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October 24, 2006

Ms. Erica Cantor, Director
Division of Trade Adjustment Assistance, ETA
U.S. Department of Labor
Room C-5311
200 Constitution Avenue, NW.
Washington, DC 20210

Re: Notice of Proposed Rule Making, Trade Adjustment Assistance for Workers, Workforce Investment Act; Amendment of Regulations RIN #1205-AB32

Dear Director Cantor:

The National Employment Law Project (NELP) is a non-profit research and advocacy group based in New York with staff across the nation. NELP has recently launched a Trade Adjustment Assistance (TAA) Initiative as part of a larger project directed toward addressing economic dislocation of workers. The goal of this initiative is to increase participation in TAA by working with community groups, local governments, unions and workforce agencies to improve TAA program administration and help dislocated workers. In these efforts, NELP has had the opportunity to work under the existing TAA regulations throughout the Midwest as well as in other regions of the country.

NELP's staff includes over 25 years of collective experience working with the TAA program. In addition to this staff experience, NELP has facilitated dialogue among representatives of affected workers and state and local officials regarding these proposed TAA regulations. NELP's comments are not only a direct result of our practical experience, but our communications with TAA practitioners concerning the proposed rules. Our comments are aimed at encouraging efficiency in TAA administration, ensuring maximum worker participation, and adherence to Congressional intent.

Overall Comments: Scope and Purpose of TAA

The Secretary's proposed regulations contain numerous references throughout their preamble and within their text reflecting the Department's

intention to (1) promote the integration of TAA with services authorized under the Workforce Investment Act (WIA) and the one-stop delivery mechanisms used to provide WIA services, and (2) to adopt “rapid reemployment” of affected workers as major purpose of TAA. In proposed rule §618.305, for example, the Secretary requires that state agencies

[I]ntegrate the provision of benefits and services available to workers separated or threatened with separation under the TAA program with the delivery of employment services and other assistance under any Federal law other than the Act, through the One-Stop service delivery system.¹

The Department’s integration intent is also evident in the promotion of co-enrollment of TAA certified workers.² Integration of TAA services with WIA one stop delivery systems is evidenced in the proposed regulations in their mandating of several WIA steps--including a comprehensive assessment and individual employment plan (IEP)--prior to approval of TAA training. In her proposed rules, the Secretary mandates that states provide WIA funded services to affected workers in some cases,³ and further requires the use of the graduated sequence of services employed in WIA (core, intensive, training) for TAA certified workers.⁴

While some states already offer co-enrollment of TAA certified workers as a matter of course, the proposed federal mandate sets up the possibility that states will be required to use relatively scarce WIA funds to provide all non-training related services to trade affected workers. In theory, if the U.S. had a properly-funded, well-administered, generally-available dislocated worker program, then the integration of TAA into that program might better serve trade-impacted workers. But, in the real world, rather than offering TAA certified workers more services, integration of TAA with WIA takes place in the context of reduced WIA funding over the last several years.⁵ As a result, the Department of Labor’s proposed rule is essentially forcing trade affected workers and dislocated workers to compete for services with other dislocated workers.

TAA has existed for over 30 years as a separately authorized program to meet the needs of trade-impacted workers. Congress has consciously bestowed a higher level of retraining with income support on TAA-certified workers than it has upon other dislocated workers because these workers have been adversely affected by U.S. trade policy. Congress has taken no action to

¹ Proposed Regulation 20 CFR § 618.305, 71 Fed. Reg. 50803.

² Proposed Regulation 20 CFR § 618.310, 71 Fed. Reg. 50803.

³ Proposed Regulation 20 CFR § 618.320, 71 Fed. Reg. 50804.

⁴ Proposed Regulation 20 CFR § 618.310, 71 Fed. Reg. 50803.

⁵ Workforce Alliance, Comparison Chart of FY05 and FY06 as enacted
<http://www.workforcealliance.org/atf/cf/%7b93353952-1DF1-473A-B105-7713F4529EBB%7d/TWA_Summary_of_FY07_DOL-DOEd_Budgets_2-06.pdf> Last viewed October 20, 2006.

indicate that TAA is now simply an appendage to WIA or that it wants to make TAA training more like WIA training. While consolidation of TAA into WIA has been the previously expressed wish of the Secretary, and that wish is now embodied in the proposed integration regulations, there is statutory basis to support the Secretary's action mandating WIA intergration.

