

PPA directed the Secretary of Labor, in consultation with the Secretary of the Treasury, to solicit information regarding the feasibility of the application of computer model investment advice programs to Individual Retirement Accounts and similar types of plans (hereinafter, collectively, IRAs).<sup>3</sup> The PPA further directed that the Secretary of Labor, in consultation with the Secretary of the Treasury, determine, based on the information received from the solicitation, whether there is any computer model investment advice program which may be utilized to provide investment advice to IRA beneficiaries, where such program: (1) Utilizes relevant information about the account beneficiary, which may include age, life expectancy, retirement age, risk tolerance, other assets or sources of income, and preferences as to certain types of investments; (2) takes into account the full range of investments, including equities and bonds, in determining the options for the investment portfolios of the beneficiary; and (3) allows the beneficiary, in directing the investment, sufficient flexibility in obtaining advice to evaluate and select investment options[0].

On December 4, 2006, the Department of Labor published a request for information (RFI) regarding the feasibility of computer model investment advice programs for IRAs (71 FR 70427). On December 12 and 13, 2006, the Department solicited comments, by mail, from certain trustees and other persons offering computer model investment advice programs. The Department received over 60 comments in response to these solicitations.

The RFI posed several questions that focused on the specific statutory requirements imposed by the PPA for computer model investment advice programs for beneficiaries of IRAs. Many of the comments took differing views as to the existence of such programs depending on the meaning of

the term "full range of investments" in PPA section 601(b)(3)(B).

After carefully reviewing the information received to date, the Department has decided that it would be beneficial to solicit additional information by means of a public hearing. The Department is interested in obtaining information on all aspects of computer model based investment advice programs for IRAs that would help in making the required determination, including additional information relating to the questions posed in the RFI. In particular, the Department is interested in understanding what particular types of investments or asset classes a computer model program should take into account in order to provide appropriate advice to IRA beneficiaries. In addition, the Department seeks additional information on the manner in which such programs could operate without bias as to investments offered by the fiduciary advisor or an affiliate, if the particular advice program allocates IRA assets among only such investments.

The Department is also interested in knowing whether the scope of relief from ERISA's prohibited transaction provisions afforded by the statute is adequate to facilitate the use of computer-based programs for IRAs should the Department determine that such programs are feasible. Conversely, the Department seeks information concerning the scope of relief that would be necessary, and the conditions that would be appropriate, if it were necessary to issue the class exemption described in PPA section 601(b)(3)(C)(ii).

The hearing will be held on July 31, 2007 beginning at 9:30 a.m., EST, in Rooms N-4437 B, C and D at the U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC. Any interested person who wishes to be assured of an opportunity to present oral comments at the hearing should submit by 3:30 p.m., EST, July 19, 2007: (1) A request to be heard; and (2) a copy of an outline of the topics to be discussed. To facilitate the receipt and processing of responses, EBSA encourages interested persons to submit their request and outline electronically either: (1) By e-mail to [e-OED@dol.gov](mailto:e-OED@dol.gov); or (2) by using the Federal eRulemaking portal at <http://www.regulations.gov> (follow the instructions for submission of comments), using docket number: EBSA-2007-0021. All requests and outlines submitted to the Department, including those submitted by e-mail, will be posted on [www.regulations.gov](http://www.regulations.gov) in the above-referenced docket. Persons submitting requests and outlines

electronically are encouraged not to submit paper copies. Persons interested in submitting written requests and outlines on paper should send or deliver their requests and outlines to the Office of Exemption Determinations, Employee Benefits Security Administration, Room N-5700, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Computer Model Investment Advice Programs For IRAs—Hearing. The Department will prepare an agenda indicating the order of presentation of oral comments. In the absence of special circumstances, each commenter will be allotted fifteen minutes in which to complete his or her presentation. Information about the agenda will be posted on or after July 25, 2007 on [www.regulations.gov](http://www.regulations.gov) in docket number: EBSA-2007-0021 or may be obtained by contacting Chris Motta, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor, telephone (202) 693-8540 (this is not a toll-free number). Those individuals who make oral comments at the hearing should be prepared to answer questions regarding their comments. The hearing will be transcribed.

Signed at Washington, DC, this 14th day of June, 2007.

**Ivan L. Strasfeld,**

*Director, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-60,277]

#### **Creative Engineered Products, Formerly Known as Carlisle Engineered Products, Belleville Division, a Subsidiary of the Reserve Group; Belleville, MI; Notice of Revised Determination on Remand**

On April 20, 2007, the United States Court of International Trade (USCIT) granted the Department of Labor's request for voluntary remand in *Former Employees of Creative Engineering Products v. U.S. Secretary of Labor*, Court No. 07-00073. In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273), the Department of Labor (Department) herein presents the results of the remand investigation regarding workers' eligibility to apply for worker adjustment assistance.

how a participant's account balance should be invested and not be inappropriately weighted with respect to any investment option.

