

(iv) Any participant or beneficiary of the Plan who's Account is invested in Qualifying REIT Shares or the duly authorized employee or representative of such participant or beneficiary;

(B) None of the persons described in paragraph (12)(A)(ii)-(iv) shall be authorized to examine trade secrets of the Trust REIT, or an Employer Affiliate or commercial or financial information which is privileged or confidential.

### Section III. Definitions

For purposes of this exemption,

(a) Account—The term "Account" means the individual account of a participant in a defined contribution pension plan in which benefits are based solely upon the amount contributed to the participant's account, and any income, expenses, gains or losses, and any forfeitures of accounts of other participants which may be allocated to such participant's account.

(b) Affiliate—The term "affiliate" of a person means:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with such person;

(2) Any officer, director, employee, or relative (as defined in section 3(15) of the Act) of such person or partner in such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(c) Control—The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) Employer Affiliate—The term "Employer Affiliate" means any corporation, limited liability company (LLC), or partnership 50 percent or more owned by a Trust REIT.

(e) Independent Fiduciary—The term "Independent Fiduciary" means a person who:

(1) Is a trustee or an investment manager (as defined in 3(38) of the Act) who had equity capital of at least \$1 million as of the last day of its most recent fiscal year and has client assets under management or control of over \$50 million;

(2) Is not an affiliate of the Trust REIT, the Employer Affiliate or an affiliate thereof;

(3) Is not a corporation, partnership or trust in which the Trust REIT, its Employer Affiliate or an affiliate thereof has a one percent or more ownership interest or is a partner;

(4) Does not have more than a five percent ownership interest in the Trust REIT, its Employer Affiliate or an affiliate thereof;

(5) Has acknowledged in writing that:

(i) It is a fiduciary; and  
(ii) It has appropriate technical training or experience to perform the services contemplated by the exemption;

(6) For purposes of this definition, no organization or individual may serve as Independent Fiduciary for any fiscal year in which the gross income received by such organization or individual (or partnership or corporation of which such organization or individual is an officer, director, or 10 percent or more partner or shareholder) from the Trust REIT, its Employer Affiliate and affiliates thereof, (including amounts received for services as an independent fiduciary under any prohibited transaction exemption granted by the Department) exceeds 1 percent of such fiduciary's gross income for federal tax purposes in its prior tax year; and

(7) In addition, no organization or individual which is an Independent Fiduciary and no partnership or corporation of which such organization or individual is an officer, director or 10 percent or more partner or shareholder may acquire any property from, sell any property to or borrow any funds from the Trust REIT, its Employer Affiliate or their affiliates, during the period that such organization or individual serves as an Independent Fiduciary and continuing for a period of six months after such organization or individual ceases to be an Independent Fiduciary or negotiates any such transaction during the period that such organization or individual serves as an Independent Fiduciary.

(f) Plan—The term "Plan" means an individual account plan sponsored by the issuer of Qualifying REIT Shares or an Employer Affiliate thereof.

(g) Plan Sponsor—The term "Plan Sponsor" means the Trust REIT or the Employer Affiliate that is the employer of the employees covered by the Plan.

(h) Primary Exchange—The term "Primary Exchange" means the national securities exchange or market system on which the Trust REIT shares are primarily traded, and which is either the New York Stock Exchange, the American Stock Exchange, or the National Association of Securities Dealers Automated Quotation System National Market.

(i) Trust REIT—The term "Trust REIT" means a "real estate investment trust" within the meaning of section 856 of the Code that is organized as a trust under applicable law.

(j) Qualifying REIT Shares—The term "Qualifying REIT Shares" means shares of beneficial interest in a Trust REIT that:

(1) Are publicly traded (as defined in section III(k)); and

(2) Have no trading restrictions other than those necessary to qualify for REIT status or otherwise to satisfy securities law or applicable exchange or market system trading rules.

(k) Publicly Traded—The term "publicly traded," for purposes of this exemption, means Trust REIT shares of beneficial interest which are traded on the New York Stock Exchange, the American Stock Exchange, or the National Association of Securities Dealers Automated Quotation System National Market System.

(l) Participant—the term "participant" includes beneficiaries.

Signed at Washington, DC this 28th day of May, 2003.

**Alan D. Lebowitz,**

*Deputy Assistant Secretary for Program Operations, Employee Benefits Security Administration, Department of Labor.*

[FR Doc. 03-13899 Filed 6-2-03; 8:45 am]

BILLING CODE 4510-29-P

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA-W) issued during the period of May 2003.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated; and

(2) That sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production of such firm or subdivision.

**Negative Determinations for Worker Adjustment Assistance**

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

*None.*

In the following case, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that criterion (a)(2)(A) (I.C.) (Increased imports) and (a)(2)(B) (II.B) (No shift in production to a foreign country) have not been met.

