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DIRECTIVE: UNEMPLOYMENT INSURANCE PROGRAM LETTER 25-87

TO: ALL STATE EMPLOYMENT SECURITY AGENCIES

FROM: DONALD J. KULICK, Administrator for Regional Management

SUBJECT: Eligibility of "Bumped" Worker for Trade Adjustment Assistance (TAA)

1. Purpose. To clarify Department of Labor policy concerning when a "bumped" worker is considered an adversely affected worker with TAA eligibility.
2. References. Trade Act of 1974 as amended (P.L. 93-618, P.L. 97-35, P.L. 98-120, P.L. 98-369 and P.L. 99-272) and 20 CFR Part 617.
3. Background. The Department has had a longstanding position based on section 247(2) of the Trade Act of 1974, that a bumped worker is specifically included in the definition of an "adversely affected worker" eligible for TAA benefits including trade readjustment allowances (TRA). Refer to ETA Handbook 315, page C-I-3. A number of SESAs have continued to raise questions related to the bumping issue. This directive is being issued to provide additional clarification.
4. Discussion. The questions raised by SESAs can be addressed by presenting some specific situations and indicating how each situation should be handled.

(a) Situation 1: If a non-certified worker in a firm is separated from employment as a direct consequence of the transfer of another individual, because of lack of work, from "adversely affected employment" (as defined in section 247(1) of the Act) in the firm, the separated worker (bump) is an "adversely affected worker" and is eligible to apply for TAA. Such bumping, however, can give rise to only one TAA entitlement. If the bumper is then later separated from the non-adversely affected employment, he or she is not an adversely affected worker eligible to apply for TAA, unless of course, he or she is bumped out of work as a consequence of the transfer of another worker separated from adversely affected employment. Beginning with an individual who is forced to leave adversely affected employment there can be a series of consecutive bumps and in such a case the individual who is finally separated from the firm is the "adversely affected worker".

(b) Situation 2: Where a worker is separated from adversely affected employment because of lack of work, but immediately transfers to non-adversely affected employment in the same firm and subsequently experiences a lack of work separation from the latter employment, such

worker is not an "adversely affected worker " and is not eligible to apply for TAA regardless of whether or not his transfer resulted in the separation of a bumpee from employment. In this case, such worker has not experienced a "layoff" within the meaning of 20 CFR Part 617 .3 (w), and has not met the required criteria to be eligible to apply for TAA.

(c) Situation 3. Where a worker is separated because of lack of work from adversely affected employment with a firm and immediately finds employment with a different firm, and is Subsequently separated from employment with the second firm, the worker is eligible to apply for TAA, because of his or her earlier "layoff" from adversely affected employment within the meaning of the regulations .

5. Action Required. SESA administrators should distribute the contents of this UIPL to appropriate staff.
6. Inquiries. Direct questions to the appropriate Regional Office.