

DEPARTMENT OF LABOR**Employment and Training
Administration**

[TA-W-63,958]

**American Parts & Services, Inc.;
Schaumburg, IL; Notice of Negative
Determination Regarding Application
for Reconsideration**

By application dated October 14, 2008, a company official 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 September 17, 2008, and published in the **Federal Register** on October 3, 2008 (73 FR 57682).

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 misinterpretation of facts or of the law justified reconsideration of the decision.

The negative TAA determination issued by the Department for workers of American Parts & Services, Inc., Schaumburg, Illinois, was based on the finding that the worker group does not produce an article within the meaning of Section 222 of the Trade Act of 1974.

In the request for reconsideration the petitioner indicates a number of reasons as to why she should be eligible for TAA. In particular, the petitioner stated that the subject firm subcontracted independent workers to perform value added production functions on the parts purchased by the subject firm. The petitioner seems to allege that because the workers were sub-contracted to perform production for the subject firm, they should be considered as employees of the subject firm and, therefore, eligible for Trade Adjustment Assistance.

To determine whether these subcontracted workers were employees of the subject firm, on-site leased workers, or workers under the control of the subject firm and whether the worker group produced an article during the relevant period, the Department contacted the subject firm's company official and requested employment

figures and all relevant contractual agreements between the subject firm and sub-contracting workers for the relevant employment data (for one year prior to the date of the petition).

The company official stated that the subcontractors utilized by the subject firm during the relevant period were not employees of American Parts & Services, Inc., Schaumburg, Illinois, and they were not leased workers employed on-site of the subject facility. Moreover, it was revealed that these independent contractors had no contractual agreements with the subject firm. The investigation revealed that there was only one worker employed by the subject firm in the relevant period.

A review of the initial petition and determination revealed the fact that the firm did not employ a worker group during the one year period prior to the petition filing date, as required by Section 222 of the Trade Act of 1974. A worker group means three or more workers in a firm or appropriate subdivision. The subject firm did not meet this threshold level. The investigation also revealed that the subject firm does not produce an article within the meaning of Section 222(a)(2) of the Act.

When assessing eligibility for TAA, the Department makes its determinations based on the requirements as outlined in Section 222 of the Trade Act. In particular, the Department defines an eligible worker "group" as "three or more workers in a firm or an appropriate subdivision thereof." As subject firm's total worker number was one in the relevant period, the worker does not meet the group eligibility requirements for trade adjustment assistance.

After careful review of the information provided on reconsideration, it was revealed that American Parts & Services, Inc., Schaumburg, Illinois, resells parts for sheet metal equipment and subcontracts repair services. Moreover, a review of the records provided by the company official established that only one worker was employed by the subject firm during the relevant period.

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 in Washington, DC, this 22nd day of October 2008.

Elliott S. Kushner,

*Certifying Officer, Division of Trade
Adjustment Assistance.*

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DEPARTMENT OF LABOR**Employment and Training
Administration**

[TA-W-62,220]

**Agrium U.S., Inc.; Kenai Nitrogen
Operation Including On-Site Leased
Workers From NMS (Nana
Management Systems) Kenai, AK;
Amended Notice of Revised
Determination on Reconsideration**

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Notice of Revised Determination on Reconsideration on January 8, 2008. The notice was published in the **Federal Register** on January 16, 2008 (73 FR 2946).

At the request of the petitioner, the Department reviewed the Notice of Revised Determination on Reconsideration for workers of the subject firm. The workers are engaged in the production of anhydrous ammonia and urea.

New information shows that workers leased from NMS (Nana Management Systems) were employed on-site at the Kenai, Alaska location of Agrium U.S., Inc., Kenai Nitrogen Operation. The Department has determined that these workers were sufficiently under the control of Agrium U.S., Inc., Kenai Nitrogen Operation to be considered leased workers.

Based on these findings, the Department is amending this revised determination to include workers leased from NMS (Nana Management Systems) working on-site at the Kenai, Alaska location of the subject firm.

The intent of the Department's certification is to include all workers employed at Agrium U.S., Inc., Kenai Nitrogen Operation, Kenai, Alaska who were adversely affected by a shift in production of anhydrous ammonia and urea to Damietta, Egypt.

The amended notice applicable to TA-W-62,220 is hereby issued as follows:

All workers of Agrium U.S., Inc., Kenai Nitrogen Operation, including on-site leased workers from NMS (Nana Management Systems), Kenai, Alaska, who became totally