat. 1172; Pub. L. 99-272, title XIII, §13003(d), Apr. 7, 1986, 100 Stat. 301; Pub. L. 100-418, title I, §§1423(c), 1425(a), Aug. 23, 1988, 102 Stat. 1246, 1250; Pub. L. 106-36, title I, §1001(a)(1), June 25, 1999, 113 Stat. 130; Pub. L. 107-210, div. A, title I, §116, Aug. 6, 2002, 116 Stat. 941.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (d), was in the original “this Act”, meaning Pub. L. 93-618, Jan. 3, 1975, 88 Stat. 1978, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see References in Text note set out under section 2101 of this title and Tables.

The Federal-State Extended Unemployment Compensation Act of 1970, referred to in subsec. (d), is title II of Pub. L. 91-373, Aug. 10, 1970, 84 Stat. 708, as amended, which is classified generally as a note under section 3304 of Title 26, Internal Revenue Code. For complete classification of this Act to the Code, see Tables.

#### AMENDMENTS

2002—Subsec. (a)(2). Pub. L. 107-210, §116(a)(1), in introductory provisions inserted “(or, in the case of an adversely affected worker who requires a program of remedial education (as described in section 2296(a)(5)(D) of this title) in order to complete training approved for the worker under section 2296 of this title, the 130-week period)” after “104-week period”.

Subsec. (a)(3). Pub. L. 107-210, §116(a)(2), substituted “52” for “26” wherever appearing.

Subsec. (f). Pub. L. 107-210, §116(b), substituted “30 days” for “14 days” in introductory provisions.

Subsec. (g). Pub. L. 107-210, §116(c), added subsec. (g). 1999—Subsec. (a)(2). Pub. L. 106-36 realigned margins of introductory provisions and subpars. (A) and (B).

1988—Subsec. (a)(2). Pub. L. 100-418, §1425(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “A trade readjustment allowance shall not be paid for any week after the 104-week period beginning with the first week following the first week in the period covered by the certification with respect to which the worker has exhausted (as determined for purposes of section 2291(a)(3)(B) of this title) all rights to that part of his unemployment insurance that is regular compensation.”

Subsec. (a)(3). Pub. L. 100-418, §1423(c)(2), substituted “participating in such training” for “engaged in such training and has not been determined under section 2296(c) of this title to be failing to make satisfactory progress in the training” in last sentence.

Subsec. (a)(3)(B). Pub. L. 100-418, §1423(c)(1), substituted “begins” for “is approved” after “training”.

Subsec. (f). Pub. L. 100-418, §1423(c)(3), added subsec. (f).

1986—Subsec. (a)(2). Pub. L. 99-272, §13003(d)(1), substituted “104-week period” for “52-week period”.

Subsec. (e). Pub. L. 99-272, §13003(d)(2), added subsec. (e).

1984—Subsec. (a)(3). Pub. L. 98-369 substituted “Notwithstanding paragraph (1), in order to assist the adversely affected worker to complete training approved for him under section 2296 of this title, and in accordance with regulations prescribed by the Secretary, payments may be made as trade readjustment allowances for up to 26 additional weeks in the 26-week period that—

“(A) follows the last week of entitlement to trade readjustment allowances otherwise payable under this part; or

“(B) begins with the first week of such training, if such training is approved after the last week described in subparagraph (A).”

for “Notwithstanding paragraph (1), in accordance with regulations prescribed by the Secretary, payments may be made as trade readjustment allowances for up to 26 additional weeks in the 26-week period following the last week of entitlement to trade readjustment allowances otherwise payable under this part in order to assist the adversely affected worker to complete training approved for the worker under section 2296 of this title.”

1981—Subsec. (a). Pub. L. 97-35 substituted provisions relating to maximum amount of allowance payable for provisions relating to time limitations on allowance payable.

Subsec. (b). Pub. L. 97-35 substituted provisions relating to payment for an additional week for provisions relating to payment for an additional week after the appropriate week and provisions determining the appropriate week.

Subsecs. (c), (d). Pub. L. 97-35 added subsecs. (c) and (d).

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-210 applicable to petitions for certification filed under this part or part 3 of this subchapter on or after the date that is 90 days after Aug. 6, 2002, except as otherwise provided, see section 151 of Pub. L. 107-210, set out as a note preceding section 2271 of this title.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1423(c)(2) of Pub. L. 100-418 effective on date that is 90 days after Aug. 23, 1988, and amendment by section 1425(a) of Pub. L. 100-418 effective Aug. 23, 1988, but not applicable with respect to any total separation of a worker from adversely affected employment (within the meaning of section 2319 of this title) that occurs before Aug. 23, 1988, if the application of such amendment with respect to such total separation would reduce the period for which such worker would (but for such amendment) be allowed to receive trade readjustment allowances under this division, see section 1430(a), (f), (g) of Pub. L. 100-418, set out as an Effective Date note under section 2397 of this title.

#### EFFECTIVE DATE OF 1981 AMENDMENT AND TRANSITION PROVISIONS

Amendment by Pub. L. 97-35 applicable to allowances payable for weeks of unemployment which begin after Sept. 30, 1981, with transition provisions applicable, and with the amendment of subsec. (d) of this section applicable, except as otherwise provided, to laws for certification purposes under section 3304(c) of title 26 on Oct. 31, of any taxable year after 1981, see section 2514 of Pub. L. 97-35, set out as a note under section 2291 of this title.

#### TERMINATION DATE

No trade adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this part after Dec. 31, 2007, except as otherwise provided, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

#### WAIVER OF CERTAIN TIME LIMITATIONS

Pub. L. 100-418, title I, §1425(b), Aug. 23, 1988, 102 Stat. 1250, provided that:

“(1) The provisions of subsections (a)(2) and (b) of section 233 of the Trade Act of 1974 [19 U.S.C. 2293(a)(2), (b)] shall not apply with respect to any worker who became totally separated from adversely affected employment (within the meaning of section 247 of such Act [19 U.S.C. 2319]) during the period that began on August 13, 1981, and ended on April 7, 1986.

“(2)(A) Any worker who is otherwise eligible for payment of a trade readjustment allowance under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 [19 U.S.C. 2291 et seq.] by reason of paragraph (1) of this subsection may receive payments of such allowance only if such worker—

“(i) is enrolled in a training program approved by the Secretary under section 236(a) of such Act [19 U.S.C. 2296(a)], and

“(ii) has been unemployed continuously since the date on which the worker became totally separated from the adversely affected employment, not taking into account seasonal employment, odd jobs, or part-time, temporary employment.

“(B) If the Secretary of Labor determines that—

“(i) a worker—

“(I) has failed to begin participation in the training program the enrollment in which meets the requirement of subparagraph (A), or

“(II) has ceased to participate in such training program before completing such training program, and

“(ii) there is no justifiable cause for such failure or cessation,

no trade readjustment allowance may be paid to the worker under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 for the week in which such failure or cessation occurred, or any succeeding week, until the worker begins or resumes participation in a training program approved under section 236(a) of such Act.”

#### § 2294. Application of State laws

Except where inconsistent with the provisions of this part and subject to such regulations as the Secretary may prescribe, the availability and disqualification provisions of the State law—

(1) under which an adversely affected worker is entitled to unemployment insurance (whether or not he has filed a claim for such insurance), or

(2) if he is not so entitled to unemployment insurance, of the State in which he was totally or partially separated,

shall apply to any such worker who files a claim for trade readjustment allowances. The State law so determined with respect to a separation of a worker shall remain applicable, for purposes of the preceding sentence, with respect to such separation until such worker becomes entitled to unemployment insurance under another State law (whether or not he has filed a claim for such insurance).

(Pub. L. 93-618, title II, § 234, Jan. 3, 1975, 88 Stat. 2022.)

#### TERMINATION DATE

No trade adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this part after Dec. 31, 2007, except as otherwise provided, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

#### Division II—Training, Other Employment Services, and Allowances

#### § 2295. Employment services

The Secretary shall make every reasonable effort to secure for adversely affected workers covered by a certification under subpart A of this part counseling, testing, and placement services, and supportive and other services, provided for under any other Federal law, including

the services provided through one-stop delivery systems described in section 2864(c) of title 29. The Secretary shall, whenever appropriate, procure such services through agreements with the States.

(Pub. L. 93-618, title II, § 235, Jan. 3, 1975, 88 Stat. 2023; Pub. L. 100-418, title I, § 1424(d)(1)(A), Aug. 23, 1988, 102 Stat. 1249; Pub. L. 107-210, div. A, title I, § 119, Aug. 6, 2002, 116 Stat. 942.)

#### AMENDMENTS

2002—Pub. L. 107-210 inserted “, including the services provided through one-stop delivery systems described in section 2864(c) of title 29” before period at end of first sentence.

