

DEPARTMENT OF LABOR**Employment and Training Administration**

[TA-W-53,597]

Fashion Technologies, Gaffney, SC; Notice of Negative Determination on Reconsideration

On March 23, 2004, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The notice was published in the **Federal Register** on April 5, 2004 (69 FR 17711).

The petition for the workers of Fashion Technologies, Gaffney, South Carolina was denied because the "contributed importantly" group eligibility requirement of section 222 of the Trade Act of 1974, as amended, was not met. The "contributed importantly" test is generally demonstrated through a survey of customers of the workers' firm. The survey revealed that none of the respondents increased their imports of engraved rotary screens.

In the request for reconsideration, the petitioner states that Fashion Technology, Gaffney, South Carolina worked very closely with companies (converters) that print fabric using engraved rotary screens produced by the subject firm. The petitioner believes that even though engraved rotary screens are not being imported by customers, they are used in the production of print fabric, and customers were shifting their fabric printing production abroad. The petitioner concludes that, because these print plants are being transferred abroad, the subject firm workers producing the engraved rotary screens are import impacted. The petitioner supplied a list of customers, alleging that these companies are now printing fabric abroad and an investigation of these additional customers would prove that the subject firm was eligible under secondary impact.

In order to establish import impact, the Department must consider imports that are like or directly competitive with those produced at the subject firm. The Department conducted a survey of the additional customers regarding their purchases of engraved rotary screens. The survey revealed no imports of engraved rotary screens during the relevant period.

The fact that subject firm's customers are shifting their production abroad may be relevant to this investigation if determining whether workers of the subject firm are eligible for trade adjustment assistance (TAA) based on the secondary upstream supplier

impact. For certification on the basis of the workers' firm being a secondary upstream supplier, the subject firm must have customers that are TAA certified, and these TAA certified customers must represent a significant portion of subject firm's business. In addition, the subject firm would have to produce a component part of the product that was the basis for the customers' certification.

In this case, however, the subject firm does not act as an upstream supplier, because engraved rotary screens do not form a component part of the fabric. Furthermore, none of the customers provided by the petitioner are certified for TAA. Thus the subject firm workers are not eligible under secondary impact.

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 in Washington, DC this 13th day of April, 2004.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance Assistance.

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DEPARTMENT OF LABOR**Employment and Training Administration**

[TA-W-53,585]

Sealed Air Corporation, Salem, IL; Notice of Revised Determination Regarding Application for Reconsideration

By application of February 25, 2004, a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA).

The initial investigation resulted in a negative determination issued on January 20, 2004, because the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act was not met for workers at the subject firm. The workers produce padded mailing envelopes. The denial notice was published in the **Federal Register** on March 12, 2004 (69 FR 11888).

The petitioner alleges that Sealed Air Corporation, Salem, Illinois produced more products than just mailing

envelopes and that 50 percent of the plant production was extruded plastic foam. The petitioner further states that while production of paper envelopes was shifted domestically, production of plastic foam was shifted to Mexico upon the subject plant's closure. To support this statement, the petitioner attached copies of the Bill of Lading, which show the shipment of machinery from the subject facility to Mexico.

A company official was contacted to verify this information. Upon further review, it was revealed that some workers at Sealed Air Corporation, Salem, Illinois were indeed engaged in the production of plastic foam during the relevant period; they were separately identifiable. A company official confirmed that approximately fifty percent of production of plastic foam was shifted to Mexico in 2003 and that this shift contributed importantly to layoffs at Sealed Air Corporation in Salem, Illinois.

In accordance with section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor herein presents the results of its investigation regarding certification of eligibility to apply for alternative trade adjustment assistance (ATAA) for older workers.

In order for the Department to issue a certification of eligibility to apply for ATAA, the group eligibility requirements of section 246 of the Trade Act must be met. The Department has determined in this case that the requirements of section 246 have been met.

A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that there was a shift in production from the workers' firm or subdivision to Mexico of articles that are like or directly competitive with plastic foam produced by the subject firm or subdivision. In accordance with the provisions of the Act, I make the following certification:

All workers of Sealed Air Corporation, Salem, Illinois, engaged in the production of plastic foam, who became totally or partially separated from employment on or after October 30, 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, and are eligible to apply for alternative trade adjustment assistance under section 246 of the Trade Act of 1974.