DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,248]

ArvinMeritor, Gabriel Ride Control Division, Including On-Site Leased Workers of Pinnacle Staffing, Chickasha, OK; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on October 11, 2007, applicable to workers of ArvinMeritor, Gabriel Ride Control Division, Chickasha, Oklahoma. The notice was published in the **Federal Register** on October 26, 2007 (72 FR 60910).

At the request of a company official, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of chrome rods.

New information shows that leased workers of Pinnacle Staffing were employed on-site at the Chickasha, Oklahoma location of ArvinMeritor, Gabriel Ride Control Division. The Department has determined that these leased workers were engaged in on-site activities related to the production of chrome goods at ArvinMeritor, Gabriel Ride Control Division, Chickasha, Oklahoma.

Based on these findings, the Department is amending this certification to include leased workers of Pinnacle Staffing working on-site at the Chickasha, Oklahoma location of the subject firm.

The intent of the Department's certification is to include all workers employed at ArvinMeritor, Gabriel Ride Control Division, Chickasha, Oklahoma who were adversely-impacted by a shift in production of chrome rods to Mexico.

The amended notice applicable to TA–W–62,248 is hereby issued as follows:

All workers of ArvinMeritor, Gabriel Ride Control Division, including on-site leased workers of Pinnacle Staffing, Chickasha, Oklahoma, who became totally or partially separated from employment on or after October 3, 2006, through October 11, 2009, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 7th day of November 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,176]

First American Title Insurance Company: Eagle Production Center; Flint, MI; Notice of Negative Determination Regarding Application for Reconsideration

By application dated October 16, 2007, a worker requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of First American Title Insurance Company, Eagle Production Center, Flint, Michigan (subject firm) to apply for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA). The negative determination was issued on October 9, 2007, and the Department's Notice of negative determination was published in the **Federal Register** on October 26, 2007 (72 FR 60910).

The worker-filed TAA/ATAA petition was denied because the subject firm does not produce an article within the meaning of Section 222(a)(2) of the Act. Workers at the subject firm are engaged in title insurance operations which entail the examining of chain of title for residential and commercial properties, writing title commitments and policies, interacting with customers and providing customer service, and abstracting.

Pursuant to 29 CFR 90.18(c), administrative reconsideration may be granted if:

(1) It appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) It appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) In the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The request for reconsideration alleges that the subject workers produce an ''end product.'' These products include search packages (abstracts of land title and copies of documents identifying a chain of title and encumbrances to the property); property reports (copies of documents covering the customers' interests such as easements and mortgages); title commitments (a document that indicates a commitment to issue title insurance and provides a complete history of the property); and title policies (a compilation of documents that is delivered to and paid for by the customer). The request for reconsideration also states that the ''assemblage and distribution of the product(s)'' is being shifted to India and the Philippines.

It is the Department's policy that the subject firm must produce an article domestically. The Department's policy is supported by current regulation. 29 CFR 90.11(c)(7) requires that the petition include a ''description of the articles produced by the workers' firm or appropriate subdivision, the production or sales of which are adversely affected by increased imports, and a description of the imported articles concerned. If available, the petition should also include information concerning the method of manufacture, end uses, and wholesale or retail value of the domestic articles produced and the United States tariff provision under which the imported articles are classified.''

In order to determine whether the subject firm is a manufacturing firm, the Department consulted the North American Industry Classification System (NAICS) Web site. The NAICS identifies the primary activity of the company, which is useful in understanding what a firm does for its customers, which, in turn, aids in determining whether a firm produces an article or provides services for its customers. According to the NAICS, the subject firm is a ''Direct Title Insurance Carrier.'' This industry includes ''establishments primarily engaged in initially underwriting * * * insurance policies to protect the owners of real estate or real estate creditors against loss sustained by reason of any title defect to real property.''

After careful review of the request for reconsideration and previously-submitted information, the Department determines that the subject firm is a service firm and not a manufacturing firm. As a corollary, the Department determines that there was no shift of production abroad.

While the Department has discretion to issue regulations and guidance on the operation of the TAA program, the Department cannot expand the program

to include workers that Congress did not intend to cover, such as service workers. In 2002, while amending the Trade Act, the Senate explained the purpose and history of TAA:

Since it began, TAA for workers has covered mostly manufacturing workers, with a substantial portion of program participants being steel and automobile workers in the mid- to late-1970s to early 1980s, and light industry and apparel workers in the mid- to late-1990s. In fiscal years 1995 through 1999, the estimated number of workers covered by certifications under the two TAA for workers programs averaged 167,000 annually, reaching a high of about 228,000 in 1999, despite a falling overall unemployment rate. During the same period, approximately 784 firms were certified under the TAA for firms program. Participating firms represent a broad array of *industries producing manufactured products*, including auto parts, agricultural equipment, electronics, jewelry, circuit boards, and textiles, as well as some producers of agricultural and forestry products.

S. Rep. 107–134, S. Rep. No. 134, 107th Cong., 2nd Sess. 2002, 2002 WL 221903 (February 4, 2002) (emphasis added). Clearly, the language suggests that the focus of TAA is the manufacture of marketable goods.

Congress has recognized the difference between manufacturers and service firms and that an amendment to the Trade Act is needed to cover workers in service firms. It has recently rejected at least two attempts to amend the Trade Act to expand TAA coverage to service firms. It did not pass the ''Trade Adjustment Assistance Equity for Service Workers Act of 2005'' or the ''Fair Wage, Competition, and Investment Act of 2005.'' Most recently, Senator Baucus introduced the ''Trade and Globalization Adjustment Assistance Act of 2007'' which provides for an expansion of coverage to workers in a ''service sector firm'' when there are increased imports of services like or directly competitive with articles produced or services provided in the United States, or a shift in provision of like or directly competitive articles or services to a foreign country, and Congressman Rangel introduced a similar bill in the House of Representatives that was discussed in late October 2007.

Until Congress amends the Trade Act to cover service workers, the worker group seeking TAA certification (or on whose behalf certification is being sought) must work for a firm or appropriate subdivision that produces an article and there must be a relationship between the workers' work and the article produced by the workers' firm or appropriate subdivision that produces an article domestically.

After careful review of the request for reconsideration and previously submitted materials, the Department determines that there is no new information that supports a finding that Section 222(a)(2) of the Trade Act of 1974 was satisfied and that there was no mistake or misinterpretation of the facts or the law.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC this 6th day of November 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–22321 Filed 11–14–07; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of *October 29 through November 2, 2007.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. 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;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. 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;

B. 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

C. One of the following must be satisfied:

1. 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;

2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. 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.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of section 222(b) of the Act must be met.

(1) 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 to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

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