

TA-W No.	Subject firm	Location	Impact date
73,722 .....	Sojitz Corporation of America, Sojitz Corporation; Forest Products Department.	Seattle, WA .....	
74,035 .....	OSRAM Sylvania, Siemens .....	Warren, PA .....	
74,246 .....	Bank of America, Card Customer Assistance Division .....	State College, PA .....	
74,290 .....	Supermedia LLC, Idearc Media LLC; SuperMedia Information Services LLC; Client Care, etc..	Middleton, MA .....	

### Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and

on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA-W No.	Subject firm	Location	Impact date
73,707 .....	JD Norman Industries, Inc., Brooklyn Facility .....	Brooklyn, OH .....	
73,759 .....	Eskco, Inc .....	Dayton, OH .....	
74,353 .....	Riverhawk Aviation .....	Hickory, NC .....	

The following determinations terminating investigations were issued because the petitioning groups of

workers are covered by active certifications. Consequently, further investigation in these cases would serve

no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

TA-W No.	Subject firm	Location	Impact date
73,625 .....	Compuware Corporation .....	Warren, MI .....	

I hereby certify that the aforementioned determinations were issued during the period of August 30, 2010 through September 3, 2010. Copies of these determinations may be requested under the Freedom of Information Act. Requests may be submitted by fax, courier services, or mail to FOIA Disclosure Officer, Office of Trade Adjustment Assistance (ETA), U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 or [tofoiarequest@dol.gov](mailto:tofoiarequest@dol.gov). These determinations also are available on the Department's Web site at <http://www.doleta.gov/tradeact> under the searchable listing of determinations.

Dated: September 10, 2010.

#### Elliott S. Kushner

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 2010-23496 Filed 9-20-10; 8:45 am]

**BILLING CODE 4510-FN-P**

### DEPARTMENT OF LABOR

#### Employment and Training Administration

[TA-W-70,344]

#### Atlantic Southeast Airlines, a Subsidiary of Skywest, Inc., Airport Customer Service Division, Including On-Site Leased Workers of Delta Global Services, Inc., Fort Smith, AR; Notice of Negative Determination on Remand

On July 6, 2010, the United States Court of International Trade (USCIT) granted the Department of Labor's request for voluntary remand to conduct further investigation in *Former Employees of Atlantic Southeast Airlines, a Subsidiary of Skywest, Inc., Airport Customer Service Division v. United States Secretary of Labor* (Court No. 09-00522).

#### Background

On September 28, 2009, the Department of Labor (Department) issued a Negative Determination regarding eligibility to apply for Trade Adjustment Assistance (TAA) under the Trade Act of 1974, as amended (hereafter referred to as the Act) applicable to workers and former workers of Atlantic Southeast Airlines, a Subsidiary of Skywest, Inc., Airport Customer Division, Fort Smith,

Arkansas (subject firm). AR 35. Workers at the subject firm (subject worker group) provided airline ground services, such as baggage handling, at the Forth Smith, Arkansas airport. AR 8, 14, 17, 25-26, 34. The Department's Notice of negative determination was published in the **Federal Register** on November 17, 2009 (74 FR 59251). AR 48.

The negative determination stated that the subject firm did not import services like or directly competitive with the services supplied by the subject workers in the period under investigation nor shift the supply of these services to a foreign country during this period. A customer survey was not conducted because the subject firm's customers were private individuals who traveled through Fort Smith, Arkansas airport. AR 35-38.

By application dated October 19, 2009, a petitioner requested administrative reconsideration on the Department's negative determination. In the request for reconsideration, the petitioner alleged that workers at the subject firm provided services to individuals employed at firms that employed workers eligible to apply for TAA and that workers at the subject firm should also be eligible to apply for TAA as "downstream producers" to these firms. AR 42-43.

Because the petitioner did not provide information that had not been previously considered, the Department

issued a Notice of Negative Determination Regarding Application for Reconsideration applicable to workers at the subject firm on November 5, 2009. AR 44. The Notice of determination was published in the **Federal Register** on December 8, 2009 (74 FR 64736). AR 54.

In the complaint to the USCIT, dated December 2, 2009, the Plaintiff reiterated the reconsideration application allegations, claiming that workers at the subject firm are eligible to apply for TAA as secondarily affected workers because they provided transportation services to individuals employed at manufacturing firms in the Fort Smith area that employed worker groups eligible to apply for TAA and which used the airport at which the subject firm employed the worker group. The complaint stated that "our station was closed as a direct result of down sizing and closing of major companies in our area; all of which are receiving TAA benefits." The Plaintiff did not provide additional information in support of the complaint, but attached a copy of the request for reconsideration.