<sup>3</sup> See PPA section 601(b)(3)(A)(i). These plans are: (1) An individual retirement account described in section 408(a) of the Code; (2) an individual retirement annuity described in section 408(b) of the Code; (3) an Archer MSA described in section 220(d) of the Code; (4) a health savings account described in section 223(d) of the Code; (5) a Coverdell education savings account described in Code section 530; or (6) a trust, plan, account, or annuity which, at any time, has been determined by the Secretary of the Treasury to be described in any preceding subparagraph of this paragraph [i.e., (1) through (5) above].

On October 23, 2006, a company official filed a petition for Trade and Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA) on behalf of workers and former workers of Creative Engineering Products, formerly known as Carlisle Engineering Products, Belleville Division, A Subsidiary of the Reserve Group, Belleville, Michigan (the subject firm). Workers produced plastic injection parts for the automotive industry. The subject firm shut down on October 31, 2006.

A negative determination regarding the subject worker group's eligibility to apply for TAA and ATAA was issued on December 6, 2006. The determination was based on the findings that, during the relevant period (the twelve-month period prior to the petition date), the subject firm did not shift production of plastic injection automotive parts (parts) abroad and that neither the subject firm nor its major declining customer imported parts during the relevant period. The Department's Notice of negative determination was published in the **Federal Register** on December 27, 2006 (71 FR 77805).

By letter dated December 14, 2006, a company official requested administrative reconsideration by the Department. The request asserted that the subject firm's closure was caused by the major customer's decision to move its operations to Canada. By letter dated January 18, 2007, the Department dismissed the request for reconsideration, stating that the statute does not provide for TAA certification based on a customer's shift of production to Canada and that no information, new or previously-submitted, revealed that the subject firm shifted production of parts abroad or that there were increased imports of parts during the relevant period. The Department's Dismissal of Application for Reconsideration was issued on January 24, 2007. The Notice of the Department's action was published in the **Federal Register** on February 2, 2007 (72 FR 5085).

By letter dated February 15, 2007, a worker requested judicial review by the USCIT. In the complaint, the Plaintiff alleges that the Department's denial, based on a finding of negligible imports by the subject firm, was arbitrary.

Since the petition was filed by the subject firm and the subject firm requested reconsideration, it was reasonable for the Department to believe that the subject firm had the workers' best interest at heart, and provided accurate and complete information in the previous investigations. However, because it is the Department's practice

to view facts in the light most beneficial to the workers, it is possible that there was a misunderstanding and the workers were unintentionally injured by the mistake(s).

Therefore, in order to address the Plaintiff's allegation of increased imports and to determine whether the workers are eligible to apply for TAA, the Department requested voluntary remand. The Department's request was granted on April 20, 2007.

For a worker group to be certified for TAA based on increased imports, 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.

During the remand investigation, the Department contacted the company official to confirm the article produced by the subject worker group. The Department also conducted another survey to determine whether there were increased customer imports of articles like or directly competitive with plastic injection automotive parts produced at the subject firm during the relevant period. The remand investigation also included an industry-wide review of import trends.

Because the subject firm closed on October 31, 2006, the Department determines that, during the relevant period, a significant number or proportion of the workers in the subject firm have become totally separated and that subject firm sales and production have decreased absolutely.

The survey conducted during the remand investigation revealed that, during the relevant period, customer purchases from the subject firm decreased while imports increased. The survey also revealed overall decreased domestic purchases during the same period of increased import purchases. Further, the rate of import increase was higher than the rate of purchase decrease from the subject firm and other domestic sources.

During the relevant period, aggregate imports of articles like or directly competitive with plastic injection automotive parts produced by the subject firm increased.

Based on the findings of the remand investigation, the Department determines that increased imports of articles like or directly competitive with plastic injection automotive parts produced by the subject firm contributed importantly to the subject workers' separation and to the decline in subject firm sales and production.

In accordance with Section 246 the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department herein presents the results of its investigation regarding certification of eligibility to apply for ATAA. The Department has determined in this case that the group eligibility 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 information obtained during the remand investigation, I determine that increased imports of articles like or directly competitive with plastic injection automotive parts produced by the subject workers contributed to the total separation of a significant number or proportion of workers at the subject firm.

In accordance with the provisions of the Act, I make the following certification:

"All workers of Creative Engineering Products, formerly known as Carlisle Engineering Products, Belleville Division, A Subsidiary of the Reserve Group, Belleville, Michigan, who became totally or partially separated from employment on or after October 23, 2005, through two years from the issuance of this revised determination, are eligible to apply for Trade 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."

Signed at Washington, DC this 13th day of June 2007.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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