Signed in Washington, DC, this 25th day of March, 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–8356 Filed 4–4–03; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–51,007]

Cedar Creek Fibers, LLC, Formerly Wellman, Inc., Fayetteville, NC; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 27, 2003, in response to a worker petition filed on behalf of workers at Cedar Creek Fibers, LLC, formerly Wellman, Inc., Fayetteville, North Carolina.

The petitioning group of workers is covered by an active certification issued on September 19, 2002 (TA–W–41,409). Consequently, the investigation has been terminated.

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

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–8345 Filed 4–4–03; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,184]

Corning Cable Systems, LLC, Business Operation Services—OpitiCon Network Manager, Hickory, NC; Notice of Negative Determination Regarding Application for Reconsideration

By application postmarked January 2, 2003, a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice applicable to workers of Corning Cable Systems, LLC, Business Operation Services—OpitiCon Network Manager, Hickory, North Carolina was signed on December 20, 2002, and published in the **Federal Register** on January 9, 2003 (67 FR 1199).

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 TAA petition was filed on behalf of workers at Corning Cable Systems, LLC, Business Operation Services—OpitiCon Network Manager, Hickory, North Carolina engaged in activities related to data entry. The petition was denied because the petitioning workers did not produce an article within the meaning of section 222(3) of the Act.

The petitioner alleges that the reason subject firm workers were listed in the **Federal Register** as having been denied was on the basis ''that criterion (2) has not been met * * * the workers firm (or subdivision) is not a supplier or downstream producer for trade affected companies.''

In fact, the petitioner mistakenly quotes the paragraph below the listing of TA–W–50,184, when the correct paragraph citing the reason for the negative determination was above the listing. The relevant paragraph reads as follows: ''the workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.''

The petitioner alleges that ''several other groups from the same company and same town got coverage'' and that, on that basis, the petitioning worker group should also be considered eligible. The petitioner also appears to allege that, because the company marketed various products and services together as a ''Total Solutions'' package, all worker groups should be equally eligible.

In fact, only one other worker group has been TAA and NAFTA–TAA certified for Corning Cable Systems in Hickory, North Carolina. This worker group produced cable assembly hardware, which, unlike the data entry performed by the petitioning worker group, constitutes a product within the meaning of section 222 of the Trade Act. Further, the subject firm's marketing strategy in selling products and services in a package does not create the affiliation required for service in support of production. Service workers must perform a function that directly supports the production of the certified worker group in order to be eligible for trade adjustment assistance. In this case, the petitioning worker group performs data entry for the purpose of creating independent databases, and do not contribute to the production of cable assembly hardware of the worker group certified at the same facility.

The petitioner also asserts that the subject firm did not correctly address the petitioning worker group's function in describing their job duties as ''data entry'', implying that there were much more complex functions involved, and that the description does not properly take into account the ''technological knowledge and skills'' of the petitioning workers.

The sophistication of the work involved is not an issue in ascertaining whether the petitioning workers are eligible for trade adjustment assistance, but rather only whether they produced an article within the meaning of section 222(3) of the Trade Act of 1974.

The petitioner appears to allege that, because petitioning workers ''built virtual networks for fiber management,'' their work should be considered production.

Virtual networks are not considered production of an article within the meaning of section 222(3) of the Trade Act.

The petitioner appears to allege that, on the basis that that petitioning workers produced an article within the meaning of a dictionary definition provided in the request for reconsideration, the worker group should be eligible for trade adjustment assistance.

Petitioning workers do not produce an ''article'' within the meaning of the Trade Act of 1974. Databases are not tangible commodities, that is, marketable products, and they are not 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. Furthermore, when a Nomenclature Analyst of the USITC was contacted in regards to whether virtual networks and databases provided by subject firm workers fit into any existing HTS basket categories, the Department was informed that no such categories exist.

In addition, the Trade Adjustment Assistance (TAA) program was established to help workers who produce articles and who lose their jobs as a result of trade agreements. 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. But, although a wide variety of tangible products are described as articles and characterized as dutiable in the HTS, informational products that could historically be sent in letter form and that can currently be electronically transmitted, are not listed in the HTS. Such products are not the type of employment work products that customs officials inspect and that the TAA program was generally designed to address.

