

is supported by current regulation. 29 CFR section 90.11(c)(7) requires that the petition includes a "description of the articles produced by the workers' firm or appropriate subdivision, the production or sales of which are adversely affected by increased imports, and a description of the imported articles concerned. If available, the petition should also include information concerning the method of manufacture, end uses, and wholesale or retail value of the domestic articles produced and the United States tariff provision under which the imported articles are classified."

In order to determine whether the subject firm is a manufacturing firm, the Department consulted the Web site for the North American Industry Classification System (NAICS). The NAICS Web site (<http://www.naics.com/faq.htm#q1>) states that "The North American Industry Classification System \* \* \* was developed as the standard for use by Federal statistical agencies in classifying business establishments for the collection, analysis, and publication of statistical data related to the business economy of the U.S." The NAICS designation identifies the primary activity of the company, which is useful in understanding what a firm does for its customers, which, in turn, aids in determining whether a firm produces an article or provides services for its customers.

The subject firm is categorized in NAICS subsection 541611 ("Administrative Management and General Management Consulting Services"). This category consists of "establishments primarily engaged in providing operating advice and assistance to businesses and other organizations on administrative management issues, such as financial planning and budgeting, equity and asset management, records management, office planning, strategic and organizational planning, site selection, new business startup, and business process improvement" and includes "establishments of general management consultants that provide a full range of administrative; human resource; marketing; process, physical distribution, and logistics; or other management consulting services to clients."

After careful review of the request for reconsideration and previously submitted information, the Department determines that the subject firm is a service firm and not a manufacturing firm. As a corollary, the Department determines that there was no shift of production abroad.

The Department operates the program in accordance with current law, and while the Department has discretion to issue regulations and guidance on the operation of a program that it is charged with implementing, the Department cannot expand the program to include workers that Congress did not intend to cover.

In 2002, while amending the Trade Act, the Senate explained the purpose and history of TAA:

Since it began, TAA for workers has covered mostly manufacturing workers, with a substantial portion of program participants being steel and automobile workers in the mid- to late-1970s to early 1980s, and light industry and apparel workers in the mid- to late-1990s. In fiscal years 1995 through 1999, the estimated number of workers covered by certifications under the two TAA for workers programs averaged 167,000 annually, reaching a high of about 228,000 in 1999, despite a falling overall unemployment rate. During the same period, approximately 784 firms were certified under the TAA for firms program. Participating firms represent a broad array of *industries producing manufactured products*, including auto parts, agricultural equipment, electronics, jewelry, circuit boards, and textiles, as well as some producers of agricultural and forestry products.

S. Rep. 107-134, S. Rep. No. 134, 107th Cong., 2nd Sess. 2002, 2002 WL 221903 (February 4, 2002)(emphasis added). Clearly, the language suggests that the focus of TAA is the manufacture of marketable goods.

Congress has recognized the difference between manufacturers and service firms and that an amendment to the Trade Act is needed to cover workers in service firms. It has recently rejected at least two attempts to amend the Trade Act to expand TAA coverage to service firms. It did not pass the "Trade Adjustment Assistance Equity for Service Workers Act of 2005" or the "Fair Wage, Competition, and Investment Act of 2005." Most recently, Senator Baucus introduced the "Trade and Globalization Adjustment Assistance Act of 2007" which provides for an expansion of coverage to workers in a "service sector firm" when there are increased imports of services like or directly competitive with articles produced or services provided in the United States, or a shift in provision of like or directly competitive articles or services to a foreign country, and Congressman Rangel introduced a similar bill in the House of Representatives that was discussed in late October 2007.

Until Congress amends the Trade Act to cover service workers, in order to be considered eligible to apply for adjustment assistance under section 223

of the Trade Act of 1974, the worker group seeking certification (or on whose behalf certification is being sought) must work for a firm or appropriate subdivision that produces an article and there must be a relationship between the workers' work and the article produced by the workers' firm or appropriate subdivision that produces an article domestically.

After careful review of the request for reconsideration and previously submitted materials, the Department determines that there is no new information that supports a finding that section 222(a)(2) of the Trade Act of 1974 was satisfied and that there was no mistake or misinterpretation of the facts or the law.

## 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 5th day of November 2007.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-62,322]

### Precision Industries Fayetteville, AR; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on October 23, 2007 in response to a worker petition filed by an official of the United Auto Workers on behalf of workers at Precision Industries, Fayetteville, Arkansas.

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

Signed at Washington, DC, this 5th day of November, 2007.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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