An examination of the Trade Act demonstrates that the TAA program must maintain its autonomy as a separately funded and independently authorized dislocated worker program. Prior to the 2002 amendments, there were no references to WIA or one-stop delivery of services in the Trade Act of 1974, as amended. The Secretary's authority to compel integration of TAA and WIA as a central element of these TAA regulations, if any such authority exists, must then be based upon language in 2002 amendments to the Section 235 of the Act. The relevant language is now found at 19 U.S.C. § 2295, as amended, which states:

[t]he Secretary shall make every reasonable effort to secure for adversely affected workers . . . 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. (Emphasis added.)

This emphasized language was a result of the passage of Section 119 of the 2002 amendments (H.R. 3009, 107 P.L. 210). Section 119, in its entirety, reads as follows:

Coordination with Title I of the Workforce Investment Act of 1998.

Section 235 of the Trade Act of 1974 (19 U.S.C. 2295) is amended by inserting before the period at the end of the first sentence the following: ", including the services provided through one-stop delivery systems described in section 134(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(c))."

Read in its statutory context, then, the 2002 amendment simply added a reference to coordinating with WIA one-stop delivery systems to an existing list of reemployment services funded under the Wagner-Peyser Act and "any other Federal law." Based upon the plain meaning of this language, there is no indication that Congress has authorized the Secretary to mandate the integration of all TAA services into the WIA one-stops. Indeed, the statutory language clearly directs the Secretary to make sure that a range of federally-funded services are provided to TAA-certified workers, including those found in one-stops. This language stops well short of the wholesale integration requirements that the Secretary seeks to impose in her proposed rules. The Secretary of Labor is not free to use the regulatory process to transform the Congressional mandate for coordination into a departmental fiat for integration.

There is a similar absence of statutory authority for the proposed rules shift in TAA goals from retraining to return of employment "as quickly as possible." The current Secretary has long extolled rapid reemployment as her main purpose in administering TAA. The proposed regulations and preamble make numerous references to promoting reemployment "as quickly as possible."⁶ However, the statutory language of TAA and changes adopted in 2002 do not reflect this administrative interpretation.

In contrast to the approach reflected in the proposed regulations, the existing regulations make no such reference to the rapidity of the return to employment, focusing on assisting trade-impacted individuals "return to suitable employment."⁷ We believe that this emphasis on suitable employment is more consistent with the Trade Act than the rapid reemployment approach adopted in the proposed regulations.

The emphasis of TAA is training, not rapid reemployment. By the literal terms of the statute, training under TAA is legally a capped entitlement. The Act provides that, subject to a cap set by Congress when it appropriates funds for TAA each year, the Secretary must approve training if the six statutory conditions for approval of training are satisfied. Section 236(a)(1) of the Trade Act provides that if a TAA certified worker satisfies six statutory criteria, 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 (subject to the limitations imposed by this section) training paid on his behalf⁸

Subsection 2(A) in turn provides an overall cap on spending for TAA training set by Congressional appropriations. But, that spending limitation language, which has been in place for years, does not open the door to the Secretary's imposition of her rapid reemployment philosophy.

Nothing in the 2002 amendments undercuts this pronounced Congressional emphasis on furnishing training to TAA certified workers. In fact, with respect to rapid reemployment, there are other 2002 amendments that suggest Congress intended that TAA continue with its longstanding focus on training, rather than shifting toward rapid reemployment. Those amendments include the following:

- Congress added another 26 weeks of TRA for workers in training providing an extension of benefits for the purpose of completing training,⁹ and
- Congress increased the existing TAA training funds to \$220 million.¹⁰

⁶ Proposed Regulation 20 CFR § 618.100, 71 Fed. Reg. 50799; 20 CFR § 618.600, 71 Fed. Reg. 50809.

⁷ 20 CFR §617.2.

⁸ Trade Act, as amended 19 U.S.C. §2296(a)(1) (Emphasis added.).

⁹ Conference Report H. Rept. 107-624 ("Conference Report"), § 116.

