

DEPARTMENT OF LABOR**Employment and Training
Administration**

[TA-W-51,403]

**Clariant Corporation, Oak Creek, WI;
Notice of Revised Determination on
Reconsideration**

By application of June 12, 2003, a company official requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.

The initial investigation resulted in a negative determination issued on April 30, 2003, based on the finding that criterion 3(A) (the workers' firm is a supplier and the component parts it supplied for the primary firm accounted for at least 20 percent of the production or sales of the workers' firm) and 3(B) (a loss of business by the workers' firm with the primary firm contributed importantly to the workers' separation or threat of separation) have not been met. The denial notice was published in the **Federal Register** on May 9, 2003 (68 FR 25060).

Pursuant to the receipt of the request for reconsideration, which included subject firm customers not provided in the initial investigation, it has become apparent that Clariant Corporation, Oak Creek, Wisconsin supplies component parts for leather and a loss of business with a manufacturers (whose workers were certified eligible to apply for adjustment assistance) contributed importantly to the workers separation or threat of separation.

Conclusion

After careful review of the facts obtained in the investigation, I determine that workers of Clariant Corporation, Oak Creek, Wisconsin qualify as adversely affected secondary workers under Section 222 of the Trade Act of 1974. In accordance with the provisions of the Act, I make the following certification:

All workers of Clariant Corporation, Oak Creek, Wisconsin, who became totally or partially separated from employment on or after April 1, 2002 through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 17th day of October, 2003.

Elliott S. Kushner,

*Certifying Officer, Division of Trade
Adjustment Assistance.*

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DEPARTMENT OF LABOR**Employment and Training
Administration**

[TA-W-52,676, et al.]

**Defender Services, Inc., Working at
Pillowtex Plant #1, Kannapolis, NC, et
al.; Notice of Negative Determination
Regarding Application for
Reconsideration**

By application of September 17, 2003, a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of Pillowtex Plant #1, Kannapolis, North Carolina (TA-W-52,676), Pillowtex Plant #16, Salisbury, North Carolina (TA-W-52,676A), Pillowtex Plant #6, Concord, North Carolina (TA-W-52,676B) and Pillowtex Plant, Eden, North Carolina (TA-W-52,676C) to apply for Trade Adjustment Assistance (TAA). The decision notice was signed on September 9, 2003 and published in the **Federal Register** on October 10, 2003 (68 FR 58719).

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.

The petition for the workers of Pillowtex Plant #1, Kannapolis, North Carolina (TA-W-52,676), Pillowtex Plant #16, Salisbury, North Carolina (TA-W-52,676A), Pillowtex Plant #6, Concord, North Carolina (TA-W-52,676B) and Pillowtex Plant, Eden, North Carolina (TA-W-52,676C) was denied because the "upstream supplier" group eligibility requirement of Section 222(b) of the Trade Act of 1974, as amended, was not met.

The "upstream supplier" requirement is fulfilled when the workers' firm (or subdivision) is a supplier to a firm 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. The workers of the subject firm did not act as an upstream supplier to a trade certified firm.

The petitioner notes that other contractors have been certified for trade adjustment assistance and thus appears to imply that the petitioning workers should be eligible for trade adjustment assistance as import impacted secondary workers.

When addressing the issue of import impact in a case of secondary impact, the Department considers whether the subject firm supplied a component in a product produced by a trade certified firm. As the subject firm did not produce a component used in the product of Pillowtex Corporation, the allegation of secondary import impact is invalid.

Further, the subject firm does not produce an article within the meaning of Section 222 of the Trade Act. Only in very limited instances are service workers certified for trade adjustment assistance, namely the worker separations must be caused by a reduced demand for their services from a parent or controlling firm or subdivision whose workers produce an article and who are currently under certification for trade adjustment assistance. A further investigation revealed that the workers of Pillowtex Plant #1, Kannapolis, North Carolina (TA-W-52,676), Pillowtex Plant #16, Salisbury, North Carolina (TA-W-52,676A), Pillowtex Plant #6, Concord, North Carolina (TA-W-52,676B) and Pillowtex Plant, Eden, North Carolina (TA-W-52,676C) do not meet the criteria to be certified for trade adjustment assistance.

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 3rd day of November, 2003.

Elliott S. Kushner,

*Certifying Officer, Division of Trade
Adjustment Assistance.*

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