

(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 Eastman Machine Company, Buffalo, New York engaged in the production of manual and automatic cutting machines were denied because the "contributed importantly" group eligibility requirement of Section 222(3) of the Trade Act of 1974 was not met. The subject firm did not import manual and automatic cutting machines and production was not shifted abroad.

The union alleges that the subject firm failed to report imports of machines called D2's from China.

A company official was contacted in regard to these allegations. The official stated that D2 machines are indeed being imported by the subject firm, however, it is a very insignificant part of business which represents less than one percent of subject firm's total sales and production. Plant production and employment were not affected by these negligible imports during the relevant period.

The petitioner further alleges that the subject firm experienced "a drop in sales of another line of machines called the straight knife line due to cheaper clones being made in China and other countries." A production chart for years from 1988 to 2002 is attached in support of this allegation. The chart shows a decline in production of 629X machines from 2000 to 2001 and an increase from 2001 to 2002.

In its investigation, the Department considers production that occurred a year prior to the date of the petition. Thus the period ending in 2001 is outside the relevant period as established by the petition date of September 19, 2003. Thus a drop in production of 629X machines prior to 2001 is irrelevant in this investigation.

The union also alleges that Eastman is importing finished components for the machinery produced by the subject firm.

In fact, the original investigation revealed imports of components by the subject firm. However, in assessing the eligibility of a petitioning worker group for trade adjustment assistance, the Department considers imports that are "like or directly" competitive to those produced by the petitioning worker group. Imported components are used for further manufacturing by the subject firm and are not considered "like or directly" competitive with manual and automatic cutting machines produced

by the subject firm, and thus do not meet the eligibility requirements of the Trade Act of 1974.

### 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 23rd day of January, 2004.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-53,996]

#### Eljer Plumbingware, Salem, Ohio; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 13, 2004 in response to a petition filed by a company official on behalf of workers at Eljer Plumbingware, Salem, Ohio.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 23rd day of January, 2004.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-53,430]

#### EMF Corporation, EMK Division, Burkesville, Kentucky; Notice of Revised Determination on Reconsideration

By application postmarked December 23, 2003, a petitioner requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.

The initial investigation resulted in a negative determination issued on December 9, 2003, based on the finding that imports of electric wire harnesses did not contribute importantly to worker separations at the subject plant and no shift of production to a foreign source occurred. The denial notice was published in the **Federal Register** on January 16, 2004 (69 FR 2622).

The petitioner requested that all areas of EMK's business transactions be thoroughly investigated. The petitioner appears to be indicating work done by the subject firm was shifted to Mexico.

Upon further review of the initial investigation and contact with the subject firm's largest customer, new information was provided revealing that the customer increased its import purchases of electric wire harnesses, while significantly decreasing its purchases from the subject firm.

### Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with those produced at EMF Corporation, EMK Division, Burkesville, Kentucky, contributed importantly to the declines in sales or production and to the total or partial separation of workers at the subject firm. In accordance with the provisions of the Act, I make the following certification:

All workers of EMF Corporation, EMK Division, Burkesville, Kentucky, who became totally or partially separated from employment on or after October 21, 2002 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.

Signed in Washington, DC, this 28th day of January 2004.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-53,419, TA-W-53,419A, and TA-W-53,419B]

#### Encee, Inc., Eden, North Carolina, Kannapolis, North Carolina, Smithfield, North Carolina; Notice of Revised Determination on Reconsideration

By letter dated December 10, 2003, the company requested administrative reconsideration regarding the