Beyond the plain meaning of the statutory language and the contrary direction taken in other contemporaneous provisions in the 2002 amendments, there is further evidence that Congress has not authorized the Secretary to mandate the integration of TAA into WIA's one-stop delivery mechanism or to shift the program's emphasis from retraining to rapid reemployment. When considering the 2002 amendments, the House bill included numbers of provisions concerning the use of WIA's methodology and delivery systems to TAA recipients. In contrast, the Senate version contained no such requirements. The two houses compromised in conference by dropping all the House language "with the exception of a provision related to coordinating the delivery of Trade Adjustment Assistance benefits and information at one-stop delivery systems under the Workforce Investment Act."¹¹ Where Congress discards language in the course of agreeing on a final bill, there is no basis for assuming that has adopted the rejected approach *sub silentio*.¹² Instead, the Secretary must give effect to the unambiguously expressed intent of Congress, and is not free to adopt through regulations what the Congress has chosen not to do.

To summarize, nothing in the 2002 amendments authorizes the Secretary of Labor to undermine the express language of the Act in order to require through regulations what Congress has chosen not to require. For this reason, the wholesale WIA integration requirements in the proposed rules should be withdrawn, and the attempts to alter the scope and purpose of TAA and TAA training by interposing a rapid reemployment goal should be abandoned in favor of an approach stressing a return to suitable employment.

Specific Concerns Regarding the Proposed Rules in 20 CFR Part 618

At the outset, we note that over four years have passed since Congress enacted the 2002 amendments. By the time these proposed regulations are final, Congress will take up reauthorization of TAA. This lengthy delay does not speak well in terms of the Secretary's stewardship over the TAA program. In terms of more specific concerns from NELP, we address the following proposed regulations:

1. Enrollment in on-the-job and customized training

Proposed Regulation 618.635(a)(5)

This proposed regulation gives the criteria for on-the-job training (OJT) approval by a CSA. The listed criterion gives no consideration to the worker's wage and benefits package at the OJT

¹⁰ Conference Report §117.

¹¹ Conference Report § 119.

¹² *INS v. Cardoza-Fonseca*, 480 U.S. 421, 442 (1987).

employer and it does not reference the "suitable employment" definition. This proposed regulation should require that the CSA take into account the wage and benefit package for OJT and that the work should be "suitable," as defined in the regulations¹³ and in the statute.¹⁴ Otherwise, this regulation would require a worker to accept, and a CSA to approve, OJT without consideration as to whether the wage and benefit package is "suitable," i.e. substantially equal or higher skill level than the worker's past adversely affected employment and wages not less than 80 percent of worker's average weekly wage.¹⁵

As it stands now, this proposed regulation is contrary to Congressional intent.¹⁶ It is clear that Congress intended OJT training to be approved on the same basis as other training programs available under TAA. In other words, to qualify for TAA training there must be no "suitable employment"¹⁷ in the commuting area, but to qualify for OJT there is no requirement that the employment involved be "suitable."¹⁸ That protection of "suitability" is needed. Without the "suitable employment" protection, a worker may be forced to accept OJT that does not meet the goals of the statute. Furthermore, under the existing regulations, a worker has the right to quit employment that is not "suitable" and enter training.¹⁹ If that is the case, a similarly situated worker must be allowed to decline OJT if the wage and benefit package does not meet the definition of "suitable." For these reasons, we urge the Secretary to ensure that suitable employment protections apply to OJT as with all other forms of training approvable under TAA.

2. Training requirement for receipt of basic, additional and remedial TRA

Proposed Regulation 618.720(c)(4)

This proposed regulation addresses aspects of the so-called 8/16 week rule. It states that "if there are extenuating circumstances that justify the extension of the enrollment period" then a 45 day extension may be granted from either the 8th week after the week of TAA certification or 16th week after a qualifying separation or 30 days from the revocation of a waiver. The troublesome language here is "enrollment period."²⁰ The proposed regulation remains ambiguous on a central question. It remains unclear under the proposed rule if states can issue a waiver of training in the

¹³ Proposed Regulation 20 CFR § 618.110, 71 Fed. Reg. 50800.

¹⁴ Trade Act, as amended 19 U.S.C. § 2296.

¹⁵ Proposed Regulation 20 CFR § 618.110, 71 Fed. Reg. 50802 .

¹⁶ Trade Act, as amended 19 U.S.C. 2296(a)(5)(A).

