

Dated: April 26, 2005.

**Brenda E. Dyer,**

*Department Clearance Officer, Department of Justice.*

[FR Doc. 05-8645 Filed 4-29-05; 8:45 am]

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-56,318 and TA-W-56,318A]

#### **Automatic Lathe Cutterhead, High Point, NC; Industrial Supply Co., Inc., Subsidiary of Automatic Lathe Cutterhead, Hickory, NC; Notice of Negative Determination Regarding Application for Reconsideration**

By application of March 11, 2005 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) and Alternative Trade Adjustment Assistance (ATAA). The denial notice was signed on February 18, 2005 and published in the **Federal Register** on March 9, 2005 (70 FR 11703).

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 mis-interpretation of facts or of the law justified reconsideration of the decision.

The TAA petition, filed on behalf of workers at Automatic Lathe Cutterhead, High Point, North Carolina (TA-W-56,318) engaged in cutting bandsaw blades and Industrial Supply CO., Inc., Subsidiary of Automatic Lathe Cutterhead, Hickory, North Carolina (TA-W-56,318A) engaged in direct support of the production at Automatic Lathe Cutterhead was denied because the "contributed importantly" group eligibility requirement of Section 222 of the Trade Act of 1974 was not met. The "contributed importantly" test is generally demonstrated through a survey of the workers' firm's customers. The survey revealed no increase in imports of bandsaw blades during the relevant period. The subject firm did not import bandsaw blades in the relevant

period nor did it shift production to a foreign country.

In the request for reconsideration, the petitioner inquires about the reasoning behind workers of the subject firms being tied to the production of bandsaw blades and refers to the furniture industry as a more appropriate activity for the workers of the subject firm.

The original investigation did reveal that both locations, Automotive Lathe Cutterhead in High Point, North Carolina and Industrial Supply Company in Hickory, North Carolina act as resale distributors and workers of these facilities are strictly engaged in warehousing for suppliers that manufacture furniture. However, warehousing is not considered production of an article within the meaning of Section 222 of the Trade Act. Therefore, the subject group of workers can not be eligible for TAA on its own, based on the fact, that workers do not produce an article. However, it was also determined that cutting and welding of bandsaw blades takes place at the Automatic Lathe Cutterhead Company, High Point, North Carolina facility. Because it is the only production activity occurring at the subject firm, the investigation was conducted on bandsaw blades as a relevant product manufactured by the workers of the subject firm.

The petitioner alleges that the subject firm lost its business due to the conditions in the furniture industry and its major customers importing furniture and shifting their production abroad.

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 subject firm's major declining customers regarding their purchases of bandsaw blades. The survey revealed that the declining customers did not import bandsaw blades during the relevant period.

The reconsideration revealed that the original petitions for Automatic Lathe Cutterhead, High Point, North Carolina and Industrial Supply Co., Inc., Hickory, North Carolina were filed as secondary affected firms. Because this fact was not addressed during the original investigation, an investigation was conducted to determine whether workers of the subject firms are eligible for trade adjustment assistance (TAA) based on the secondary upstream supplier impact.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance on the basis of the workers' firm being a secondary upstream

supplier, the following group eligibility requirements under Section 222(b) must be met:

(1) A significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) 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; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In this case, however, the subject firms do not act as upstream suppliers, because bandsaw blades do not form a component part of the furniture. 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 at Washington, DC this 19th day of April, 2005.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E5-2077 Filed 4-29-05; 8:45 am]

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-56,372]

#### **Dystar LP, Charlotte, North Carolina; Dismissal of Application for Reconsideration**

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade

Adjustment Assistance for workers at DyStar LP, Charlotte, North Carolina. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-56,372; DyStar LP, Charlotte, North Carolina (April 20, 2005)

Signed at Washington, DC this 21st day of April 2005.

**Timothy Sullivan,**

*Director, Division of Trade Adjustment Assistance.*

[FR Doc. E5-2084 Filed 4-29-05; 8:45 am]

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-56,873]

#### Federal-Mogul; Blacksburg, VA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on April 4, 2005 in response to a petition filed on behalf of workers at Federal-Mogul, Blacksburg, Virginia.

