Signed at Washington, DC, this 21st day of August 2003.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–22999 Filed 9–9–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,405]

Dorr-Oliver Eimco USA, Inc. Formerly Known as Eimco Processing Company, Salt Lake City, UT; Amended 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 Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on January 13, 2003, applicable to workers of the Dorr-Oliver Eimco USA, Inc., Salt Lake City, Utah. The notice was published in the **Federal Register** on February 6, 2003 (68 FR 6212).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of liquid/solid separation equipment.

New information shows that Dorr-Oliver Eimco USA, Inc., formerly known as Eimco Process Equipment Company, was formed following a merger in November 2002 between GL&V/Dorr-Oliver and Eimco Process Equipment Company, a Division of Baker Hughes, Incorporated.

Accordingly, the Department is amending this certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of Dorr-Oliver Eimco USA, Inc. who were adversely affected by a shift in production to Mexico, Canada and India.

The amended notice applicable to TA–W–50,405 is hereby issued as follows:

''All workers of Dorr-Oliver Eimco USA, Inc., formerly known as Eimco Process Equipment Company, Salt Lake City, Utah, who became totally or partially separated from employment on or after December 20, 2001, through January 13, 2005, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, DC this 25th day of August 2003.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–23001 Filed 9–9–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,908]

Halliburton Formation Evaluation Machine Shop Including Workers of Jet Research Corporation, Alvarado, Texas; Amended 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 of Eligibility to Apply for Worker Adjustment Assistance on March 4, 2003, applicable to workers of Halliburton Formation Evaluation Machine Shop, Alvarado, Texas. The notice was published in the **Federal Register** on March 19, 2003 (68 FR 13332).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information shows that worker separations have occurred involving employees of Jet Research Corporation, Alvarado, Texas, employed at Halliburton Formation Evaluation Machine Shop, Alvarado, Texas.

The Jet Research Corporation employees were engaged in the production and support of logging tools for oil drilling at the Alvarado, Texas location of the subject firm.

The intent of the Department's certification is to include all workers of Jet Research Corporation, Alvarado, Texas working at Halliburton Formation Evaluation Machine Shop, Alvarado, Texas who were adversely affected by increased imports.

Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to TA–W–50,908 is hereby issued as follows:

''All workers of Halliburton Formation Evaluation Machine Shop, Alvarado, Texas, including workers of Jet Research Corporation, Alvarado, Texas producing logging tools for oil drilling at Halliburton Formation Evaluation Machine Shop, Alvarado, Texas, who became totally or partially separated from employment on or after February 13, 2002, through March 4, 2005, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, DC this 21st day of August, 2003.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–22998 Filed 9–9–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,588]

Murray Engineering, Inc. Complete Design Service, Flint, MI; Notice of Negative Determination On Remand

The United States Court of International Trade (USCIT) granted the Secretary of Labor's motion for a voluntary remand for further investigation in *Former Employees of Murray Engineering, Inc.* v. *U.S. Secretary of Labor,* No. 03–00219.

On February 5, 2003, the Department of Labor (Department) issued a negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA) for the workers of Murray Engineering, Inc., Complete Design Service, Flint, Michigan (hereafter referred to as Murray Engineering). The determination was based on the investigation's finding that the workers' firm provided industrial design and engineering services and did not produce an article in accordance with Section 222 of the Trade Act of 1974. On February 24, 2003, the Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for Murray Engineering, Inc., Complete Design Service, Flint, Michigan was published in the **Federal Register** (68 FR 8620).

The initial TAA investigation showed that workers at Murray Engineering supplied design and engineering solutions for general manufacturing industries. Workers of Murray Engineering drafted designs and drawings, which were then sent to customers either copied on to a computer disk or CD-Rom, printed out on paper, or electronically. The investigation also revealed that workers of Murray Engineering did not supply components to either a TAA-certified company or an affiliate of a TAA-certified company.

In a letter dated February 19, 2003, the petitioner requested administrative reconsideration of the Department's negative determination. The Department

affirmed its finding that the workers of Murray Engineering were not eligible to apply for TAA on the basis that they did not produce a product within the meaning of Section 222 of the Trade Act. Accordingly, the Department issued a Notice of Negative Determination Regarding Application for Reconsideration on March 31, 2003. The Notice was published in the **Federal Register** on April 15, 2003 (68 FR 18264).

In the request for reconsideration, the petitioner made three assertions: (1) That the workers produced a product; (2) that the Department may have been misled by part of the company's name, ''Complete Design Service,'' thinking that the company did not produce a product; and (3) that the Department prematurely concluded the workers were service workers because of the company's name.

In the reconsideration investigation, the Department reviewed the description of the design services provided by the subject firm and determined that, regardless of the mode of conveyance, engineering drawings and schematics prepared by subject firm were services, and not considered production within the meaning of the Trade Act. A review by the Department of the initial investigation and the subsequent reconsideration investigation revealed that no conclusion was drawn based on the company's name. Further, the Department did not rely on the company's name during this voluntary remand investigation.