1988—Pub. L. 100-418 substituted “the States” for “cooperating State agencies”.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-210 applicable to petitions for certification filed under this part or part 3 of this subchapter on or after the date that is 90 days after Aug. 6, 2002, except as otherwise provided, see section 151 of Pub. L. 107-210, set out as a note preceding section 2271 of this title.

#### TERMINATION DATE

No trade adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this part after Dec. 31, 2007, except as otherwise provided, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

#### § 2296. Training

**(a) Approval of training; limitation on expenditures; reasonable expectation of employment; payment of costs; approved training programs; nonduplication of payments from other sources; disapproval of certain programs; exhaustion of unemployment benefits; promulgation of regulations**

(1) If the Secretary determines that—

(A) there is no suitable employment (which may include technical and professional employment) available for an adversely affected worker,

(B) the worker would benefit from appropriate training,

(C) there is a reasonable expectation of employment following completion of such training,

(D) training approved by the Secretary is reasonably available to the worker from either governmental agencies or private sources (which may include area career and technical education schools, as defined in section 2302 of title 20, and employers)<sup>1</sup>

(E) the worker is qualified to undertake and complete such training, and

(F) such training is suitable for the worker and available at a reasonable cost,

the Secretary shall approve such training for the worker. Upon such approval, the worker shall be entitled to have payment of the costs of such training (subject to the limitations imposed by this section) paid on his behalf by the Secretary directly or through a voucher system. Insofar as possible, the Secretary shall provide or assure the provision of such training on the

<sup>1</sup> So in original. Probably should be followed by a comma.

job, which shall include related education necessary for the acquisition of skills needed for a position within a particular occupation.

(2)(A) The total amount of payments that may be made under paragraph (1) for any fiscal year shall not exceed \$220,000,000.

(B) If, during any fiscal year, the Secretary estimates that the amount of funds necessary to pay the costs of training approved under this section will exceed the amount of the limitation imposed under subparagraph (A), the Secretary shall decide how the portion of such limitation that has not been expended at the time of such estimate is to be apportioned among the States for the remainder of such fiscal year.

(3) For purposes of applying paragraph (1)(C), a reasonable expectation of employment does not require that employment opportunities for a worker be available, or offered, immediately upon the completion of training approved under this paragraph (1).

(4)(A) If the costs of training an adversely affected worker are paid by the Secretary under paragraph (1), no other payment for such costs may be made under any other provision of Federal law.

(B) No payment may be made under paragraph (1) of the costs of training an adversely affected worker if such costs—

(i) have already been paid under any other provision of Federal law, or

(ii) are reimbursable under any other provision of Federal law and a portion of such costs have already been paid under such other provision of Federal law.

(C) The provisions of this paragraph shall not apply to, or take into account, any funds provided under any other provision of Federal law which are used for any purpose other than the direct payment of the costs incurred in training a particular adversely affected worker, even if such use has the effect of indirectly paying or reducing any portion of the costs involved in training the adversely affected worker.

(5) The training programs that may be approved under paragraph (1) include, but are not limited to—

(A) employer-based training, including—

(i) on-the-job training, and

(ii) customized training,

(B) any training program provided by a State pursuant to title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.],

(C) any training program approved by a private industry council established under section 102 of such Act,

(D) any program of remedial education,

(E) any training program (other than a training program described in paragraph (7)) for which all, or any portion, of the costs of training the worker are paid—

(i) under any Federal or State program other than this chapter, or

(ii) from any source other than this section, and

(F) any other training program approved by the Secretary.

(6)(A) The Secretary is not required under paragraph (1) to pay the costs of any training

approved under paragraph (1) to the extent that such costs are paid—

(i) under any Federal or State program other than this part, or

(ii) from any source other than this section.

(B) Before approving any training to which subparagraph (A) may apply, the Secretary may require that the adversely affected worker enter into an agreement with the Secretary under which the Secretary will not be required to pay under this section the portion of the costs of such training that the worker has reason to believe will be paid under the program, or by the source, described in clause (i) or (ii) of subparagraph (A).

(7) The Secretary shall not approve a training program if—

(A) all or a portion of the costs of such training program are paid under any nongovernmental plan or program,

(B) the adversely affected worker has a right to obtain training or funds for training under such plan or program, and

(C) such plan or program requires the worker to reimburse the plan or program from funds provided under this part, or from wages paid under such training program, for any portion of the costs of such training program paid under the plan or program.

(8) The Secretary may approve training for any adversely affected worker who is a member of a group certified under subpart A of this part at any time after the date on which the group is certified under subpart A of this part, without regard to whether such worker has exhausted all rights to any unemployment insurance to which the worker is entitled.

(9) The Secretary shall prescribe regulations which set forth the criteria under each of the subparagraphs of paragraph (1) that will be used as the basis for making determinations under paragraph (1).

**(b) Supplemental assistance**

The Secretary may, where appropriate, authorize supplemental assistance necessary to defray reasonable transportation and subsistence expenses for separate maintenance when training is provided in facilities which are not within commuting distance of a worker's regular place of residence. The Secretary may not authorize—

(1) payments for subsistence that exceed whichever is the lesser of (A) the actual per diem expenses for subsistence, or (B) payments at 50 percent of the prevailing per diem allowance rate authorized under the Federal travel regulations, or

(2) payments for travel expenses exceeding the prevailing mileage rate authorized under the Federal travel regulations.

**(c) Payment of costs of on-the-job training**

The Secretary shall pay the costs of any on-the-job training of an adversely affected worker that is approved under subsection (a)(1) of this section in equal monthly installments, but the Secretary may pay such costs, notwithstanding any other provision of this section, only if—

(1) no currently employed worker is displaced by such adversely affected worker (including partial displacement such as a reduc-

tion in the hours of nonovertime work, wages, or employment benefits),

(2) such training does not impair existing contracts for services or collective bargaining agreements,

(3) in the case of training which would be inconsistent with the terms of a collective bargaining agreement, the written concurrence of the labor organization concerned has been obtained,

(4) no other individual is on layoff from the same, or any substantially equivalent, job for which such adversely affected worker is being trained,

(5) the employer has not terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created by hiring such adversely affected worker,

(6) the job for which such adversely affected worker is being trained is not being created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals,

(7) such training is not for the same occupation from which the worker was separated and with respect to which such worker's group was certified pursuant to section 2272 of this title,

(8) the employer is provided reimbursement of not more than 50 percent of the wage rate of the participant, for the cost of providing the training and additional supervision related to the training,

(9) the employer has not received payment under subsection (a)(1) of this section with respect to any other on-the-job training provided by such employer which failed to meet the requirements of paragraphs (1), (2), (3), (4), (5), and (6), and

(10) the employer has not taken, at any time, any action which violated the terms of any certification described in paragraph (8) made by such employer with respect to any other on-the-job training provided by such employer for which the Secretary has made a payment under subsection (a)(1) of this section.

**(d) Eligibility for unemployment insurance**

A worker may not be determined to be ineligible or disqualified for unemployment insurance or program benefits under this subpart because the individual is in training approved under subsection (a) of this section, because of leaving work which is not suitable employment to enter such training, or because of the application to any such week in training of provisions of State law or Federal unemployment insurance law relating to availability for work, active search for work, or refusal to accept work. The Secretary shall submit to the Congress a quarterly report regarding the amount of funds expended during the quarter concerned to provide training under subsection (a) of this section and the anticipated demand for such funds for any remaining quarters in the fiscal year concerned.

**(e) "Suitable employment" defined**

For purposes of this section the term "suitable employment" means, with respect to a worker,

work of a substantially equal or higher skill level than the worker's past adversely affected employment, and wages for such work at not less than 80 percent of the worker's average weekly wage.

**(f) "Customized training" defined**

For purposes of this section, the term "customized training" means training that is—

(1) designed to meet the special requirements of an employer or group of employers;

(2) conducted with a commitment by the employer or group of employers to employ an individual upon successful completion of the training; and

(3) for which the employer pays for a significant portion (but in no case less than 50 percent) of the cost of such training, as determined by the Secretary.

(Pub. L. 93-618, title II, § 236, Jan. 3, 1975, 88 Stat. 2023; Pub. L. 97-35, title XXV, § 2506(2), Aug. 13, 1981, 95 Stat. 885; Pub. L. 99-272, title XIII, § 13004(a), Apr. 7, 1986, 100 Stat. 301; Pub. L. 100-418, title I, § 1424(a)-(c), Aug. 23, 1988, 102 Stat. 1248, 1249; Pub. L. 100-647, title IX, § 9001(a)(20), Nov. 10, 1988, 102 Stat. 3808; Pub. L. 103-66, title XIII, § 13803(b), Aug. 10, 1993, 107 Stat. 668; Pub. L. 105-277, div. A, § 101(f) [title VIII, § 405(d)(14)(A), (f)(11)(A)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-421, 2681-431; Pub. L. 107-210, div. A, title I, §§ 117, 118, Aug. 6, 2002, 116 Stat. 941; Pub. L. 109-270, § 2(b)(2), Aug. 12, 2006, 120 Stat. 746.)

