

DEPARTMENT OF LABOR**Employment and Training
Administration**

[TA-W-63,943]

**Dana Holding Corporation, Sealing
Products Group, Including On-Site
Temporary Agency Workers from
Pomeroy, Paris, TN; 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 November 3, 2008, applicable to workers of Dana Holding Corporation, Sealing Products Group, Paris, Tennessee. The notice was published in the **Federal Register** on November 25, 2008 (73 FR 71696).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers produce composite covers and rubber gaskets for the automotive industry.

The intent of the Department's certification is to include all workers of the subject firm adversely affected by the shift in production of rubber gaskets to Mexico.

New information shows that temporary agency workers from Pomeroy were employed on-site at the Paris, Tennessee, location of Dana Holding Corporation, Sealing Products Group. The Department has determined that these workers were sufficiently under the control of the subject firm.

Based on these findings, the Department is amending this certification to include temporary agency employees of Pomeroy working on-site at the subject firm.

The amended notice applicable to TA-W-63,943 is hereby issued as follows:

"All workers of Dana Holding Corporation, Sealing Products Group, Paris, Tennessee, including on-site temporary agency workers from Pomeroy, who became totally or partially separated from employment on or after August 27, 2007 through November 3, 2010, 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 in Washington, DC, this 5th day of May 2009.

Elliott S. Kushner,

*Certifying Officer, Division of Trade
Adjustment Assistance.*

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DEPARTMENT OF LABOR**Employment and Training
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[TA-W-62,655]

**Warp Processing Company, Inc.
Exeter, PA; Notice of Revised
Determination on Remand**

On February 20, 2009, the U.S. Court of International Trade (USCIT) remanded to the U.S. Department of Labor (Department) for further review *Former Employees of Warp Processing Company, Inc. v. United States*, Court No. 08-00179.

The investigation was initiated on January 10, 2008, by three petitioning workers for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA) on behalf of workers and former workers of Warp Processing Company, Inc., Exeter, Pennsylvania (subject firm). The petition stated that the subject firm produced warped synthetic fibers, the subject firm's customers increased imports from a foreign country, and the subject firm supplied component parts for articles produced by firms with currently TAA-certified worker groups. AR 3-5, 7.

The petition also states that the subject firm furloughed forty-seven workers, AR 4,6, and that the imported article are not beamed fibers but "fabric and other finished product." AR 7.

The petition further states that "At Warp Processing we supply the component part for the finished products. We supply our customers with warped synthetic fibers and then they weave it into fabric and material and produce the finished product. Our company is an upstream supplier and/or a downstream producer to a certified primary firm and is *secondarily affected*." AR 7.

The negative determination applicable to the subject workers stated that the subject firm "warped synthetic fibers" and that "Warping is a process by which yarn is placed onto beams for the textile industry." The determination also stated that the subject firm did not import warped synthetic fibers or shift production to a foreign country, the subject firm's major declining customers did not import like or directly

competitive articles, and the subject workers did not qualify as adversely affected secondary workers. The negative determination was signed on February 19, 2008. AR 109-113. The Department's Notice of determination was published in the **Federal Register** on March 7, 2008 (73 FR 12466). AR 126.

In a submission dated March 14, 2008, the petitioners requested administrative reconsideration of the Department's negative determination, stated that the information received by the Department was erroneous and re-asserted that the workers qualify as adversely affected secondary workers. AR 136-139.

Stating that the requirement identified in 29 CFR 90.18 (Reconsideration of determination) was not met, the Department issued a Notice of Negative Determination Regarding Application for Reconsideration on March 18, 2008. AR 140-143. The Notice was published in the **Federal Register** on March 26, 2008 (73 FR 16066).

By letter dated May 16, 2008, Plaintiffs filed a complaint with the USCIT. The Plaintiffs asserted that the subject workers are eligible to apply for TAA as either adversely affected primary workers or adversely affected secondary workers. On February 20, 2009, the USCIT remanded the matter to the Department.

To apply for worker adjustment assistance under Section 222(a)(2)(A) of the Trade Act of 1974, as amended, petitioning workers must meet the following group eligibility requirements:

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; *and*

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.

The intent of the Department is for a certification to cover all workers of the subject firm or appropriate subdivision who were adversely affected by increased imports of the article produced by the firm or a shift in production of the article, based on the investigation of the TAA/ATAA petition.

For purposes of the Trade Act, a "firm, together with any predecessor or successor-in-interest, or together with