On April 30, 2003, the petitioner filed a Notice of Appeal in the Court of International Trade. The Department's motion for Voluntary Remand was granted on June 25, 2003.

On August 1, 2003, plaintiff's counsel sent the Department a letter containing arguments for certification. This letter makes two assertions: (1) The Department wrongly determined that the workers of Murray Engineering did not produce an article, and (2) even if the Department was correct in its determination that designs are not an article, the workers of Murray Engineering are adversely affected secondary workers and, as such, are eligible to apply for trade adjustment assistance.

The first issue is whether the workers of Murray Engineering produce an article.

Plaintiff's August 1, 2003 letter relies on *Nagy* v. *Donovan,* 6 Ct. Int'l Trade 141, 145, 571 F. Supp. 1261, 1264 (Ct. Int'l Trade 1983), to support the position that the designs are articles. *Nagy* held, among other things, that workers who either create or manufacture a tangible commodity or transform a thing into a new or different thing produce an article. The letter asserts that the designs can be reproduced on paper and, therefore, are a tangible commodity. The letter further asserts that without the designs, the customer could not produce the machines that make the tools, and, therefore, the designs are ''part and parcel'' of the machines and sometimes incorporated into the body of the machines when the operating instructions are mounted into the machine or fixture.

In its remand investigation, the Department contacted Murray Engineering company officials and issued a detailed information request seeking new information as well as clarification of previously submitted information. The main purpose of this review was to ascertain whether the work performed by the petitioning worker group should be construed as production or service.

Information supplied by the company on remand indicates that Complete Design Service does industrial design for general manufacturing industries, applying design & engineering solutions through AutoCAD and Unigraphics by designing intricate custom drawings that are customized to customer specifications. These custom drawings are delivered to the customer by any or all of the following: (a) Printed drawing on paper, (b) CD or computer diskette, (c) electronic mail.

The customer contacts Complete Design Service with the purchase order and instructions of the job to be done. An employee is assigned to the job and is given all of the pertinent information for the job. The employee then begins the design, in AutoCAD or Unigraphics (computer design programs). Periodically throughout the design process, the customer reviews the design-in-progress to assess whether modifications are necessary. When the design is 100% completed, it is saved on the subject firm's network and given to the customer in their required format (*e.g.*, plotted on paper, on CD or diskette, or e-mailed). The company further states that the customer could not build their products without these designs. The customer pays for the custom designs either by the design or on an hourly basis.

The Department traditionally has deemed designs of any type generated by computer as a service. Electronically generated engineering designs, drawings, and schematics are not tangible commodities. This is supported by the fact that they are not marketable products listed on the Harmonized Tariff Schedule of the United States (HTS), published by the United States International Trade Commission (USITC), Office of Tariff Affairs and Trade Agreements, which describes all articles imported to or exported from the United States.

However, if workers draft designs by hand, the drawings they produce are classified under HTS number 4906.00.00.00 (''Plans and drawings for architectural, engineering, industrial, commercial, topographical or similar purposes, being originals drawn by hand; handwritten text; photographic reproduction on a sensitized paper and carbon copies of the forgoing''). Workers of the subject firm clearly do not fall into this classification, because they produced all designs electronically. That the HTS referenced here is updated periodically and was last published in 2003 supports that the USITC continues to distinguish electronic designs from designs by hand.

Further support that Murray Engineering workers did not produce an article is found in examining what items are subject to a duty. Throughout the Trade Act, an article is often referenced as something that can be subject to a duty. To be subject to a duty on a tariff schedule, an article will have a value that makes it marketable, fungible, and interchangeable for commercial purposes.

However, although a wide variety of tangible products are described as articles and characterized as dutiable in the HTS, informational and design products that historically could be sent in letter form and that currently can be electronically transmitted are not listed in the HTS. Such items are not the type of work products that customs officials inspect and that the Trade Adjustment Assistance program was generally designed to address. Further, informal discussions in the past with several USITC analysts clarified those factors that were used to classify design and drawing work as service instead of production. The USITC industry analysts identified designs as services because the value of the intellectual service is greater than the cost of the materials used to store or transfer it. The analysts also stated that tariffs are based on the cost of the media (such as paper, CD, or computer disk) and not on the value of the service.

In addition, the 2002 edition of the North American Industrial Classification System (NAICS), a standard used by the Department to categorize products and services, designates ''establishments primarily engaged in drawing detailed layouts,

plans, and illustrations of * * * components from engineering * * * specifications'' as ''drafting services'' (NAICS 541340). Another code that describes ''engineering in the design, development, and utilization of machines'' (emphasis added) is classified within a code that signifies services (specifically, NAICS 541330).