REFERENCES IN TEXT

The Workforce Investment Act of 1998, referred to in subsec. (a)(5)(B), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, as amended. Title I of the Act is classified principally to chapter 30 (§ 2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

Section 102 of such Act, referred to in subsec. (a)(5)(C), meaning section 102 of the Job Training Partnership Act, was classified to section 1512 of Title 29, Labor, and was repealed by Pub. L. 105-220, title I, § 199(b)(2), (c)(2)(B), Aug. 7, 1998, 112 Stat. 1059, effective July 1, 2000. Pursuant to section 2940(b) of Title 29, references to a provision of the Job Training Partnership Act, effective Aug. 7, 1998, are deemed to refer to that provision or the corresponding provision of the Workforce Investment Act of 1998, Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, and effective July 1, 2000, are deemed to refer to the corresponding provision of the Workforce Investment Act of 1998. For complete classification of the Workforce Investment Act of 1998 to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

AMENDMENTS

2006—Subsec. (a)(1)(D). Pub. L. 109-270 substituted "area career and technical education schools, as defined in section 2302 of title 20" for "area vocational education schools, as defined in section 195(2) of the Vocational Education Act of 1963".

2002—Subsec. (a)(2)(A). Pub. L. 107-210, § 117, substituted "\$220,000,000" for "\$80,000,000, except that for fiscal year 1997, the total amount of payments made under paragraph (1) shall not exceed \$70,000,000".

Subsec. (a)(5)(A). Pub. L. 107-210, § 118(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "on-the-job training,".

Subsec. (c)(8). Pub. L. 107-210, § 118(b), amended par. (8) generally. Prior to amendment, par. (8) read as follows: "the employer certifies to the Secretary that the

employer will continue to employ such worker for at least 26 weeks after completion of such training if the worker desires to continue such employment and the employer does not have due cause to terminate such employment.”.

Subsec. (f). Pub. L. 107–210, §118(c), added subsec. (f). 1998—Subsec. (a)(5)(B). Pub. L. 105–277, §101(f) [title VIII, §405(f)(11)(A)], struck out “section 1653 of title 29 or” before “title I of”.

Pub. L. 105–277, §101(f) [title VIII, §405(d)(14)(A)], substituted “section 1653 of title 29 or title I of the Workforce Investment Act of 1998” for “section 1653 of title 29”.

1993—Subsec. (a)(2)(A). Pub. L. 103–66 inserted before period at end “, except that for fiscal year 1997, the total amount of payments made under paragraph (1) shall not exceed \$70,000,000”.

1988—Subsec. (a)(1). Pub. L. 100–418, §1424(a)(5)–(7), struck out “(to the extent appropriated funds are available)” after “the Secretary shall” in first sentence, and in second sentence inserted “(subject to the limitations imposed by this section)” after “costs of such training” and “directly or through a voucher system” after “by the Secretary”.

Subsec. (a)(1)(D). Pub. L. 100–418, §1424(a)(1), substituted “is reasonably available” for “is available”.

Subsec. (a)(1)(F). Pub. L. 100–418, §1424(a)(2)–(4), added subpar. (F).

Subsec. (a)(2). Pub. L. 100–418, §1424(a)(11), (12), added par. (2) and redesignated former par. (2) as (3).

Subsec. (a)(2)(A). Pub. L. 100–418, §1424(b), directed the amendment of subpar. (A) by substituting “\$120,000,000” for “\$80,000,000”, which amendment did not become effective pursuant to section 1430(d) of Pub. L. 100–418, as amended, set out as an Effective Date note under section 2397 of this title.

Subsec. (a)(3), (4). Pub. L. 100–418, §1424(a)(11), redesignated pars. (2) and (3) as (3) and (4), respectively. Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 100–418, §1424(a)(8)–(11), redesignated former par. (4) as (5), added subpars. (D) and (E), and redesignated former subpar. (D) as (F).

Subsec. (a)(6). Pub. L. 100–418, §1424(a)(13), added par. (6).

Subsec. (a)(6)(B). Pub. L. 100–647 substituted “in clause (i) or (ii) of subparagraph (A)” for “in subparagraph (A) or (B) of paragraph (1)”.

Subsec. (a)(7) to (9). Pub. L. 100–418, §1424(a)(13), added pars. (7) to (9).

Subsec. (c). Pub. L. 100–418, §1424(c)(1), substituted present introductory provisions for “Notwithstanding any provision of subsection (a)(1) of this section, the Secretary may pay the costs of on-the-job training of an adversely affected worker under subsection (a)(1) of this section only if—”.

Pub. L. 100–418, §1424(c)(2), (3), redesignated subsec. (d) as (c), and struck out former subsec. (c) which related to refusal to accept or continue training, or failure to make satisfactory progress.

Subsecs. (d) to (f). Pub. L. 100–418, §1424(c)(3), redesignated subsecs. (e) and (f) as (d) and (e), respectively. Former subsec. (d) redesignated (c).

1986—Subsec. (a)(1). Pub. L. 99–272, §13004(a)(2), substituted “shall (to the extent appropriated funds are available) approve” for “may approve” in first sentence.

Subsec. (a)(1)(A). Pub. L. 99–272, §13004(a)(1), substituted “for an adversely affected worker” for “for a worker”.

Subsec. (a)(2) to (4). Pub. L. 99–272, §13004(a)(6), added pars. (2) to (4). Former pars. (2) and (3) redesignated subsecs. (e) and (f), respectively.

Subsec. (d). Pub. L. 99–272, §13004(a)(7), added subsec. (d).

Subsec. (e). Pub. L. 99–272, §13004(a)(3), (5), redesignated par. (2) of subsec. (a) as subsec. (e) and substituted “under subsection (a) of this section” for “under paragraph (1)” in two places.

Subsec. (f). Pub. L. 99–272, §13004(a)(4), (5), redesignated par. (3) of subsec. (a) as subsec. (f) and substituted “this section” for “this subsection”.

1981—Subsec. (a). Pub. L. 97–35 redesignated existing provisions as par. (1), revised provisions, made changes in nomenclature, inserted provisions respecting availability, payment, and scope of training, and added pars. (2) and (3).

Subsec. (b). Pub. L. 97–35 substituted provisions limiting the maximum amount of travel expenses on the basis of amounts paid under Federal travel regulations for provisions establishing specific maximum amounts for subsistence and transportation expenses.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–210 applicable to petitions for certification filed under this part or part 3 of this subchapter on or after the date that is 90 days after Aug. 6, 2002, except as otherwise provided, see section 151 of Pub. L. 107–210, set out as a note preceding section 2271 of this title.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 101(f) [title VIII, §405(d)(14)(A)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, §405(f)(11)(A)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f) [title VIII, §405(g)(1), (2)(B)], set out as a note under section 3502 of Title 5, Government Organization and Employees.

#### EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100–647 applicable as if such amendment took effect on Aug. 23, 1988, see section 9001(b) of Pub. L. 100–647, set out as an Effective and Termination Dates of 1988 Amendments note under section 58c of this title.

Amendment by section 1424(c)(2), (3) of Pub. L. 100–418 effective on date that is 90 days after Aug. 23, 1988, see section 1430(f) of Pub. L. 100–418, set out as an Effective Date note under section 2397 of this title.

#### EFFECTIVE DATE OF 1981 AMENDMENT AND TRANSITION PROVISIONS

Amendment by Pub. L. 97–35 effective for determinations made or filed after Sept. 30, 1981, with transition provisions applicable, and with the amendment of subsec. (a)(2) of this section applicable, except as otherwise provided, to laws for certification purposes under section 3304 of title 26 on Oct. 31, of any taxable year after 1981, see section 2514 of Pub. L. 97–35, set out as a note under section 2291 of this title.

#### TERMINATION DATE

No trade adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this part after Dec. 31, 2007, except as otherwise provided, see section 285 of Pub. L. 93–618, as amended, set out as a note preceding section 2271 of this title.

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (d) of this section relating to submitting a quarterly report to Congress on funds for training under subsection (a) of this section, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 124 of House Document No. 103–7.

### § 2297. Job search allowances

#### (a) Job search allowance authorized

##### (1) In general

An adversely affected worker covered by a certification issued under subpart A of this part may file an application with the Secretary for payment of a job search allowance.

##### (2) Approval of applications

The Secretary may grant an allowance pursuant to an application filed under paragraph (1) when all of the following apply:

**(A) Assist adversely affected worker**

The allowance is paid to assist an adversely affected worker who has been totally separated in securing a job within the United States.