¹⁷ Proposed Regulation 20 CFR § 618.110, 71 Fed. Reg. 50800.

¹⁸ Proposed Regulation 20 CFR § 618.110, 71 Fed. Reg. 50800.

¹⁹ Current Regulation 20 CFR § 617.18(b)(iii).

²⁰ Proposed Regulation 20 CFR §618.720(c)(4), 71 Fed. Reg. 50818.

45 day extenuating circumstances window, or if they can only enroll a worker in training within that window. The consensus of both worker advocates and state administrators with whom we spoke is that the extension period should provide the option of issuing a waiver during the 45 day extenuating circumstances window. The Secretary should explicitly provide in her final regulation for training waivers as well as enrollment during the 45 day window in her final regulations.

3. Applying for a relocation allowance

Proposed Regulation 618.510(c)(2)

This proposed regulation effectively provides that if a worker received a training waiver before entering into an approved training program, then the worker is ineligible to receive a relocation allowance for the 182 day period after the completion of approved training. In some cases, this proposed regulation would require workers to apply for relocation before they have completed training. Under the current regulations, in order to receive a relocation allowance, a worker must apply for it within 425 days of the certification or qualifying separation. We question whether forcing a worker to apply for relocation before completing training is an efficient use of resources or a logical outgrowth of Congressional intent. Nothing in the 2002 amendments, which only addressed the amounts of relocation allowances, indicates that Congress wished to so limit relocation allowances.

4. Application of Justifiable Cause to Remedial and Additional TRA

Proposed Regulation 618.765(b)(3)(ii)

The proposed regulations indicates that a worker can be disqualified from training if the worker lacks "justifiable cause" in failing to participate in basic TRA, but propose that any failure to participate in training during weeks of additional or remedial TRA is disqualifying regardless of whether or not there is justifiable cause for the failure.²¹ However, the statute does not make the distinction between basic, remedial or additional TRA when it discusses justifiable cause,²² contrary to the way that the proposed regulations distinguish between the forms of TRA.²³ Since the statute does not distinguish between the forms of TRA and provides an overall justifiable cause provision, the Secretary is not free to limit the application of justifiable cause .to weeks of basic

²¹ Proposed Regulation 20 CFR § 618.765(b)(2), 71 Fed. Reg. 50822.

²² Trade Act, as amended 19 U.S.C. 2291(a)(5)(b).

²³ Proposed Regulation 20 CFR § 618.765(b)(2)(ii), 71 Fed. Reg. 50823.

TRA²⁴ Under the Secretary's proposed regulations, it is possible that a worker can be disqualified from receiving TRA benefits for missing a single class during remedial or additional training, without regard to whether the worker has justifiable cause. This is contrary to the statute and this regulatory limitation on justifiable cause should not be included in the Secretary's final regulations.

5. Definition of Justifiable Cause

Proposed Regulation 618.765(b)(3)(iii)

This proposed regulation indicates that a worker can be disqualified from training if the worker lacks "justifiable cause" in failing to participate. Justifiable cause is determined by measuring the worker's conduct against the expected conduct of a reasonable worker in similar circumstances. This use of the "reasonable person" standard is similar to the existing regulation's definition, but the proposed rule omits useful language that is currently found in 20 CFR 617.18(b)(2)(C). This existing language protects certified workers whose reasons for failing to participate in training includes "reasons beyond the individual's control and reasons related to the individuals' capability to participate in or complete an approved training program." This language from the current justifiable cause definition gives a fuller meaning to concept than the limited definition found in the proposed regulations. Nothing in the 2002 amendments demonstrates a Congressional desire to limit the concept of justifiable cause, and the Secretary should not do so.

6. Selection of training programs

Proposed Regulation 618.620(a)(1)

This proposed regulation requires limits approved training under TAA to only training offered by a WIA eligible training providers. As is well known, the reporting requirements for WIA training providers are over burdensome for larger institutions that service a large student population beyond "adversely affected workers." For this reason, the universe of training providers currently available under TAA is far larger than the smaller number of WIA eligible training providers. The Secretary's effort to limit TAA training to providers on the WIA eligible training lists

²⁴ Trade Act, as amended 19 U.S.C. 2291(a)(5)(b)(ii).

represents a significant limitation of the training opportunities currently open to TAA certified workers. Accordingly, NELP opposes the limitation of TAA training to eligible providers under WIA.