On June 30, 2010, the Department requested voluntary remand to address the allegations made by the Plaintiff, to determine whether the subject worker group is eligible to apply for TAA, and to issue an appropriate determination. On July 6, 2010, the USCIT granted the Department's Motion for voluntary remand.

### Statutory Requirements

The Act authorizes the Department to certify worker groups as eligible to apply for TAA generally when the increased imports or shifts in production of articles or supply of services of the workers' firm contributed importantly to a significant number or proportion of worker separations or threats of separation and there have been absolute decreases in the sales or production of the workers' firm.

In narrowly defined circumstances, Section 222(c) of the Act, 19 U.S.C. 2272(c), permits the certification of worker groups based on the direct relationship between the workers' firm and another firm that employed a worker group eligible to apply for TAA (a primary firm). For the Department to issue such a "secondary worker" certification to workers of a Supplier or a Downstream Producer, the following criteria 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 is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, 19 U.S.C. 2272(a), and such supply or production is related to the article or service that was the basis for such certification; and

(3) Either

(A) the workers' firm is a supplier and the component parts it supplied to the firm 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 described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

Section 222(d)(3)(A) of the Act, 19 U.S.C. 2272(d)(3)(A), states that a "downstream producer means a firm that performs additional, value-added production processes or services directly for another firm for articles or services with respect to which a group of workers in such other firm has been certified under subsection (a)."

Section 222(d)(3)(B) of the Act, 19 U.S.C. 2272(d)(3)(B), states that "value-added production processes or services include final assembly, finishing, testing, packaging, or maintenance or transportation services."

### Investigations of Petition, Application for Reconsideration, and USCIT Complaint

The petitioners identified the subject worker group as twelve "airline customer service and ramp agents" in the employ of Atlantic Southeast Airlines (ASA) working at Fort Smith, Arkansas. AR 4. The petition states that "ASA is closing stations @ Ft. Smith and all surrounding airports." AR 5.

Information provided by the subject firm during the initial investigation revealed that, at the Fort Smith, Arkansas location, the subject worker group consisted of airport station manager(s), airport station supervisor(s), and airport ramp/baggage agent(s). AR 25–26. The initial investigation also revealed that the subject firm had a contract with Delta Air Lines to supply airport ramp and baggage agents and airport station supervisors and managers. AR 14, 17, 24–25, 27–28, 33–34. The subject firm also employed temporary workers supplied by Delta Global Services, Inc. to perform security personnel and administrative support personnel services at the Fort Smith, Arkansas airport. AR 25, 33.

The initial investigation also revealed that the worker separations were due to the subject firm's failure to win a bid to continue to supply services at the Fort Smith, Arkansas airport. Specifically, when Delta Air Lines and Northwest Air Lines merged, their operations were consolidated and regional airlines with contracts to supply services at airports where they operated were invited to submit new bids to maintain operations at those airports. The subject firm did not win the bid to supply services at the Fort Smith, Arkansas airport because the merged entity decided to use the company that supplied the same services to Northwest Air Line rather than complete the bidding process. AR 17, 25, 33–34.

In the request for reconsideration, the petitioner alleged that because the subject firm is "completely reliant on the manufacturing industry in our town" and because the businesses "discontinued their flights with us due to their downsizing," the workers of the subject firm should be eligible to apply for TAA as "downstream producers" to those companies in the area who employed workers eligible to apply for TAA because they used the Fort Smith, Arkansas airport. AR 42–43.

In the negative determination regarding the application for reconsideration, the Department stated that because the subject firm did not perform additional, value-added production processes or services directly to these primary firms, the subject firm is not a downstream producer. Therefore, the application for reconsideration was denied. AR 44–47.

During the remand investigation, the Department carefully reviewed previously-submitted information and obtained additional information from the subject firm regarding its operations. The subsequent investigation covered the reasons for the subject firm's closure of its Fort Smith, Arkansas operations, the type of work engaged in by the subject worker group and where the work that it performed is currently taking place, the nature of the customer base at that location, and the customer(s) of the subject firm.

The remand investigation confirmed that the subject firm did not solicit business for Delta Air Lines, SAR 24, 27, or maintain or have access to Delta Air Lines' customer list. SAR 3, 19, 27. The subject firm provided ground handling and ticketing services to Delta Air Lines customers, who included individual passengers, corporate accounts and travel agencies. SAR 3, 19, 21, 27. Under contract to Delta Air Lines, on some flights, the subject firm also provided aircraft and personnel. SAR 19, 27. The

subject firm, and not Delta Air Lines, paid the subject worker group. SAR 19, 27.

#### Issues on Remand

The Plaintiff alleged in the complaint to the USCIT that the decline in travel in the Fort Smith, Arkansas area is attributable to a reduction in the operations of local firms that employed workers eligible to apply for TAA, and that this decline contributed to worker separations at the subject firm.