**(B) Local employment not available**

The Secretary determines that the worker cannot reasonably be expected to secure suitable employment in the commuting area in which the worker resides.

**(C) Application**

The worker has filed an application for the allowance with the Secretary before—

(i) the later of—

(I) the 365th day after the date of the certification under which the worker is certified as eligible; or

(II) the 365th day after the date of the worker's last total separation; or

(ii) the date that is the 182d day after the date on which the worker concluded training, unless the worker received a waiver under section 2291(c) of this title.

**(b) Amount of allowance****(1) In general**

An allowance granted under subsection (a) of this section shall provide reimbursement to the worker of 90 percent of the cost of necessary job search expenses as prescribed by the Secretary in regulations.

**(2) Maximum allowance**

Reimbursement under this subsection may not exceed \$1,250 for any worker.

**(3) Allowance for subsistence and transportation**

Reimbursement under this subsection may not be made for subsistence and transportation expenses at levels exceeding those allowable under section 2296(b) (1) and (2) of this title.

**(c) Exception**

Notwithstanding subsection (b) of this section, the Secretary shall reimburse any adversely affected worker for necessary expenses incurred by the worker in participating in a job search program approved by the Secretary.

(Pub. L. 93-618, title II, §237, Jan. 3, 1975, 88 Stat. 2023; Pub. L. 97-35, title XXV, §2507, Aug. 13, 1981, 95 Stat. 886; Pub. L. 98-369, div. B, title VI, §2672(a), July 18, 1984, 98 Stat. 1172; Pub. L. 99-272, title XIII, §13005(a), Apr. 7, 1986, 100 Stat. 303; Pub. L. 107-210, div. A, title I, §121, Aug. 6, 2002, 116 Stat. 942.)

## AMENDMENTS

2002—Pub. L. 107-210 amended section generally. Prior to amendment, section related to applications for job search allowances, amounts of allowances, conditions for granting allowances, and reimbursement of worker expenses.

1986—Subsec. (c). Pub. L. 99-272 added subsec. (c).

1984—Subsec. (a)(1). Pub. L. 98-369 substituted “\$300” for “\$600”.

1981—Subsec. (a). Pub. L. 97-35, §2507(1), amended provisions generally, increasing percent of reimbursement of cost of job search from 80 to 90 and maximum amount from \$500 to \$600, and striking out requirement of total separation.

Subsec. (b)(1). Pub. L. 97-35, §2507(2)(A), inserted “who has been totally separated” after “to assist an adversely affected worker”.

Subsec. (b)(3). Pub. L. 97-35, §2507(2)(B), amended par. (3) generally, substituting the 182-day period for a reasonable period of time and inserting provision relating to 365 days after certification.

## EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-210 applicable to petitions for certification filed under this part or part 3 of this subchapter on or after the date that is 90 days after Aug. 6, 2002, except as otherwise provided, see section 151 of Pub. L. 107-210, set out as a note preceding section 2271 of this title.

## EFFECTIVE DATE OF 1981 AMENDMENT AND TRANSITION PROVISIONS

Amendment by Pub. L. 97-35 effective for determinations made or filed after Sept. 30, 1981, with transition provisions applicable, see section 2514 of Pub. L. 97-35, set out as a note under section 2291 of this title.

## TERMINATION DATE

No trade adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this part after Dec. 31, 2007, except as otherwise provided, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

**§ 2298. Relocation allowances****(a) Relocation allowance authorized****(1) In general**

Any adversely affected worker covered by a certification issued under subpart A of this part may file an application for a relocation allowance with the Secretary, and the Secretary may grant the relocation allowance, subject to the terms and conditions of this section.

**(2) Conditions for granting allowance**

A relocation allowance may be granted if all of the following terms and conditions are met:

**(A) Assist an adversely affected worker**

The relocation allowance will assist an adversely affected worker in relocating within the United States.

**(B) Local employment not available**

The Secretary determines that the worker cannot reasonably be expected to secure suitable employment in the commuting area in which the worker resides.

**(C) Total separation**

The worker is totally separated from employment at the time relocation commences.

**(D) Suitable employment obtained**

The worker—

(i) has obtained suitable employment affording a reasonable expectation of long-term duration in the area in which the worker wishes to relocate; or

(ii) has obtained a bona fide offer of such employment.

**(E) Application**

The worker filed an application with the Secretary before—

(i) the later of—

(I) the 425th day after the date of the certification under subpart A of this part; or

(II) the 425th day after the date of the worker's last total separation; or

(ii) the date that is the 182d day after the date on which the worker concluded training, unless the worker received a waiver under section 2291(c) of this title.

**(b) Amount of allowance**

The relocation allowance granted to a worker under subsection (a) of this section includes—

(1) 90 percent of the reasonable and necessary expenses (including, but not limited to, subsistence and transportation expenses at levels not exceeding those allowable under section 2296(b)(1) and (2) of this title specified in regulations prescribed by the Secretary) incurred in transporting the worker, the worker's family, and household effects; and

(2) a lump sum equivalent to 3 times the worker's average weekly wage, up to a maximum payment of \$1,250.

**(c) Limitations**

A relocation allowance may not be granted to a worker unless—

(1) the relocation occurs within 182 days after the filing of the application for relocation assistance; or

(2) the relocation occurs within 182 days after the conclusion of training, if the worker entered a training program approved by the Secretary under section 2296(b)(1) and (2) of this title.

(Pub. L. 93-618, title II, § 238, Jan. 3, 1975, 88 Stat. 2024; Pub. L. 97-35, title XXV, § 2508, Aug. 13, 1981, 95 Stat. 886; Pub. L. 98-369, div. B, title VI, § 2672(b), July 18, 1984, 98 Stat. 1172; Pub. L. 107-210, div. A, title I, § 122, Aug. 6, 2002, 116 Stat. 943; Pub. L. 108-429, title II, § 2004(a)(6), Dec. 3, 2004, 118 Stat. 2590.)

AMENDMENTS

2004—Subsec. (b)(1). Pub. L. 108-429 substituted “Secretary” for “Secretary.”

2002—Pub. L. 107-210 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (d) authorizing relocation allowances, specifying the conditions for granting them, and defining “relocation allowance”.

1984—Subsec. (d)(2). Pub. L. 98-369 substituted “\$800” for “\$600”.

1981—Subsec. (a). Pub. L. 97-35, § 2508(1), inserted provisions relating to time for filing application and struck out provisions respecting total separation.

Subsec. (b)(3). Pub. L. 97-35, § 2508(2), added par. (3).

Subsec. (c). Pub. L. 97-35, § 2508(3), substituted provisions respecting 182-day requirements for provisions respecting requirements involving entitlements for the week in which the application is filed and relocation occurring within a reasonable period of time.

Subsec. (d)(1). Pub. L. 97-35, § 2508(4)(A), increased percentage from 80 to 90 percent and inserted provision respecting allowable levels of subsistence and travel expenses.

Subsec. (d)(2). Pub. L. 97-35, § 2508(4)(B), increased maximum payment from \$500 to \$600.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-210 applicable to petitions for certification filed under this part or part 3 of this subchapter on or after the date that is 90 days after Aug. 6, 2002, except as otherwise provided, see section 151 of Pub. L. 107-210, set out as a note preceding section 2271 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT AND TRANSITION PROVISIONS

Amendment by Pub. L. 97-35 effective for determinations made or filed after Sept. 30, 1981, with transition provisions applicable, see section 2514 of Pub. L. 97-35, set out as a note under section 2291 of this title.

TERMINATION DATE

No trade adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this part after Dec. 31, 2007, except as otherwise provided, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

SUBPART C—GENERAL PROVISIONS

**§ 2311. Agreements with States**

**(a) Authority of Secretary to enter into agreements**

The Secretary is authorized on behalf of the United States to enter into an agreement with any State, or with any State agency (referred to in this subpart as “cooperating States” and “cooperating States agencies” respectively). Under such an agreement, the cooperating State agency (1) as agent of the United States, will receive applications for, and will provide, payments on the basis provided in this part, (2) where appropriate, but in accordance with subsection (f) of this section, will afford adversely affected workers testing, counseling, referral to training and job search programs, and placement services, (3) will make any certifications required under section 2291(c)(2)<sup>1</sup> of this title, and (4) will otherwise cooperate with the Secretary and with other State and Federal agencies in providing payments and services under this part.

**(b) Amendment, suspension, and termination of agreements**

Each agreement under this subpart shall provide the terms and conditions upon which the agreement may be amended, suspended, or terminated.

**(c) Unemployment insurance**

Each agreement under this subpart shall provide that unemployment insurance otherwise payable to any adversely affected worker will not be denied or reduced for any week by reason of any right to payments under this part.

**(d) Review**

A determination by a cooperating State agency with respect to entitlement to program benefits under an agreement is subject to review in the same manner and to the same extent as determinations under the applicable State law and only in that manner and to that extent.