TA-W-51,366; *Georgia-Pacific Corp., Operating as James River Paper Co., Inc., Consumer Products Div., Old Town, ME*

TA-W-51,736; *Safeharbor Technology Corp., Satsop, WA*

TA-W-51,551; *Comp-U-Solve*

*International, Inc., Elgin, IL*

TA-W-51,691; *Coastal Apparel, LLC, Tabor City, NC*

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-51,687 & A,B; *Oshkosh B'Gosh, Inc., Oshkosh, WI, Oshkosh B'Gosh Retail, Inc., Oshkosh, WI and OBG Product Development and Sales, Inc., Oshkosh, WI*

TA-W-51,625; *Motorola, Inc., iDEN Radio Support Center, Elgin, IL*

TA-W-51,744; *Gateway Industrial Services, Inc., Jonesboro, AR*

TA-W-51,680; *Siemens Information and Communications Network, Inc., Boca Raton, FL*

The investigation revealed that criterion (a)(2)(A) (I.A) (no employment declines) have not been met.

TA-W-51,241D, E,F; *Bethlehem Steel Corp. Currently Known as International Steel Group, Piedmont, NC, Columbus, OH and Jackson, MS*

TA-W-50,981; *Southeastern Paper Products, a subsidiary of The Siman Group, Miami, FL*

TA-W-51,724; *Moonlight Harbor Fisheries, Kodiak, AK*

TA-W-51,796; *Fishing Vessel (F/V)*

*Northern Flyer, Ketchikan, AK*

TA-W-51,767; *Fishing Vessel (F/V) (Imperial, Funter Bay, AK*

TA-W-51,764; *Fishing Vessel (F/V) Resolute, Ketchikan, AK*

The investigation revealed that criteria (a) has not been met. The workers firm (or subdivision) is not a supplier or downstream producer to trade-affected companies.

TA-W-51,336; *Manufacturers Pattern and Foundry Corp., Springfield, MA*

**Affirmative Determinations for Worker Adjustment Assistance**

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of (a)(2)(A) (increased imports) of Section 222 have been met.

TA-W-51,152; *Asco Valve Manufacturing, Fort Mill, SC: March 1, 2002.*

TA-W-51,546; *Farley's and Sathers Candy Co., New Orleans, LA: April 18, 2002.*

TA-W-51,542; *Ametek, Inc., Lamb Electric Div., Racine, WI: April 7, 2002.*

TA-W-51,432; *Marlock, Inc., Plant #1 and Plant #2, Including Leased Workers of Protemp/Office Team, Maynardville, TN: April 1, 2002.*

TA-W-51,428; *Knoll, Inc., East Greenville, PA: April 4, 2002*

TA-W-51,161; *Allura Corp., Lorane-Reading, PA: March 4, 2002.*

TA-W-51,241 & A,B,C,G,H,I; *Bethlehem Steel Corp., Currently Known as International Steel Group, Sparrows Point, MD, Lackawanna, NY, Coatesville, PA, Conshohocken, PA, Corp. Headquarters, Bethlehem, PA, Government Affairs Office, Washington, DC and Chicago Cold Rolling, a subsidiary of Bethlehem Steel Corp., currently known as International Steel Group, Chicago, IL: March 19, 2002.*

TA-W-50,738; *Alcoa, Inc., Massena, NY: January 17, 2002*

TA-W-51,810; *Borregaard Lignotech, Lignotech USA, Inc., Mt. Vernon, WA: May 16, 2002.*

TA-W-51,804; *Link-Belt Construction Equipment, Lexington, KY: May 8, 2002.*

TA-W-51,743; *Sychip, Inc., Murray Hill, NJ: March 13, 2002.*

TA-W-51,686; *Coats American, Inc., Industrial Div., Toccoa, GA: May 5, 2002.*

TA-W-51,661; *Preco Electronics, Inc., Boise, ID: April 30, 2002.*

TA-W-51,567; *BGF Industries, Inc., Heavyweight Electrical Fabrics Div., South Hill, VA: April 22, 2002.*

TA-W-51,558; *Lexington Fabrics, Inc., Finishing Plant, Florence, AL: May 30, 2003*

TA-W-51,558A, B,C; *Lexington Fabrics, Inc., Sewing Plant, Rogersville, AL, Sewing Plant, Florence, AL and Knitting, Cutting, Packing Plant, Lexington, AL: April 15, 2002.*

TA-W-51,532 & A,B; *Sony Technology Center, Display Device Div., San Diego, CA, Including Leased Workers of Adecco Staffing, Onsite Staffing and Remedy Staffing, San Diego, CA, Information Technologies Div., Including Leased Workers of Remedy Intelligent Staffing and Onsite Co., San Diego, CA: April 16, 2002.*

TA-W-51,503; *Fullarton Computer Industries, Ltd, Winterville, NC: April 14, 2002.*

TA-W-51,490; *Saint-Gobain Vetrotex America, Wichita Falls, TX: April 10, 2002.*

The following certifications have been issued. The requirements of (a)(2)(B) (shift in production) of Section 222 have been met.