Furthermore, the legislative history of the 2002 amendments indicates clearly that Congress specifically rejected the requirement that TAA training providers be WIA eligible when it dropped the language of the House bill before passing the Trade Adjustment Assistance Reform Act of 2002.²⁵ The best practice, and the practice in line with Congressional intent, is to continue to allow TAA approval of any appropriate training providers to ensure that TAA certified workers may access a wide variety of training providers to achieve the program's goal of returning workers to work that will use their highest skill levels.

7. Comprehensive Assessments and IEPs

Proposed Regulation 618.345, 618.350 and 618.355

This regulation provides an example of a proposed regulatory mandate (without additional administrative funding) that would seem to benefit TAA certified workers. These regulations require both initial and comprehensive assessments as well as individual employment plans as a prerequisite to approval of TAA training. Given the present difficulties faced by those implementing TAA at the local and state levels, these added requirements will likely have the reverse effect. While in theory, having each worker initially assessed, with those interested then getting a comprehensive assessment might seem attractive, but these requirements will not advantage workers in most mass layoffs involving TAA. In the field, the new requirement for a cooperating state agency (CSA) to develop a written employment plan for each affected worker appears to offer an added service.²⁶ But, while on its face the individual employment plan (IEP) requirement would seem to benefit workers, in the real world of TAA the additional requirement will actually provide a paperwork backlog in large scale lay-offs and will prevent workers from becoming eligible for TAA training in a timely fashion. These requirements are a burden on an already over-worked TAA field staff and will require states to expend scarce resources for the sake of creating a paper trail that adds little of value to TAA certified workers. NELP believes that it is not practical for TAA staff to provide both assessments and an IEP in a timely fashion. We already counsel numbers of workers running up against the 8/16 week deadline through no fault of their own.

Rather than impose uniform federal assessment and planning requirements, the Secretary

²⁵ Trade Act, as amended 19 U.S.C. 2296 et seq.

²⁶ Proposed Regulation 20 CFR § 618.110, 71 Fed. Reg. 50800.

should permit states to use a single assessment of TAA certified workers. And, the proposed rules could suspend the operation of the 8 and 16 week rule when state or local staff are unable to meet enrollment deadlines due to the scale of layoffs or other extenuating circumstances. This flexible approach would ensure that workers get the services necessary in a reasonable timeframe without the dire consequences now imposed under the 8/16 week rule in too many cases.

8. Petition Investigations and Trade Secrets

Proposed Regulation 618.110

The proposed rules do not address, with one exception, the TAA certification process. In our view, this process suffers from many shortcomings. Most notably, under current policies many petitioning workers have their certifications denied. For instance, the Department of Labor received 2,627 TAA petitions between October 1, 2004 and September 30, 2005. Of those received petitions, the Department made determinations on 2,585. Of those 2,585 determinations, 1,545 TAA certifications were issued. This means that 1,040 petitions were denied.

According to the Clerk of the U.S. Court of International Trade,²⁷ 17 petition denials were appealed during this time period. This means that the door for thousands of workers to avail themselves of TAA benefits is being slammed shut at the agency level. Certainly some of these denials without an appeal are simply due to a lack of knowledge about the appeal process on behalf of the workers or a lack of qualified counsel to handle these appeals. There is evidence that these potential added appeals could succeed in a significant number of cases. As a recent decision by the Court of International Trade explains, "extrapolating workers' roughly 90% 'rate of success' before the court [on appeal of a TAA petition denial] to the hundreds of TAA petition that are denied but not appealed every year suggests that the Labor Department's failure to properly investigate petitions" is denying workers of the benefits to which they are legally entitled."

Despite this dismal record, the Department's proposed rules make only one mention of its flawed certification process, and that change will not benefit potentially eligible workers. The single instance involves bringing the information supplied by the employer and the employer's customers as part of the investigation process under the protection of the Trade Secrets Act.²⁸ Currently, the information supplied by the employers and their customers is treated as business confidential and is exempted from disclosure under the Freedom of Information Act. This practice, in our

²⁷ Email Communication Thursday, October 12, 2006 2:22PM.