**(e) Coordination of benefits and assistance**

Any agreement entered into under this section shall provide for the coordination of the administration of the provisions for employment services, training, and supplemental assistance under sections 2295 and 2296 of this title and under title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.] upon such terms and conditions as are established by the Secretary in consultation with the States and set forth in such agreement. Any agency of the State jointly

<sup>1</sup> See References in Text note below.

administering such provisions under such agreement shall be considered to be a cooperating State agency for purposes of this part.

**(f) Advising and interviewing adversely affected workers**

Each cooperating State agency shall, in carrying out subsection (a)(2) of this section—

(1) advise each worker who applies for unemployment insurance of the benefits under this part and the procedures and deadlines for applying for such benefits,

(2) facilitate the early filing of petitions under section 2271 of this title for any workers that the agency considers are likely to be eligible for benefits under this part,

(3) advise each adversely affected worker to apply for training under section 2296(a) of this title before, or at the same time, the worker applies for trade readjustment allowances under division I of subpart B of this part, and

(4) as soon as practicable, interview the adversely affected worker regarding suitable training opportunities available to the worker under section 2296 of this title and review such opportunities with the worker.

**(g) Submission of information for coordination of workforce investment activities**

In order to promote the coordination of workforce investment activities in each State with activities carried out under this part, any agreement entered into under this section shall provide that the State shall submit to the Secretary, in such form as the Secretary may require, the description and information described in paragraphs (8) and (14) of section 112(b) of the Workforce Investment Act of 1998 [29 U.S.C. 2822(b)].

(Pub. L. 93-618, title II, § 239, Jan. 3, 1975, 88 Stat. 2024; Pub. L. 97-35, title XXV, § 2513(d)(6), Aug. 13, 1981, 95 Stat. 889; Pub. L. 99-272, title XIII, §§ 13003(a)(3), 13004(c), Apr. 7, 1986, 100 Stat. 301, 303; Pub. L. 100-418, title I, §§ 1423(a)(4), 1424(d)(1)(B), (2), Aug. 23, 1988, 102 Stat. 1246, 1250; Pub. L. 105-220, title III, § 321, Aug. 7, 1998, 112 Stat. 1087; Pub. L. 105-277, div. A, § 101(f) [title VIII, § 405(d)(14)(B), (f)(11)(B)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-421, 2681-431.)

REFERENCES IN TEXT

Section 2291(c)(2) of this title, referred to in subsec. (a)(3), was subsequently amended, and no longer contains provisions relating to certifications.

The Workforce Investment Act of 1998, referred to in subsec. (e), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, as amended. Title I of the Act is classified principally to chapter 30 (§ 2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

CODIFICATION

Section is comprised of subssecs. (a) to (g) of Pub. L. 93-618. Another subsec. (e) of section 239 of Pub. L. 93-618 amended section 3302 of Title 26, Internal Revenue Code.

Amendment by section 1424(d)(1)(B) of Pub. L. 100-418, which directed amendment of subsection (e) of section 239 of Pub. L. 93-618, was executed to the subsection (e) set out in this section and not the subsection (e) that amended section 3302 of Title 26, Internal Revenue Code, to reflect the probable intent of Congress.

AMENDMENTS

1998—Subsec. (e). Pub. L. 105-277, § 101(f) [title VIII, § 405(f)(11)(B)], struck out “title III of the Job Training Partnership Act or” before “title I of the”.

Pub. L. 105-277, § 101(f) [title VIII, § 405(d)(14)(B)], substituted “under title III of the Job Training Partnership Act or title I of the Workforce Investment Act of 1998” for “under title III of the Job Training Partnership Act”.

Subsec. (g). Pub. L. 105-220 added subsec. (g).

1988—Subsec. (a)(3). Pub. L. 100-418, § 1423(a)(4), amended cl. (3) generally. Prior to amendment, cl. (3) read as follows: “will make determinations and approvals regarding job search programs under sections 2291(c) and 2297(c) of this title, and”.

Subsec. (e). Pub. L. 100-418, § 1424(d)(1)(B), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “Agreements entered into under this section may be made with one or more State or local agencies including—

“(1) the employment service agency of such State,

“(2) any State agency carrying out title III of the Job Training Partnership Act [29 U.S.C. 1651 et seq.], or

“(3) any other State or local agency administering job training or related programs.”

See Codification note above.

Subsec. (f). Pub. L. 100-418, § 1424(d)(2), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: “Each cooperating State agency shall, in carrying out subsection (a)(2) of this section—

“(1) advise each adversely affected worker to apply for training under section 2296(a) of this title at the time the worker makes application for trade readjustment allowances (but failure of the worker to do so may not be treated as cause for denial of those allowances), and

“(2) within 60 days after application for training is made by the worker, interview the adversely affected worker regarding suitable training opportunities available to the worker under section 2296 of this title and review such opportunities with the worker.”

1986—Subsec. (a). Pub. L. 99-272, § 13004(c)(1), inserted “but in accordance with subsection (f) of this section,” in cl. (2).

Pub. L. 99-272, § 13003(a)(3), substituted “training and job search programs” for “training” in cl. (2), added cl. (3), and redesignated former cl. (3) as (4).

Subsecs. (e), (f). Pub. L. 99-272, § 13004(c)(2), added subssecs. (e) and (f).

1981—Subsec. (a). Pub. L. 97-35 struck out provisions respecting persons applying for payments under this part.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 101(f) [title VIII, § 405(d)(14)(B)] of Pub. L. 105-277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, § 405(f)(11)(B)] of Pub. L. 105-277 effective July 1, 2000, see section 101(f) [title VIII, § 405(g)(1), (2)(B)], set out as a note under section 3502 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1424(d)(1)(B), (2) of Pub. L. 100-418 effective Aug. 23, 1988, and amendment by section 1423(a)(4) of Pub. L. 100-418 effective on the date that is 90 days after Aug. 23, 1988, see section 1430(a), (f) of Pub. L. 100-418, set out as an Effective Date note under section 2397 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 13003(a) of Pub. L. 99-272 applicable with respect to workers covered by petitions filed under section 2271 of this title on or after Apr. 7, 1986, and amendment by section 13004(c) of Pub. L. 99-272 effective on Apr. 7, 1986, see section 13009(a), (b) of Pub. L. 99-272, set out as a note under section 2291 of this title.

## EFFECTIVE DATE OF 1981 AMENDMENT AND TRANSITION PROVISIONS

Amendment by Pub. L. 97-35 effective Aug. 1981, with transition provisions applicable, see section 2514 of Pub. L. 97-35, set out as a note under section 2291 of this title.

## TERMINATION DATE

No trade adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this part after Dec. 31, 2007, except as otherwise provided, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

**§ 2312. Administration absent State agreement****(a) Promulgation of regulations; fair hearing**

In any State where there is no agreement in force between a State or its agency under section 2311 of this title, the Secretary shall arrange under regulations prescribed by him for performance of all necessary functions under subpart B of this part, including provision for a fair hearing for any worker whose application for payments is denied.

**(b) Review of final determination**

A final determination under subsection (a) of this section with respect to entitlement to program benefits under subpart B of this part is subject to review by the courts in the same manner and to the same extent as is provided by section 405(g) of title 42.

(Pub. L. 93-618, title II, § 240, Jan. 3, 1975, 88 Stat. 2025.)

## TERMINATION DATE

No trade adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this part after Dec. 31, 2007, except as otherwise provided, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

**§ 2313. Payments to States****(a) Certification to Secretary of the Treasury for payment to cooperating States**

The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each cooperating State the sums necessary to enable such State as agent of the United States to make payments provided for by this part.

**(b) Utilization or return of money**

All money paid a State under this section shall be used solely for the purposes for which it is paid; and money so paid which is not used for such purposes shall be returned, at the time specified in the agreement under this subpart, to the Secretary of the Treasury.

**(c) Surety bonds**

Any agreement under this subpart may require any officer or employee of the State certifying payments or disbursing funds under the agreement or otherwise participating in the performance of the agreement, to give a surety bond to the United States in such amount as the Secretary may deem necessary, and may provide for the payment of the cost of such bond from funds for carrying out the purposes of this part.

(Pub. L. 93-618, title II, § 241, Jan. 3, 1975, 88 Stat. 2025; Pub. L. 97-35, title XXV, § 2513(b), Aug. 13, 1981, 95 Stat. 889.)

## AMENDMENTS

1981—Subsec. (a). Pub. L. 97-35 struck out provisions relating to payment to the State by the Secretary of the Treasury from the Adjustment Assistance Trust Fund prior to audit or settlement by the General Accounting Office.

Subsec. (b). Pub. L. 97-35 struck out provisions relating to crediting money returned to the Secretary of the Treasury to the Adjustment Assistance Trust Fund.