Because there is no dispute that a significant proportion or number of workers of the subject firm was separated, the only issues for the Department to decide on remand are whether or not the remaining two criteria of Section 222(c) of the Act have been met. Specifically, the Department must determine whether or not the subject firm meets the requirements of a "downstream producer" under Sections 222(c) and (d) of the Act and, if so, whether or not the loss of business by the subject firm with a primary firm contributed importantly to the subject worker group separations or threat of separations.

The investigations revealed that the services supplied by the subject firm were provided under contract exclusively for Delta Air Lines, AR 14, 24–25, 27–28, 33–34, SAR 3, 19, 21, 27, but that the subject worker group worked for the subject firm and not for Delta Air Lines. SAR 19, 27. Delta Air Lines was the sole customer of the subject firm. SAR 3, 21, 27. The Fort Smith, Arkansas airport users such as leisure travelers, travel agencies, corporate accounts, and the military may have benefited from the services supplied by the subject firm, and one or more of these entities may have employed workers who are eligible to apply for TAA. However, workers and former workers of Delta Air Lines at Fort Smith, Arkansas airport are not eligible to apply for TAA. SAR 32–33.

Section 222(d)(3)(A) of the Act requires that a "downstream producer" perform "additional, value-added production processes or services directly for another firm for articles or services with respect to which a group of workers in such other firm has been certified under subsection (a) [of Section 222 of the Act]." Section 222(d)(3)(B) includes "transportation services" among those services.

The subject firm cannot meet the statutory definition of a "downstream producer" because it only directly provided services to Delta Air Lines (not for the customers of Delta Air Lines). SAR 3, 21, 27. The subject firm did not supply services directly related to the

production or supply of an article or service that was a basis for a TAA certification. SAR 32–33.

Moreover, Section 222(c)(2) of the Act does not permit secondary worker certification unless the service provided by the subject firm "is related to the article or service that was the basis for such certification [under Section 222(a) of the Act]." Certification of a worker group under Section 222(c) of the Act may not be based on a secondary worker certification. Therefore, even if Delta Air Lines workers could be certified eligible to apply for TAA on the basis that Delta Air Lines provided transportation services related to the production or supply of an article or service that was a basis for a TAA certification of one or more of its customers, workers of the subject firm may not be certified as adversely affected secondary workers.

The Plaintiff also alleged that the domestic merger between Delta Air Lines and Northwest Airlines shows trade impact that resulted in the worker group layoffs.

The Department investigated this allegation during the remand investigation, and confirmed that worker separations at the subject firm are attributable to Delta Air Lines ceasing operations out of the Fort Smith, Arkansas airport. SAR 3, 19, 21, 27. However, the newly-merged airline maintained operations out of the Fort Smith, Arkansas location using a different airline customer service provider. SAR 3, 19, 21, 27. Further, those services provided by the subject firm cannot be imported or shifted abroad as they are used directly by domestic passengers. As such, conducting a survey of Delta Air Lines to determine whether it increased its imports of services like or directly competitive with those supplied by the subject firm (as requested by Plaintiff's counsel) is not necessary.

Based on a careful review of previously-submitted information and new information obtained during the remand investigation, the Department determines that the petitioning workers have not met the eligibility criteria of Section 222(c) of the Trade Act of 1974, as amended.

#### Conclusion

After careful reconsideration, I affirm the original negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Atlantic Southeast Airlines, a Subsidiary of Skywest, Inc., Airport Customer Division, including on-site leased workers of Delta Global Services, Inc., Fort Smith, Arkansas.

Signed at Washington, DC this 3rd day of September, 2010.

**Del Min Amy Chen,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

[FR Doc. 2010–23497 Filed 9–20–10; 8:45 am]

**BILLING CODE 4510-FN-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA–W–72,673]

#### Weather Shield Manufacturing, Medford, WI; Notice of Negative Determination Regarding Application for Reconsideration

By application dated August 12, 2010, the petitioners requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of Weather Shield Manufacturing, Inc., Medford, Wisconsin (subject firm). The negative determination was signed on July 16, 2010. The Notice of determination was published in the **Federal Register** on August 2, 2010 (75 FR 45163). The petitioning worker group provides administrative support services related to the production of doors and windows at various Weather Shield Manufacturing, Inc. facilities.

Workers at Weather Shield Manufacturing, Inc., Medford, Wisconsin, who became totally or partially separated from employment on or after December 17, 2007 through August 9, 2012, are eligible to apply for TAA and alternative trade adjustment assistance under TA–W–64,725.

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 negative determination applicable to workers and former workers at the subject firm was based on the findings that the subject firm did not, during the period under investigation, shift to a foreign country services like or directly competitive with those supplied by the workers or