²⁸ Proposed Regulation 20 CFR §618.110, 71 Fed. Reg. 50800.

experience, has not enhanced employer cooperation in the investigation process, but has instead prevented workers and their representatives from effectively participating in the TAA certification investigation. Making the Trade Secrets Act apply to TAA investigations will only exacerbate this problem.

Once again, we believe that the Secretary's action falls beyond the scope of permissible administrative discretion. If Congress had wanted employer supplied information covered under the Trade Secrets Act, it would have done so. A better means of ensuring employer and customer cooperation in TAA investigations already exists. The Department of Labor should utilize its legal authority to issue subpoenas and engage its staff in the field offices to thoroughly investigate petitions. This would improve the quality of information available to the Department in its investigations without imposing added restrictions on access to that information on the part of petitioning workers.

Positive Elements of Proposed Regulations

NELP supports some proposed regulations because they add flexibility and will assist dislocated workers certified as eligible for Trade Adjustment Assistance. These regulations are consistent with the Trade Act and will promote delivery of training services to TAA certified workers. For these reasons we support their inclusion in the proposed rules.

1. Proposed Regulation 618.110 Lack of Work Definition

Existing regulations defined "adversely affected worker" as individuals separated from TAA certified employment "because of a lack of work."²⁹ However, this existing regulation did not include a definition of the phrase "lack of work." The proposed regulations include a definition of "lack of work" that includes separations from affected employment where employers are reducing their workforces "by means of attrition or layoff, including downsizing when an employee accepts an employer's offer of a severance package designed by the employer to encourage voluntary separations."³⁰ We strongly support this added definition.

Both our own experience advising certified workers, and a good deal of administrative and court decisions over the years reveal that the existing standard was applied as an extremely narrow view of "lack of work." The current rule was essentially administered as if the existing

²⁹ Current Regulation 20 CFR § 617.3(b).

³⁰ Proposed Regulation 20 CFR § 618.111, 71 Fed. Reg. 50802.

phrase was synonymous with "layoff." While eligibility for TAA is properly limited to those whose separations that are causally linked with increased imports or shifts in production, insisting that only "layoffs" constitute qualifying separations for TAA is overly restrictive in the real world. Indeed, where business declines are contributed to importantly by trade, separations often take place that are not purely layoffs but nonetheless are certainly involuntary separations causally related to trade. The proposed definition represents a positive shift from the Department's former position, which was inappropriately restrictive. For that reason, we support its inclusion in the proposed regulations.

2. Proposed Regulation 618.110 Suitable Employment Definition

NELP supports the addition to the regulations of a definition of "suitable employment" that reflects the Trade Act's definition of suitability in Section 236(e) and recognizes that the value of fringe benefits, including health insurance, should be taken into consideration when determining whether work meets the definition. This approach is consistent with the best reasoned cases involving unemployment insurance as well as the reality of how jobless individuals consider the desirability of employment offers. We also agree that "suitable employment" is not the same as "suitable work," and that a separate definition is therefore appropriate.

3. Proposed Regulation 618.610 and 618.625(c)--Approval of Training

In its proposed regulations, the Department has made a number of changes in its approach to approval of training which should assist some certified workers in entering and completing training. In particular, the proposed regulations shift the focus from "job readiness" in approving training under the present regulations, to a "reasonable expectation of employment" focus.³¹ Given that TAA certifications frequently occur in regions suffering other economic dislocations, the proposed regulation correctly recognizes that training is appropriate when there is a reasonable expectation of obtaining work that will allow the trainee to achieve self-sufficiency. While supporting this shift, we read additional features of the proposed regulations as preventing cooperating agencies from over-reaching by approving training that is not reasonably related to reemployment on the part of affected workers. On an additional point, clarifying procedures for cost sharing with other sources of funding as proposed in 618.625(c) should be helpful in permitting

³¹ Proposed Regulation 20 CFR § 618.610(b), 71 Fed. Reg. 50809.

certified workers to participate in a larger variety of training programs.³² For these reasons, we support these proposed rules concerning training approval and the changes they embody.

Conclusion

We appreciate this opportunity to submit our comments on these proposed regulations and trust that you will give them due consideration in the course of promulgating the Secretary's final regulations.

Sincerely yours,

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³² Proposed Regulation 20 CFR § 618.625(c), 71 Fed. Reg. 50813.