## EFFECTIVE DATE OF 1981 AMENDMENT AND TRANSITION PROVISIONS

Amendment by Pub. L. 97-35 effective Aug. 1981, with transition provisions applicable, see section 2514 of Pub. L. 97-35, set out as a note under section 2291 of this title.

## TERMINATION DATE

No trade adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this part after Dec. 31, 2007, except as otherwise provided, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

**§ 2314. Liabilities of certifying and disbursing officers****(a) Certifying officer**

No person designated by the Secretary, or designated pursuant to an agreement under this subpart, as a certifying officer, shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment certified by him under this part.

**(b) Disbursing officer**

No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this part if it was based upon a voucher signed by a certifying officer designated as provided in subsection (a) of this section.

(Pub. L. 93-618, title II, § 242, Jan. 3, 1975, 88 Stat. 2026.)

## TERMINATION DATE

No trade adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this part after Dec. 31, 2007, except as otherwise provided, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

**§ 2315. Fraud and recovery of overpayments****(a) Repayment; deductions**

(1) If a cooperating State agency, the Secretary, or a court of competent jurisdiction determines that any person has received any payment under this part to which the person was not entitled, including a payment referred to in subsection (b) of this section, such person shall be liable to repay such amount to the State agency or the Secretary, as the case may be, except that the State agency or the Secretary may waive such repayment if such agency or the Secretary determines, in accordance with guidelines prescribed by the Secretary, that—

(A) the payment was made without fault on the part of such individual, and

(B) requiring such repayment would be contrary to equity and good conscience.

(2) Unless an overpayment is otherwise recovered, or waived under paragraph (1), the State

agency or the Secretary shall recover the overpayment by deductions from any sums payable to such person under this part, under any Federal unemployment compensation law administered by the State agency or the Secretary, or under any other Federal law administered by the State agency or the Secretary which provides for the payment of assistance or an allowance with respect to unemployment, and, notwithstanding any other provision of State law or Federal law to the contrary, the Secretary may require the State agency to recover any overpayment under this part by deduction from any unemployment insurance payable to such person under the State law, except that no single deduction under this paragraph shall exceed 50 percent of the amount otherwise payable.

**(b) False representation or nondisclosure of material fact**

If a cooperating State agency, the Secretary, or a court of competent jurisdiction determines that an individual—

- (1) knowingly has made, or caused another to make, a false statement or representation of a material fact, or
- (2) knowingly has failed, or caused another to fail, to disclose a material fact,

and as a result of such false statement or representation, or of such nondisclosure, such individual has received any payment under this part to which the individual was not entitled, such individual shall, in addition to any other penalty provided by law, be ineligible for any further payments under this part.

**(c) Notice of determination; fair hearing; finality**

Except for overpayments determined by a court of competent jurisdiction, no repayment may be required, and no deduction may be made, under this section until a determination under subsection (a)(1) of this section by the State agency or the Secretary, as the case may be, has been made, notice of the determination and an opportunity for a fair hearing thereon has been given to the individual concerned, and the determination has become final.

**(d) Recovered amount returned to Treasury**

Any amount recovered under this section shall be returned to the Treasury of the United States.

(Pub. L. 93-618, title II, §243, Jan. 3, 1975, 88 Stat. 2026; Pub. L. 97-35, title XXV, §2509, Aug. 13, 1981, 95 Stat. 887.)

AMENDMENTS

1981—Subsec. (a). Pub. L. 97-35 designated existing provisions as par. (1), revised provisions, made changes in nomenclature and, among other changes, inserted provisions respecting waiver, and added par. (2).

Subsec. (b). Pub. L. 97-35 substituted provisions relating to ineligibility for other payments for provisions relating to deposit, return, and credit of repayments.

Subsecs. (c), (d). Pub. L. 97-35 added subsecs. (c) and (d).

EFFECTIVE DATE OF 1981 AMENDMENT AND TRANSITION PROVISIONS

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, with transition provisions applicable, see section 2514 of Pub. L. 97-35, set out as a note under section 2291 of this title.

TERMINATION DATE

No trade adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this part after Dec. 31, 2007, except as otherwise provided, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

**§ 2316. Penalties**

Whoever makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, for the purpose of obtaining or increasing for himself or for any other person any payment authorized to be furnished under this part or pursuant to an agreement under section 2311 of this title shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

(Pub. L. 93-618, title II, §244, Jan. 3, 1975, 88 Stat. 2026.)

TERMINATION DATE

No trade adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this part after Dec. 31, 2007, except as otherwise provided, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

**§ 2317. Authorization of appropriations**

**(a) In general**

There are authorized to be appropriated to the Department of Labor, for the period beginning October 1, 2001, and ending December 31, 2007, such sums as may be necessary to carry out the purposes of this part.

**(b) Period of expenditure**

Funds obligated for any fiscal year to carry out activities under sections 2295 through 2298 of this title may be expended by each State receiving such funds during that fiscal year and the succeeding two fiscal years.

(Pub. L. 93-618, title II, §245, Jan. 3, 1975, 88 Stat. 2026; Pub. L. 97-35, title XXV, §2510, Aug. 13, 1981, 95 Stat. 888; Pub. L. 98-120, §2(a), Oct. 12, 1983, 97 Stat. 809; Pub. L. 99-272, title XIII, §13008(a), Apr. 7, 1986, 100 Stat. 305; Pub. L. 100-418, title I, §1426(b)(1), Aug. 23, 1988, 102 Stat. 1251; Pub. L. 103-66, title XIII, §13803(a)(2), Aug. 10, 1993, 107 Stat. 668; Pub. L. 103-182, title V, §504, Dec. 8, 1993, 107 Stat. 2151; Pub. L. 105-277, div. J, title I, §1012(a), Oct. 21, 1998, 112 Stat. 2681-900; Pub. L. 106-113, div. B, §1000(a)(5) [title VII, §702(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A-319; Pub. L. 107-210, div. A, title I, §§111(a), 120, Aug. 6, 2002, 116 Stat. 936, 942; Pub. L. 109-280, title XIV, §1635(f)(3), Aug. 17, 2006, 120 Stat. 1171; Pub. L. 110-89, §1(a), Sept. 28, 2007, 121 Stat. 982.)

AMENDMENTS

2007—Subsec. (a). Pub. L. 110-89 substituted “December 31, 2007” for “September 30, 2007”.

2006—Subsec. (a). Pub. L. 109-280 struck out “, other than subpart D” before period at end.

2002—Subsec. (a). Pub. L. 107-210, §111(a), substituted “October 1, 2001, and ending September 30, 2007,” for “October 1, 1998, and ending September 30, 2001.”

Subsec. (b). Pub. L. 107-210, §120, amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: “There are authorized to be appropriated to the Department of Labor, for the period be-

ginning October 1, 2001, and ending September 30, 2007, such sums as may be necessary to carry out the purposes of subpart D of this part.”

Pub. L. 107-210, §111(a), substituted “October 1, 2001, and ending September 30, 2007,” for “October 1, 1998, and ending September 30, 2001.”

1999—Subsecs. (a), (b). Pub. L. 106-113 substituted “September 30, 2001” for “June 30, 1999”.

1998—Subsec. (a). Pub. L. 105-277, §1012(a)(1), substituted “for the period beginning October 1, 1998, and ending June 30, 1999,” for “for each of the fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.”

Subsec. (b). Pub. L. 105-277, §1012(a)(2), substituted “for the period beginning October 1, 1998, and ending June 30, 1999,” for “for each of fiscal years 1994, 1995, 1996, 1997, and 1998.”

1993—Pub. L. 103-182 designated existing provisions as subsec. (a), inserted heading and “, other than subpart D” after “this part”, and added subsec. (b).

Pub. L. 103-66 substituted “1993, 1994, 1995, 1996, 1997, and 1998” for “1988, 1989, 1990, 1991, 1992, and 1993”.

1988—Pub. L. 100-418 substituted “1988, 1989, 1990, 1991, 1992, and 1993” for “1986, 1987, 1988, 1989, 1990, and 1991”.

1986—Pub. L. 99-272 substituted “1986, 1987, 1988, 1989, 1990, and 1991” for “1982 through 1985”.

1983—Pub. L. 98-120 substituted “each of the fiscal years 1982 through 1985” for “each of fiscal years 1982 and 1983”.

1981—Pub. L. 97-35 substituted provisions relating to authorization of appropriations for fiscal years 1982 and 1983 for provisions relating to establishment of the Adjustment Assistance Trust Fund.

#### EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-89, §1(e), Sept. 28, 2007, 121 Stat. 982, provided that: “The amendments made by this section [amending this section and sections 2346 and 2401g of this title and provisions set out as a note preceding section 2271 of this title] shall be effective as of October 1, 2007.”

#### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-280 applicable with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after Aug. 17, 2006, see section 1641 of Pub. L. 109-280, set out as a note under section 58c of this title.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-210 applicable to petitions for certification filed under this part or part 3 of this subchapter on or after the date that is 90 days after Aug. 6, 2002, except as otherwise provided, see section 151 of Pub. L. 107-210, set out as a note preceding section 2271 of this title.

#### EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-113, div. B, §1000(a)(5) [title VII, §702(e)], Nov. 29, 1999, 113 Stat. 1536, 1501A-319, provided that: “The amendments made by this section [amending this section and sections 2331 and 2346 of this title and provisions set out as a note preceding section 2271 of this title] shall be effective as of July 1, 1999.”

#### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-182 effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], see section 506(a) of Pub. L. 103-182, set out as a note under section 2271 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Parts 2 and 3 of this subchapter applicable as if the amendment of this section by Pub. L. 99-272 had taken effect Dec. 18, 1985, see section 13009(c) of Pub. L. 99-272, set out as a note under section 2291 of this title.

#### EFFECTIVE DATE OF 1981 AMENDMENT AND TRANSITION PROVISIONS

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, with transition provisions applicable, see section 2514

of Pub. L. 97-35, set out as a note under section 2291 of this title.

#### TERMINATION DATE

No trade adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this part after Dec. 31, 2007, except as otherwise provided, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

### § 2318. Demonstration project for alternative trade adjustment assistance for older workers

#### (a) In general

##### (1) Establishment

Not later than 1 year after August 6, 2002, the Secretary shall establish an alternative trade adjustment assistance program for older workers that provides the benefits described in paragraph (2).

##### (2) Benefits

###### (A) Payments

A State shall use the funds provided to the State under section 2313 of this title to pay, for a period not to exceed 2 years, to a worker described in paragraph (3)(B), 50 percent of the difference between—

- (i) the wages received by the worker from reemployment; and
- (ii) the wages received by the worker at the time of separation.

###### (B) Health insurance

A worker described in paragraph (3)(B) participating in the program established under paragraph (1) is eligible to receive, for a period not to exceed 2 years, a credit for health insurance costs under section 35 of title 26, as added by section 201 of the Trade Act of 2002.

##### (3) Eligibility

###### (A) Firm eligibility

###### (i) In general

The Secretary shall provide the opportunity for a group of workers on whose behalf a petition is filed under section 2271 of this title to request that the group of workers be certified for the alternative trade adjustment assistance program under this section at the time the petition is filed.

###### (ii) Criteria

In determining whether to certify a group of workers as eligible for the alternative trade adjustment assistance program, the Secretary shall consider the following criteria:

- (I) Whether a significant number of workers in the workers’ firm are 50 years of age or older.
- (II) Whether the workers in the workers’ firm possess skills that are not easily transferable.
- (III) The competitive conditions within the workers’ industry.

###### (iii) Deadline

The Secretary shall determine whether the workers in the group are eligible for

the alternative trade adjustment assistance program by the date specified in section 2273(a) of this title.

**(B) Individual eligibility**

A worker in the group that the Secretary has certified as eligible for the alternative trade adjustment assistance program may elect to receive benefits under the alternative trade adjustment assistance program if the worker—

- (i) is covered by a certification under subpart A of this part;
- (ii) obtains reemployment not more than 26 weeks after the date of separation from the adversely affected employment;
- (iii) is at least 50 years of age;
- (iv) earns not more than \$50,000 a year in wages from reemployment;
- (v) is employed on a full-time basis as defined by State law in the State in which the worker is employed; and
- (vi) does not return to the employment from which the worker was separated.

**(4) Total amount of payments**

The payments described in paragraph (2)(A) made to a worker may not exceed \$10,000 per worker during the 2-year eligibility period.

**(5) Limitation on other benefits**

Except as provided in paragraph (2)(B), if a worker is receiving payments pursuant to the program established under paragraph (1), the worker shall not be eligible to receive any other benefits under this subchapter.

**(b) Termination**

**(1) In general**

Except as provided in paragraph (2), no payments may be made by a State under the program established under subsection (a)(1) of this section after the date that is 5 years after the date on which such program is implemented by the State.

**(2) Exception**

Notwithstanding paragraph (1), a worker receiving payments under the program established under subsection (a)(1) of this section on the termination date described in paragraph (1) shall continue to receive such payments if the worker meets the criteria described in subsection (a)(3)(B) of this section.

(Pub. L. 93-618, title II, §246, as added Pub. L. 107-210, div. A, title I, §124(a), Aug. 6, 2002, 116 Stat. 944; amended Pub. L. 108-429, title II, §2004(a)(7), Dec. 3, 2004, 118 Stat. 2590.)

**PRIOR PROVISIONS**

A prior section 2318, Pub. L. 93-618, title II, §246, as added Pub. L. 100-418, title I, §1423(d)(1), Aug. 23, 1988, 102 Stat. 1246; amended Pub. L. 101-382, title I, §136, Aug. 20, 1990, 104 Stat. 652, related to supplemental wage allowance demonstration projects, prior to repeal by Pub. L. 107-210, div. A, title I, §§124(a), 151, Aug. 6, 2002, 116 Stat. 944, 953, applicable to petitions for certification filed under this part or part 3 of this subchapter on or after the date that is 90 days after Aug. 6, 2002.

Another prior section 2318, Pub. L. 93-618, title II, §246, Jan. 3, 1975, 88 Stat. 2027, contained transition provisions for events taking place during specified periods

prior to the effective date of this part, prior to repeal by Pub. L. 97-35, title XXV, §2513(c), Aug. 13, 1981, 95 Stat. 889.

**AMENDMENTS**

2004—Subsec. (a)(3)(B)(iii). Pub. L. 108-429, §2004(a)(7)(A), struck out “and” after semicolon.

Subsec. (a)(5). Pub. L. 108-429, §2004(a)(7)(B), substituted “paragraph (2)(B)” for “section 2298(a)(2)(B) of this title”.

Subsec. (b)(2). Pub. L. 108-429, §2004(a)(7)(C), substituted “if” for “provided that”.

**EFFECTIVE DATE**

Section applicable to petitions for certification filed under this part or part 3 of this subchapter on or after the date that is 90 days after Aug. 6, 2002, except as otherwise provided, see section 151 of Pub. L. 107-210, set out as an Effective Date of 2002 Amendment note preceding section 2271 of this title.

**TERMINATION DATE**

No trade adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this part after Dec. 31, 2007, except as otherwise provided, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

**§ 2319. Definitions**

For purposes of this part—

(1) The term “adversely affected employment” means employment in a firm or appropriate subdivision of a firm, if workers of such firm or subdivision are eligible to apply for adjustment assistance under this part.

(2) The term “adversely affected worker” means an individual who, because of lack of work in adversely affected employment—

(A) has been totally or partially separated from such employment, or

(B) has been totally separated from employment with the firm in a subdivision of which such adversely affected employment exists.

(3) Repealed. Pub. L. 97-35, title XXV, §2511(1), Aug. 13, 1981, 95 Stat. 888.

(4) The term “average weekly wage” means one-thirteenth of the total wages paid to an individual in the high quarter. For purposes of this computation, the high quarter shall be that quarter in which the individual’s total wages were highest among the first 4 of the last 5 completed calendar quarters immediately before the quarter in which occurs the week with respect to which the computation is made. Such week shall be the week in which total separation occurred, or, in cases where partial separation is claimed, an appropriate week, as defined in regulations prescribed by the Secretary.

(5) The term “average weekly hours” means the average hours worked by the individual (excluding overtime) in the employment from which he has been or claims to have been separated in the 52 weeks (excluding weeks during which the individual was sick or on vacation) preceding the week specified in the last sentence of paragraph (4).

(6) The term “partial separation” means, with respect to an individual who has not been totally separated, that he has had—

(A) his hours of work reduced to 80 percent or less of his average weekly hours in adversely affected employment, and

(B) his wages reduced to 80 percent or less of his average weekly wage in such adversely affected employment.

(7) Repealed. Pub. L. 97-35, title XXV, §2511(1), Aug. 13, 1981, 95 Stat. 888.

(8) The term “State” includes the District of Columbia and the Commonwealth of Puerto Rico; and the term “United States” when used in the geographical sense includes such Commonwealth.

(9) The term “State agency” means the agency of the State which administers the State law.

(10) The term “State law” means the unemployment insurance law of the State approved by the Secretary of Labor under section 3304 of title 26.

(11) The term “total separation” means the layoff or severance of an individual from employment with a firm in which, or in a subdivision of which, adversely affected employment exists.