TA-W-51,602; *Sara Lee Intimate Apparel, Liberty Fabrics Div., Liberty Fabrics, Inc., Woolwine, VA: March 28, 2002.*

TA-W-51,500; *EMC Technologies, Inc., a Part of Smiths Interconnect, a div. of The Smiths Industrial Group, a div. of Smiths Group PLC, Cherry Hill, NJ: April 15, 2002.*

TA-W-51,384; *Honeywell Sensor Systems, Thermal Business Div., a subsidiary of Honeywell, Inc., Pawtucket, RI: March 31, 2002.*

TA-W-51,264; *Multilayer Technology, Inc., d/b/a Multek, a subsidiary of Flextronics International, Inc., Irvine, CA: March 13, 2002.*

TA-W-51,130; *Tyler Refrigeration, Waxahachie, TX: March 7, 2002.*

TA-W-51,081; *Plexus Corp., Plexus Electronic Assembly Group, Bothell, WA: February 24, 2002.*

TA-W-50,936; *International Mill Service, Inc., employed at Oregon Steel Mills, Inc./Portland Steel Works, Portland, OR: February 19, 2002.*

TA-W-50,931; *Mead Westvaco Corp., Consumer and Office Div., St. Joseph, MO: February 19, 2002.*

TA-W-51,646; *Wire Harness Industries, Inc., d/b/a Viasystems Harness Div., a subsidiary of Viasystems Group, Inc., Including Leased Workers of Aloche Staffing, Bucyrus, OH: April 30, 2002.*

TA-W-51,156; *Pacific Precision Metals, Inc., d/b/a La Verne Metal Products, La Verne, CA: March 11, 2002.*

TA-W-51,717; *Sandvik Materials Technology, Tubular Products Div., Clarks Summit, PA: May 7, 2002.*

TA-W-51,673; *Suntron Corp., Southwest Operations, Including Leased Workers of Manpower International, Phoenix, AZ: May 1, 2002.*

TA-W-51,665; *Cord Master Engineering Co., Inc., North Adams, MA: May 1, 2002.*

TA-W-51,613; Autoliv ASP, Inc., Cushion Manufacturing Div., Including Leased workers of Adecco Staffing Agency, Ogden, UT: April 28, 2002.

TA-W-51,605; Daws Manufacturing Co., Inc., Parsons, TN: April 23, 2002.

TA-W-51,518; Skyworks Solutions, Inc., Former Alpha Industries, Inc., Woburn, MA: April 14, 2002.

The following certification has been issued. The requirement of upstream supplier to a trade certified primary firm has been met.

TA-W-50,957; Compass Aerospace Northwest, Inc., Shelton, WA: February 18, 2002.

TA-W-51,683; Quadco Industrial Services, Tigard, OR: April 29, 2002.

TA-W-50,364; Reactive Metals and Alloys Corp., West Pittsburg, PA: December 12, 2001.

TA-W-51,740; Fishing Vessel (F/V) Lucy Lewis, Kepnuk, AK: April 28, 2002

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182) concerning transitional adjustment assistance hereinafter called (NAFTA-TAA) and in accordance with section 250(a), subchapter D, chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA-TAA issued during the month of May 2003.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA-TAA the following group eligibility requirements of section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof (including workers in any agricultural firm or appropriate subdivision thereof), have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increased imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with

articles which are produced by the firm or subdivision.

#### Negative Determinations NAFTA-TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

*None.*

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that the workers of the subject firm did not produce an article within the meaning of section 250(a) of the Trade Act, as amended.

*None.*

#### Affirmative Determinations NAFTA-TAA

*None.*

I hereby certify that the aforementioned determinations were issued during the month of May 2003. Copies of these determinations are available for inspection in Room C-5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: May 23, 2003.

**Timothy Sullivan,**

Director, Division of Trade Adjustment Assistance.

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BILLING CODE 4510-30-P

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA-W) issued during the period of May 2003.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the

workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated; and

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production of such firm or subdivision.

#### Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

*None.*

In the following case, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that criterion (a)(2)(A) (I.C.) (Increased imports) and (a) (2)(B) (II.B) (No shift in production to a foreign country) have not been met.

TA-W-50,828; Radisys Corp., Hillsboro, OR

TA-W-51,438; Commonwealth Sprague Capacitor, Power Systems Div., North Adams, MA

TA-W-51,538; Agrium U.S., Inc., Kenai Nitrogen Operations Div., a subsidiary of Agrium, Inc., Kenai, AK

TA-W-51,220; Wellington Leisure Products, Crivitz, WI

TA-W-51,284; ADC Telecommunications, Systems Integration Div., including leased workers of TPS Staffing and Apple One, Chickamauga, GA

TA-W-51,369; Bombardier Aerospace, Inc., Learjet, Inc., Wichita, KS

TA-W-50,721; CPM Electronic Industries, Roseville, MI

TA-W-51,198 & A; Oregon Log Homes, Sisters, OR and Maupin, OR

TA-W-51,199; Dura Automotive Systems, Stockton, IL

TA-W-51,188; Thunderbird Mining Co., a subsidiary of Eveleth Mines, LLC, Eveleth, MN

TA-W-51,731; Fishing Vessel (F/V) Verna-C, Sitka, AK

TA-W-51,049; Raytheon Aircraft Co., Wichita, KS

TA-W-51,579; Peavy Electronics Corp., Leakesville, MS

TA-W-51386; Avaya, Inc., Connectivity Solutions Div., Omaha, NE