Workers of Murray Engineering neither make a product nor transform an existing product into something new and different. The Department thoroughly investigated and could not find any evidence that workers of Murray Engineering produced any articles or that the petitioners transformed anything into something new and different; to the contrary, the evidence cited above supports a conclusion that the Murray workers did not produce an article. Consequently, they are not eligible for certification as production workers.

The second issue is whether the workers of Murray Engineering are adversely-affected secondary workers.

In the August 1, 2003 letter to the Department, the plaintiff asserts that: (1) Murray Engineering was a supplier of designs to a TAA-certified company (Lamb Technicon, Machining Systems, Warren, Michigan) and that such supply is related to the article that was the basis for certification (automated metal removal equipment, transfer lines, and dial transfers); and (2) Lamb Technicon accounted for at least twenty percent of Murray Engineering's production or sales or otherwise must have contributed importantly to the workers' separations. These assertions appear to be provided in an attempt to show that the subject firm workers should be certified as eligible to apply for TAA on the basis of serving as secondary upstream suppliers.

In order to be eligible as secondary suppliers, the petitioning worker group must have produced a component part of the product that is the basis of the TAA certification. Because Murray Engineering did not produce a component part of the automated metal removal equipment produced by Lamb Technicon, they were not secondary suppliers of a TAA-certified facility, as required by the relevant TAA legislation. Even if, as plaintiff asserts, the subject firm workers' design specifications were sometimes mounted or affixed on their customers' manufacturing equipment, such mounting or affixment were not necessary for the equipment to function properly and, thus, were not component parts.

Further, the subject firm's business with Lamb Technicon ceased prior to the beginning of the investigative period. The subject firm workers' petition was dated January 15, 2003 and instituted on January 16, 2003. Therefore, the relevant investigative period is 2001 and 2002. However, according to the subject firm official, Murray Engineering did no business with Lamb Technicon after 1999. Therefore, Lamb Technicon did not account for at least twenty percent of Murray Engineering's production or sales, nor did loss of business with this customer contribute importantly to the subject firm, during the relevant period.

Finally, the petitioner argues that Complete Design Service did the same work as Lamb Technicon and, thus, should be certified for TAA. The workers of Lamb Technicon were certified (TA–W–40,267 & TA–W–40,267A) based on the fact that the workers were engaged in employment related to the production of articles (automated metal removal equipment, transfer lines, and dial transfers). Any workers who may have been engaged in design and engineering solutions at Lamb Technicon were included in the certification because their separation was caused importantly by a reduced demand for their services due to a decline in manufacturing by their subject firm, or a parent firm, or a firm otherwise related to their firm by ownership or control. Additionally, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification, and the reduction must directly relate to the product impacted by imports. These conditions in meeting the TAA eligibility requirements were met for workers in support activities at Lamb Technicon. However, workers at Murray Engineering, Inc., Complete Design Center, Flint, Michigan do not meet these criteria and, thus, may not be certified based on Lamb Technicon's workers' certification.

Conclusion

Under section 222 of the Act, what is relevant to determining whether a worker group is eligible for TAA certification is whether the workers' firm or an appropriate subdivision of the workers' firm produced an article.

The workers' firm in this case is Murray Engineering, Complete Design Service, Flint, Michigan. The evidence clearly establishes that Murray Engineering does not produce, directly or through an appropriate subdivision, an article within the meaning of the Trade Act. Once the Department concludes that the workers' employer was not a firm that produced an article, it must conclude that the workers are not eligible for assistance. Because the petitioners are employees of a firm or subdivision that does not produce an article within the meaning of the Trade Act, they are not eligible for certification.

As the result of the findings of the investigation on voluntary remand, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance for workers and former workers of Murray Engineering, Complete Design Service, Flint, Michigan.

Signed at Washington, DC this 20th day of August, 2003.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–23000 Filed 9–9–03; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–5051]

Quality Fabricating, Inc., North Huntington, PA; Affirmative Finding Regarding Qualification as a Secondarily Affected Worker Group Pursuant to the Statement of Administrative Action Accompanying the North American Free Trade Agreement (NAFTA) Implementation Act

The Department of Labor herein presents the results of an investigation regarding qualification as a secondarily impacted firm, pursuant to the Statement of Administrative Action accompanying the North American Free Trade Agreement (NAFTA) Implementation Act.

In order for an affirmative finding to be made, the following requirements must be met:

(1) The subject firm must be a supplier—such as of components, unfinished or semi-finished goods—to a firm that is directly affected by imports from Mexico or Canada of articles like or directly competitive with articles produced by that firm or shifts in production of such articles to those countries; or

(2) The subject firm must assemble or finish products made by a directly-impacted firm; and

(3) The loss of business with the directly affected firm must have contributed importantly to worker separations at the subject firm.

The investigation revealed that requirements (1) and (3) are met.

Quality Fabricating, Inc., North Huntington, Pennsylvania, produces