(12) The term “unemployment insurance” means the unemployment compensation payable to an individual under any State law or Federal unemployment compensation law, including chapter 85 of title 5 and the Railroad Unemployment Insurance Act [45 U.S.C. 351 et seq.]. The terms “regular compensation”, “additional compensation”, and “extended compensation” have the same respective meanings that are given them in section 205(2), (3), and (4) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

(13) The term “week” means a week as defined in the applicable State law.

(14) The term “week of unemployment” means a week of total, part-total, or partial unemployment as determined under the applicable State law or Federal unemployment insurance law.

(15) The term “benefit period” means, with respect to an individual—

(A) the benefit year and any ensuing period, as determined under applicable State law, during which the individual is eligible for regular compensation, additional compensation, or extended compensation, or

(B) the equivalent to such a benefit year or ensuing period provided for under the applicable Federal unemployment insurance law.

(16) The term “on-the-job training” means training provided by an employer to an individual who is employed by the employer.

(17)(A) The term “job search program” means a job search workshop or job finding club.

(B) The term “job search workshop” means a short (1 to 3 days) seminar designed to provide participants with knowledge that will enable the participants to find jobs. Subjects are not limited to, but should include, labor market information, resume writing, interviewing techniques, and techniques for finding job openings.

(C) The term “job finding club” means a job search workshop which includes a period (1 to 2 weeks) of structured, supervised activity in which participants attempt to obtain jobs.

(Pub. L. 93-618, title II, §247, Jan. 3, 1975, 88 Stat. 2028; Pub. L. 97-35, title XXV, §2511, Aug. 13, 1981, 95 Stat. 888; Pub. L. 99-272, title XIII, §§13004(b), 13005(b), Apr. 7, 1986, 100 Stat. 303.)

#### REFERENCES IN TEXT

The Railroad Unemployment Insurance Act, referred to in par. (12), is act June 25, 1938, ch. 680, 52 Stat. 1094, as amended, which is classified principally to chapter 11 (§351 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see Tables.

#### AMENDMENTS

1986—Pars. (16), (17). Pub. L. 99-272 added pars. (16) and (17).

1981—Par. (3). Pub. L. 97-35, §2511(1), struck out par. (3) defining “average weekly manufacturing wage”.

Par. (7). Pub. L. 97-35, §2511(1), struck out par. (7) defining “remuneration”.

Par. (12). Pub. L. 97-35, §2511(2), revised par. (12) generally, inserting definitions of “regular compensation”, “additional compensation”, and “extended compensation”.

Par. (14). Pub. L. 97-35, §2511(3), substituted provisions requiring determination under the applicable State law or Federal unemployment insurance law for provisions requiring computation applying percent of average weekly wage and time spent prior to separation.

Par. (15). Pub. L. 97-35, §2511(4), added par. (15).

#### EFFECTIVE DATE OF 1981 AMENDMENT AND TRANSITION PROVISIONS

Amendment by Pub. L. 97-35 applicable to allowances payable for weeks of unemployment which begin after Sept. 30, 1981, with transition provisions applicable, see section 2514 of Pub. L. 97-35, set out as a note under section 2291 of this title.

#### TERMINATION DATE

No trade adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this part after Dec. 31, 2007, except as otherwise provided, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

### § 2320. Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this part.

(Pub. L. 93-618, title II, §248, Jan. 3, 1975, 88 Stat. 2029.)

#### TERMINATION DATE

No trade adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this part after Dec. 31, 2007, except as otherwise provided, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

### § 2321. Subpena power

#### (a) Subpena by Secretary

The Secretary may require by subpena the attendance of witnesses and the production of evidence necessary for him to make a determination under the provisions of this part.

#### (b) Court order

If a person refuses to obey a subpena issued under subsection (a) of this section, a United States district court within the jurisdiction of which the relevant proceeding under this part is conducted may, upon petition by the Secretary, issue an order requiring compliance with such subpena.

(Pub. L. 93-618, title II, §249, Jan. 3, 1975, 88 Stat. 2029.)

#### TERMINATION DATE

No trade adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this part after Dec. 31, 2007, except as otherwise provided, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

### § 2322. Repealed. Pub. L. 107-210, div. A, title I, § 123(b)(2), Aug. 6, 2002, 116 Stat. 944

Section, Pub. L. 93-618, title II, §249A, as added Pub. L. 103-182, title V, §503(c), Dec. 8, 1993, 107 Stat. 2151, prohibited assistance relating to a separation pursuant to certifications under both subparts A and D of this part.

#### PRIOR PROVISIONS

A prior section 2322, Pub. L. 93-618, title II, §250, Jan. 3, 1975, 88 Stat. 2029, provided for judicial review for workers or groups aggrieved by a final determination by the Secretary under section 2273 of this title, prior to repeal by Pub. L. 96-417, title VI, §612, title VII, §701(a), Oct. 10, 1980, 94 Stat. 1746, 1747, effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date. See section 2395 of this title.

#### EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to petitions filed under this part on or after the date that is 90 days after Aug. 6, 2002, except with respect to certain workers, see section 123(c) of Pub. L. 107-210, set out as a note under section 2331 of this title.

#### SUBPART D—NAFTA TRANSITIONAL ADJUSTMENT ASSISTANCE PROGRAM

### § 2331. Repealed. Pub. L. 107-210, div. A, title I, § 123(a), Aug. 6, 2002, 116 Stat. 944

Section, Pub. L. 93-618, title II, §250, as added Pub. L. 103-182, title V, §502, Dec. 8, 1993, 107 Stat. 2149; amended Pub. L. 105-277, div. J, title I, §1012(b), Oct. 21, 1998, 112 Stat. 2681-901; Pub. L. 106-113, div. B, §1000(a)(5) [title VII, §702(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A-319, established a NAFTA transitional adjustment assistance program.

#### PRIOR PROVISIONS

A prior section 250 of Pub. L. 93-618, title II, Jan. 3, 1975, 88 Stat. 2029, provided for judicial review for workers or groups aggrieved by a final determination by the Secretary under section 2273 of this title, and was classified to section 2322 of this title, prior to repeal by Pub. L. 96-417.

#### EFFECTIVE DATE OF REPEAL

Pub. L. 107-210, div. A, title I, §123(c), Aug. 6, 2002, 116 Stat. 944, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending sections 2275 and 2395 of this title and repealing this subpart and section 2322 of this title] shall apply with respect to petitions filed under chapter 2 of title II of the Trade Act of 1974 [this part], on or after the date that is 90 days after the date of enactment of this Act [Aug. 6, 2002].

“(2) WORKERS CERTIFIED AS ELIGIBLE BEFORE EFFECTIVE DATE.—Notwithstanding subsection (a), a worker receiving benefits under chapter 2 of title II of the Trade Act of 1974 shall continue to receive (or be eligible to receive) benefits and services under chapter 2 of title II of the Trade Act of 1974, as in effect on the day before the amendments made by this section take effect under subsection (a), for any week for which the worker meets the eligibility requirements of such chapter 2 as in effect on such date.”

## PART 3—ADJUSTMENT ASSISTANCE FOR FIRMS

#### TERMINATION DATE

No technical assistance to be provided under this part after Dec. 31, 2007, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

### § 2341. Petitions and determinations

#### (a) Filing of petition; receipt of petition; initiation of investigation

A petition for a certification of eligibility to apply for adjustment assistance under this part may be filed with the Secretary of Commerce (hereinafter in this part referred to as the “Secretary”) by a firm (including any agricultural firm) or its representative. Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that he has received the petition and initiated an investigation.

#### (b) Public hearing

If the petitioner, or any other person, organization, or group found by the Secretary to have a substantial interest in the proceedings, submits not later than 10 days after the date of the Secretary’s publication under subsection (a) of this section a request for a hearing, the Secretary shall provide for a public hearing and afford such interested persons an opportunity to be present, to produce evidence, and to be heard.

#### (c) Certification

(1) The Secretary shall certify a firm (including any agricultural firm) as eligible to apply for adjustment assistance under this part if the Secretary determines—

(A) that a significant number or proportion of the workers in such firm have become totally or partially separated, or are threatened to become totally or partially separated,

(B) that—

(i) sales or production, or both, of such firm have decreased absolutely, or

(ii) sales or production, or both, of an article that accounted for not less than 25 percent of the total production or sales of the firm during the 12-month period preceding the most recent 12-month period for which data are available have decreased absolutely, and

(C) increases of imports of articles like or directly competitive with articles which are produced by such firm contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

(2) For purposes of paragraph (1)(C)—

(A) The term “contributed importantly” means a cause which is important but not necessarily more important than any other cause.

(B)(i) Any firm which engages in exploration or drilling for oil or natural gas shall be considered to be a firm producing oil or natural gas.

(ii) Any firm that engages in exploration or drilling for oil or natural gas, or otherwise produces oil or natural gas, shall be considered to be producing articles directly competitive with imports of oil and with imports of natural gas.