

not limited to providing notice of the Plan's intention to extend or terminate the Lease and negotiating any such extension at the conclusion of the initial five (5) year term of the Lease.

Based on the Trustees prior determinations that it is necessary, reasonable, and appropriate that the Plan have a training facility in Fargo, that the Premises is suitable in size and attributes, and that the Plan has the financial ability to undertake the proposed Lease, Mr. Strachota concurs with the Trustees assessment that it is necessary, reasonable, and appropriate for the Plan to have a dedicated training facility in Fargo and that the Plan is financially capable of entering into the Lease.

Based on the market analysis prepared by the Shenehon Company, as discussed in paragraph 8(d), above, Mr. Strachota has concluded that the proposed net rent per square foot under the terms of the Lease is below the current fair market net rent for the Premises. Further, Mr. Strachota points out that fair market net rents may be expected to increase over time, so that the net rent under the Lease is likely to become even more favorable. Mr. Strachota finds that the non-financial terms of the Lease are unremarkable and typical of a commercial lease of space and are at least as favorable to the Plan as would be found in an arm's length transaction with an unrelated party.

Based on all of the above analysis, Mr. Strachota concludes that the proposed transaction is feasible and in the best interest of and protective of the Plan and its participants and beneficiaries. Finally, Mr. Strachota directs that the transaction proceed, conditional upon the issuance of a final exemption by the Department.

11. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria for an exemption under section 408(a) of the Act because:

(a) Mr. Strachota, acting as the I/F on behalf of the Plan, will determine prior to entering the transaction(s) whether the transaction is feasible, in the interest of, and protective of the Plan and the participants and beneficiaries of the Plan;

(b) Mr. Strachota will review, negotiate, and approve the terms of the transaction prior to entering into the Lease of the Premises and will determine whether or not to accept the transaction for the Plan in accordance with the fiduciary provisions of the Act;

(c) Mr. Strachota will monitor compliance with the terms and conditions of this exemption, as described herein, and will ensure that

such terms and conditions are at all times satisfied;

(d) Throughout the duration of the Lease of the Premises, Mr. Strachota will monitor compliance with the terms of the Lease of the Premises and will take any and all steps necessary to ensure that the Plan is protected, including but not limited to notifying Dakotas NECA of the Plan's intention to extend the Lease of the Premises at the conclusion of the initial five (5) year term of the Lease;

(e) The rent paid by the Plan for the Premises under the terms of the Lease and under the terms of any subsequent extension of the Lease at no time will be greater than the fair market rental value of the Premises, as determined by an independent, qualified appraiser retained by the Trustees;

(f) The Plan will not pay any rent for the Premises, any remodeling or maintenance costs, any taxes, insurance, operating expenses or other costs, expenses, or charges for the Premises for the period from the date of the Plan's first occupancy of the Premises to the date the final exemption is published in the **Federal Register**;

(g) Under the provisions of the Lease, the transaction will be on terms and at all times will remain on terms that are at least as favorable to the Plan as those that would have been negotiated under similar circumstances at arm's length with an unrelated third party;

(h) The transaction is appropriate and helpful in carrying out the purposes for which the Plan is established or maintained; and

(i) The Trustees will maintain, or cause to be maintained within the United States for a period of six (6) years in a manner that is convenient and accessible for audit and examination, such records as are necessary to determine whether the conditions of this exemption have been met.

**FOR FURTHER INFORMATION CONTACT:**

Angelena C. Le Blanc of the Department, telephone (202) 693-8540 (This is not a toll-free number.)

**General Information**

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things,

require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 9th day of August, 2005.

