

**DEPARTMENT OF LABOR****Employment and Training Administration**

[TA-W-58,637]

**Carolina Mills, Inc.; Plant No. 9; Valdese, NC; Notice of Revised Determination on Reconsideration**

By letter dated March 28, 2006, a company official requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to workers of the subject firm. The Notice of Affirmative Determination Regarding Application for Reconsideration was issued on April 21, 2006, and was published in the **Federal Register** on May 5, 2006 (71 FR 26565).

During the reconsideration investigation, the Department confirmed that the subject firm was a supplier to a company certified for Trade Adjustment Assistance and that the loss of the business by that company contributed importantly to the workers' separations at the subject firm. This customer was one of the subject firm's major declining customers and was certified based on a shift of production to Honduras.

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 information obtained in the reconsideration investigation, I determine that workers of the subject firm qualify as adversely affected secondary workers under Section 222 of the Trade Act of 1974, as amended. In accordance with the provisions of the Act, I make the following certification:

All workers of Carolina Mills, Inc., Plant No. 9, Valdese, North Carolina, who became totally or partially separated from

employment on or after January 17, 2005 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.

Signed in Washington, DC, this 5th day of July 2006.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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**DEPARTMENT OF LABOR****Employment and Training Administration**

[TA-W-51,750]

**Federated Merchandising Group, A Part of Federated Department Stores, New York, NY; Notice of Negative Determination on Remand**

On May 3, 2006, the United States Court of International Trade (USCIT) granted the U.S. Department of Labor's motion for voluntary remand for further investigation in *Former Employees of Federated Merchandising Group, A Part of Federated Department Stores v. United States Secretary of Labor*, Court No. 03-00689.

On June 10, 2003, the Department of Labor (Department) issued a negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA) for the subject workers. The workers produced paper patterns and sample garments at the subject facility and are not separately identifiable by product line. The investigation revealed that worker separations at the subject facility were attributable to neither increased in imports of paper patterns and sample garments nor a shift of production abroad of paper patterns and sample garments, but to improved pattern production technology (use of computer design programs has reduced the need for manual pattern making and subsequent sample making). AR 16. The Notice of determination was published in the **Federal Register** on June 19, 2003 (68 FR 36846). AR 22

On August 19, 2003, a Notice of Negative Determination Regarding Application for Reconsideration was issued in response to the July 2, 2003 request for reconsideration on the findings of neither error nor misunderstanding of the law or facts in the investigation. AR 31. The Notice was published in the **Federal Register** on September 30, 2003 (68 FR 56327). AR 32

On July 6, 2005, the Department issued a Notice of Negative Determination on Remand. The determination stated that the workers' separations were due to the subject firm's institution of production improvement measures which resulted in the reduced need for manual labor in general. SAR 15. The Notice was published in the **Federal Register** on July 14, 2005 (70 FR 40737). SSAR 1

The purpose of the second remand is to address causation, whether the subject workers could be divided into distinct subgroups, and whether the subject workers are eligible to apply for TAA.

Because 29 CFR 90.2 defines a "group" as three or more workers in a firm or an appropriate subdivision and "appropriate subdivision" as an establishment in a multi-establishment firm or a distinct section of an establishment, which produces the domestic article(s) in question, the Department determines that workers could be divided into distinct subgroups if multiple articles are produced by the subject firm or an appropriate subdivision and the workers are separately identifiable by the article produced. The regulations explicitly allow the Department to examine different segments of workers when deciding whether an application should be certified. 29 CFR 90.16(g). The Department is not limited to the unit described in the application. 29 CFR 90.16(d)(1).

In the case hand, the subject workers produce two distinct articles, handmade patterns and hand-sewn samples, AR 2, 14, 26, 29 and SAR 10, 14-15, and the workers producing handmade patterns have skills which are distinguishable from those producing hand-sewn samples. AR 26, SAR 10, SSAR 17, 25-31, 33-34. Further, the subject firm identifies the Plaintiff as the Director of Pattern Services, SSAR 17, and the Plaintiff identifies himself as a patternmaker. AR 26, SSAR 13, 25-31. As such, the Department determines that the subject workers are, in fact, two distinct subgroups: Pattern makers and sample makers.

To determine whether a worker group is eligible to apply for TAA, the Department must ascertain whether the criteria set forth in 29 CFR 90.16(b) was met:

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

(2) Sales or production, or both, of such firm or subdivision have decreased absolutely; and