This is a duplicate petition that was initiated in error. The original petition is the subject of an ongoing investigation under petition number TA-W-56,861, initiated on March 30, 2005. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 6th day of April, 2005.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E5-2090 Filed 4-29-05; 8:45 am]

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-56,152 and TA-W-56,152A]

#### Flowline Division, of Markovitz Enterprises, Inc., New Castle, PA; Flowline Division, of Markovitz Enterprises, Inc., Whiteville, NC; Notice of Determinations Regarding Application for Reconsideration

By application of February 24, 2005 a company official requested administrative reconsideration of the Department's negative determination

regarding eligibility for workers and former workers of the subject firms to apply for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA). The denial notice was signed on January 13, 2005 and published in the **Federal Register** on February 7, 2005 (70 FR 6459).

The TAA petition, filed on behalf of workers at Flowline Division of Markovitz Enterprises, Inc., New Castle, Pennsylvania (TA-W-56,152) and Flowline Division of Markovitz Enterprises, Inc., Whiteville, North Carolina (TA-W-56,152A) engaged in production of stainless steel butt-weld fittings was denied because the criteria (a)(2)(A)(I.B) and (a)(2)(B)(II.B) Section 222 of the Trade Act of 1974 were not met. Firm's sales and production for stainless steel butt-weld fittings increased from January through November of 2004 when compared to the same period in 2003. The firm did not shift production of stainless steel butt-weld fittings to a foreign country during the relevant period.

In the request for reconsideration, the petitioner requested an additional analysis of the subject firm's sales, production and employment during the relevant time period.

The Department requested additional information regarding the dates of the separations of the workers of the subject firm in order to establish the relevant base period for sales and production. The review of the obtained information established the fact that the majority of the layoffs at Flowline Division of Markovitz Enterprises, Inc., New Castle, Pennsylvania occurred in the first quarter of 2004. Consequently, sales, production and imports for 2002 and 2003 are relevant in this case. It was further revealed that sales and production declined significantly from 2002 to 2003. Furthermore, the investigation revealed that the subject firm increased its imports of stainless steel butt-weld fittings during the relevant time period.

The reconsideration established that only one worker was separated from Flowline Division of Markovitz Enterprises, Inc., Whiteville, North Carolina (TA-W-56,152A) during the relevant time period. This fact was not documented during the original investigation based on the information provided by the company official.

When assessing eligibility for TAA, the Department makes its determinations based on the requirements as outlined in Section 222 of the Trade Act. The investigation revealed that Flowline Division of Markovitz Enterprises, Inc., Whiteville,

North Carolina did not separate or threaten to separate a significant number or proportion of workers as required by Section 222 of the Trade Act of 1974. Significant number or proportion of the workers in a firm or appropriate subdivision thereof, means that at least three workers with a workforce of fewer than 50 workers, five percent of the workers with a workforce over 50 workers, or fifty workers. As the total separated worker number was one during the relevant period, workers of Flowline Division of Markovitz Enterprises, Inc., Whiteville, North Carolina do not meet the group eligibility requirements for trade adjustment assistance.

In accordance with Section 246 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 worker group must be certified eligible to apply for trade adjustment assistance (TAA), and the group eligibility requirements of Section 246 of the Trade Act must be met.

Since the workers of Flowline Division of Markovitz Enterprises, Inc., Whiteville, North Carolina (TA-W-56,152A) are denied eligibility to apply for TAA, the workers cannot be certified eligible for ATAA.

The Department further determined that the requirements of Section 246 have been met for workers of Flowline Division of Markovitz Enterprises, Inc., New Castle, Pennsylvania (TA-W-56,152). 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 determine that increases of imports of articles like or directly competitive with articles produced by Flowline Division of Markovitz Enterprises, Inc., New Castle, Pennsylvania (TA-W-56,152) contributed importantly to the total or partial separation of workers and to the decline in sales or production at that firm or subdivision. In accordance with the provisions of the Act, I make the following certification:

"All workers of the Flowline Division of Markovitz Enterprises, Inc., New Castle, Pennsylvania (TA-W-56,152), who became totally or partially separated from employment on or after December 2, 2003