**Ivan Strasfeld,**

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

[FR Doc. 05-16045 Filed 8-11-05; 8:45 am]

**BILLING CODE 4510-29-P**

**DEPARTMENT OF LABOR**

**Employment and Training  
Administration**

[TA-W-57,115, TA-W-57,115A]

**Basf Corporation, Coatings Division,  
Southfield, MI, Including an Employee  
of Basf Corporation, Coatings Division,  
Southfield, MI, Located in Morganton,  
NC; Amended Notice of Certification  
Regarding Eligibility To Apply for  
Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification Regarding Eligibility to Apply for Worker Adjustment

Assistance on June 6, 2005, applicable to workers of BASF Corporation, Coatings Division, Southfield, Michigan. The notice was published in the **Federal Register** on June 28, 2005 (70 FR 37118).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information shows that a worker separation occurred involving an employee of the Southfield, Michigan facility of the Coatings Division of BASF Corporation located in Morganton, North Carolina. Mr. Clifton Becktel provided research and development support services for the production of automotive and industrial coatings for the automotive industry at the Southfield, Michigan location of the subject firm.

Based on these findings, the Department is amending this certification to include an employee of the Southfield, Michigan Pennsylvania facility of the Coatings Division of BASF Corporation located in Morganton, North Carolina.

The intent of the Department's certification is to include all workers of BASF Corporation, Coatings Division, Southfield, Michigan, who were adversely affected by a shift in production to Mexico and Canada.

The amended notice applicable to TA-W-57,115 is hereby issued as follows:

All workers of BASF Corporation, Coatings Division, Southfield, Michigan (TA-W-57,115), including an employee of BASF Corporation, Coatings Division, Southfield, Michigan located in Morganton, North Carolina (TA-W-57,115A), who became totally or partially separated from employment on or after April 26, 2004, through June 6, 2007, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC this 4th day of August, 2005.

**Richard Church,**  
*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E5-4393 Filed 8-11-05; 8:45 am]

**BILLING CODE 4510-30-P**

**DEPARTMENT OF LABOR**

**Employment and Training Administration**

**Fisher-Rosemount Systems, Inc. d/b/a Emerson Process Management, a Division of Emerson Electric, Austin, TX; Dismissal of Application for Reconsideration**

[TA-W-57,302]

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 Fisher-Rosemount Systems, Inc., d/b/a Emerson Process Management, a Division of Emerson Electric, Austin, Texas. 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-57,302; Fisher-Rosemount Systems, Inc. d/b/a Emerson Process Management, a Division of Emerson Electric, Austin, Texas (August 2, 2005).

Signed at Washington, DC this 5th day of August, 2005.

**Timothy Sullivan,**  
*Director, Division of Trade Adjustment Assistance.*

[FR Doc. E5-4396 Filed 8-11-05; 8:45 am]

**BILLING CODE 4510-30-P**

**DEPARTMENT OF LABOR**

**Employment And Training Administration**

**Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance**

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade

Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than August 22, 2005.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than August 22, 2005.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C-5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed in Washington, DC this 5th day of August, 2005.

**Timothy Sullivan,**  
*Director, Division of Trade Adjustment Assistance.*

**APPENDIX**

[Petitions Instituted Between 07/19/2005 and 07/22/2005]

TA-W	Subject firm (petitioners)	Location	Date of institution	Date of petition
57,566	Household Shangai Benefit Corporate (Wkrs)	Pomona, CA	07/19/2005	07/14/2005
57,567	Cequent Electrical Products (Comp)	Albion, IN	07/19/2005	07/15/2005
57,568	Sam Moore Furniture Industries (Wkrs)	Bedford, VA	07/19/2005	07/15/2005
57,569	Tescom Corp. (State)	Elk River, MN	07/19/2005	07/15/2005
57,570	Acme-McCrory Corporation (Comp)	Siler City, NC	07/19/2005	07/18/2005
57,571	Cap America, Inc. (Comp)	Fredericktown, MO	07/19/2005	07/12/2005
57,572	Internet Decatur Foundry (USWA)	Decatur, IL	07/19/2005	07/18/2005
57,573	Xio Tech (State)	Eden Prairie, MN	07/19/2005	07/18/2005
57,574	VF Jeanswear Limited Partnership (Comp)	Luray, VA	07/19/2005	07/18/2005
57,575	Milford Stitching Co., Inc. (State)	Milford, DE	07/19/2005	07/18/2005