The petitioner also argues that the petitioning worker group did not simply ''provide services'', asserting that, because the data entry took the form of databases recorded on CD–ROMs, they ''handed over goods.''

Electronically generated information is not considered production in the context of assessing worker group eligibility for trade adjustment assistance. The fact that the device used to record electronically generated information processed by the petitioning workers has a physical form does not qualify the petitioning worker group as having produced an article.

The petitioner also alleges that imports impacted layoffs, asserting that because workers lost their jobs due to a transfer of job functions to India, petitioning workers should be considered import impacted.

The petitioning worker group is not considered to have engaged in production, thus any foreign transfer of their job duties is irrelevant within the context of eligibility for trade adjustment assistance.

The petitioner appears to assert that the Division of Trade Adjustment Assistance is ''supposed to look at each case individually'' in assessing the eligibility of worker groups for TAA. The petitioner also appears to suggest that, because the workers performed services that involved ''newer technology'', the meaning of ''article'' as defined in the Trade Act is outdated, and therefore irrelevant.

In fact, the eligibility of petitioning worker groups is considered exclusively within the context of section 222 of the Trade Act.

In conclusion, the workers at the subject firm did not produce an article within the meaning of section 222(3) 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 17th day of March, 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–8354 Filed 4–4–03; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,170]

Erasteel, Inc., McKeesport, PA; Notice of Negative Determination Regarding Application for Reconsideration

By application of February 6, 2003, 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 the subject firm. The denial notice was signed on January 24, 2003, and published in the **Federal Register** on February 24, 2003 (67 FR 8622).

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 petition for the workers of Erasteel, Inc., McKeesport, Pennsylvania was denied because the ''contributed importantly'' group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met. The ''contributed importantly'' test is generally demonstrated through a survey of customers of the workers' firm. The survey revealed that none of the respondents increased their purchases of imported cold drawn steel.

The petitioners state that their major customer imports high speed drill bits and blanks, and that these items are ''like or directly competitive with articles produced by'' subject firm workers. In a clarifying conversation with one of the petitioners, he stated that the steel produced at the subject firm was processed in such a way that its only possible end use was to form it into the drill bits and blanks produced by the customer.

The term ''like or directly competitive'' is drawn from a paragraph in section 222 of the Trade Act. In this paragraph, a ''like'' competitive product is described as an article which is ''substantially identical in inherent or intrinsic characteristics.'' A ''competitive product'' is described as an article which ''is substantially equivalent for commercial purposes.'' As the subject firm produces drawn steel and not drills bits or blanks, the subject firm products are not ''like'' or ''identical'' to potential customer imports of drill bits and blanks. Further, the drawn steel cannot be used for the same commercial purposes as the finished drill bits and blanks. Thus subject firm products are not ''like or directly'' competitive with alleged customer imports as stated in section 222(3) of the Trade Act.

The petitioners also allege that the subject firm imported competitive products in the relevant period. In an attempt to clarify this allegation, a petitioner was contacted. In response to a request for clarification, the petitioner stated that the subject firm briefly imported semi-finished steel coils for further processing at the subject firm; specifically, coils were imported that were sized to thinner dimensions at the subject firm. However, the subject firm stopped importing this semi-finished product prior to petitioner layoffs, according to the petitioner.

As described by the petitioner, the steel imported is not ''like or directly'' competitive with the steel produced by the subject firm. Further, a company official was contacted in regard to this allegation. The official clearly stated that the company did not import competitive drawn and ground bars. In response to the issue of imported coils, the official stated that the company only imported for a very brief period and that these imports did not prompt layoffs.

Finally, the petitioners acknowledge that a domestic shift in production caused the closure of the McKeesport facility.

However, they also assert that the need for Erasteel to consolidate their production was a direct result of business lost from their major customer, and that this customer was importing competitive products.

As has already been established, the major declining customer did not import ''like or directly'' competitive products.