

**DEPARTMENT OF LABOR****Employment and Training Administration**

[TA-W-35, 396]

**Zenith Electronics Corp., Melrose Park, Illinois; Notice of Termination of Investigation**

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 9, 1998 in response to a worker petition which was filed on behalf of workers and former workers at Zenith Electronics Corporation, located in Melrose Park, Illinois (TA-W-35, 396).

The Department of Labor has determined that the petitioners are covered under an existing certification, as amended (TA-W-34, 579). Consequently, further investigation in this matter would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 5th day of April 1999.

**Grant D. Beale,***Acting Director, Office of Trade Adjustment Assistance.*

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**DEPARTMENT OF LABOR****Employment and Training Administration**

[NAFTA-2935]

**Circle Four Farms, Milford, Utah; Notice of Negative Determination Regarding Application for Reconsideration**

By application dated March 18, 1999, the company requested administrative reconsideration of the Department's negative determination regarding worker eligibility to apply for NAFTA-Transitional Adjustment Assistance (NAFTA-TAA). The denial notice applicable to workers of the subject firm located in Milford, Utah, was signed on March 8, 1999 will soon be published in the **Federal Register**.

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

- (1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;
- (2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or
- (3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Findings of the initial investigation showed that workers of Circle Four Farms, Milford, Utah were engaged in employment related to the production of live swine. The Department's denial of NAFTA-TAA for workers of the subject firm was based on the determination that criteria (1) and (2) of the Group Eligibility requirements of paragraphs (a)(1) of section 250 of the Trade Act of 1974, as amended, were not met. Layoffs did not affect a significant proportion of the total workers at Circle Four Farms. Sales and production increased in 1998 compared to 1997.

The petitioner asserts that because of the continuation of low pork prices, additional positions have been eliminated at Circle Four Farms. The petitioner asks that the Department consider the petition based on the number of positions eliminated, not the total number of individuals terminated. Trade Act law does not contain a provision which would allow the Secretary to issue a determination for NAFTA-TAA eligibility based on the number of positions eliminated. The worker group eligibility requirements of paragraph (a)(1) of Section 250 stipulate that a "significant number of proportion of the workers \* \* \* have become totally or partially separated \* \* \*"

The petitioner further argues that because of the nature of the livestock industry, the Department should not use increasing sales and production as a criterion for denying the petition. Trade Act law does not contain a provision that allows the Secretary to depart from the requirement that sales or production, or both, have decreased absolutely.

Lastly, the petitioner asserts that low pork prices are a result of Canadian imports. U.S. Department of Agriculture data submitted by the petitioner confirms the petitioners allegation. Price, however, is not a basis for certification of the Circle Four Farm workers.

**Conclusion**

After review of the application and investigation 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 31st day of March 1999.

**Grant D. Beale,***Acting Director, Office of Trade Adjustment Assistance.*

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**DEPARTMENT OF LABOR****Employment and Training Administration**

[NAFTA-01223]

**Johnson & Johnson Medical, Inc. A/K/A Ethicon, Inc. Including Temporary Workers of Kelly Services, Inc., El Paso, Texas; Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance**

In accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Certification of Eligibility to Apply for NAFTA-Transitional Adjustment Assistance on October 9, 1997, applicable to all workers of Johnson & Johnson Medical, Incorporated located in El Paso, Texas. The certification was amended on October 30, 1997, to include temporary workers of Kelly Services, Incorporated, engaged in employment related to the production of surgical gowns, drapes and sheets at Johnson & Johnson Medical's El Paso plant.

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information provided by a company official and the State agency reveal that as of January 1, 1998, Johnson and Johnson Medical Inc. and Ethicon, Inc. merged. Some of the workers at the El Paso plant have had their wages reported to the Unemployment Insurance (UI) tax account for Ethicon, Inc.

The intent of the Department's certification is to cover all workers of Johnson & Johnson Medical, Incorporated, El Paso, Texas who were adversely affected by the shift in production to Mexico. Accordingly, the Department is amending the certification to include workers of Ethicon, Inc.

The amended notice applicable to NAFTA-01223 is hereby issued as follows:

All workers of Johnson & Johnson Medical, Incorporated, also known as Ethicon, Inc., El Paso, Texas, including temporary workers of Kelly Services, Incorporated engaged in employment related to the production of surgical gowns, drapes and sheets for Johnson & Johnson Medical, Incorporated, El Paso, Texas, who became totally or partially separated from employment on or after August 29, 1995 through October 9, 1998, are eligible to apply for NAFTA-TAA under section 250 of the Trade Act of 1974.