

Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 9th day of September, 2004.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E4-2304 Filed 9-21-04; 8:45 am]

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-55,499]

#### Marshall Erdman, Waunakee, WI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on August 23, 2004 in response to a petition filed by the United Brotherhood of Carpenters and Joiners Local 2190 on behalf of workers at Marshall Erdman, Waunakee, Wisconsin.

The petitioning group of workers is covered by an active certification (TA-W-50,208) that remains in effect through March 10, 2005. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 27th day of August 2004.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E4-2313 Filed 9-21-04; 8:45 am]

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-55,021]

#### Parametric Technology Corporation Solutions and Marketing Group WC Publication and Documentation Department, Needham, MA; Notice of Negative Determination Regarding Application for Reconsideration

By application of July 22, 2004, a petitioner 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 July 1, 2004, and published in the **Federal Register** on August 3, 2004 (69 FR 46574).

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 petition for the workers of Parametric Technology Corporation, Solutions and Marketing Group, WC Publication and Documentation Departments, Needham, Massachusetts engaged in developing, writing and maintaining technical documentation integrated into the software code was denied because the petitioning workers did not produce an article within the meaning of section 222 of the Act.

The petitioner contends that the Department erred in its interpretation of work performed at the subject facility as a service and further conveys that workers of the subject company produced manuals and help systems which were components of compact disks—a physical product sold to customers. He further states that because these components were essential parts of complete products, the workers writing manuals should be considered workers engaged in production.

A company official was contacted for clarification in regard to the nature of the work performed at the subject facility. The official stated that petitioning group of workers at the subject firm develops, writes, and maintains technical documentation, which indeed includes online help files and manuals. The official further clarified that the documentation created is merged with the software code which is further compiled onto the gold CDs. However, the physical gold CDs are not sold to customers, but rather represent a master copy of the software, which in its turn is sent to an independent non-affiliated party vendor for further duplication and distribution. The official supported the information previously provided by the subject firm that codes and software created at the subject facility are not recorded on any media device by the subject firm for further duplication and distribution to customers and that there are no products manufactured within Parametric Technology Corporation, Needham, Massachusetts.

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 of the Trade Act of 1974.

Developing, writing, editing, and maintaining on-line technical documentation are not considered production of an article within the meaning of section 222 of the Trade Act. Petitioning workers do not produce an "article" within the meaning of the Trade Act of 1974. Information electronic databases, technical documentation and codes, which are not printed or recorded on media devices (such as CD-ROMs) for further mass production and distribution, are not tangible commodities, and they are not listed on the Harmonized Tariff Schedule of the United States (HTS), as classified by the United States International Trade Commission (USITC), Office of Tariff Affairs and Trade Agreements, which describes articles imported to the United States.

To be listed in the HTS, an article would be subject to a duty on the tariff schedule and have a value that makes it marketable, fungible and interchangeable for commercial purposes. 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 products that customs officials inspect and that the TAA program was generally designed to address.

The investigation on reconsideration supported the findings of the primary investigation that the petitioning group of workers does not produce an article.

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

The company official stated that some technical writing positions were shifted to India. The official further stated that the results of the work assignments completed in India is transmitted back to the US group who create the gold CD via Parametric's Technology Corporation's electronic internal systems.

Informational material that is electronically transmitted is not considered production within the context of TAA eligibility requirements, so there are no imports of products in this instance. Further, as the technical material does not become a product

until it is recorded on media device, there was no shift in production of an "article" within the meaning of the Trade Act of 1974.

In your request for reconsideration, you doubt the accuracy of the information provided by Parametric Technology Corporation and request copies of all the submissions made by the subject firm during the investigation process.

The Department has no evidence that would suggest that the officials of the Parametric Technology Corporation had any reason to mislead the investigation or that they had any interest in the outcome of this determination that might have been adverse to the former employees of the subject firm.

The Department is unable to provide you with the requested copies of documents as all commercial and financial data submitted by the subject firm is entitled to confidential treatment, in accordance with 29 CFR 90.33, and will not be disclosed except to the extent required by applicable law or court order.

#### 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 10th day of September, 2004.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E4-2306 Filed 9-21-04; 8:45 am]

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#### DEPARTMENT OF LABOR

##### Employment and Training Administration

[TA-W-55,482]

##### TI Automotive, Cass City, MI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 20, 2004 in response to petition filed by a company official on behalf of workers at TI Automotive, Cass City, Michigan.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 27th day of August, 2004.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E4-2311 Filed 9-21-04; 8:45 am]

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#### DEPARTMENT OF LABOR

##### Mine Safety and Health Administration

##### Summary of Decisions Granting in Whole or in Part Petitions for Modification

**AGENCY:** Mine Safety and Health Administration (MSHA), Labor.

**ACTION:** Notice of affirmative decisions issued by the Administrators for Coal Mine Safety and Health and Metal and Nonmetal Mine Safety and Health on petitions for modification of the application of mandatory safety standards.

**SUMMARY:** Under section 101 of the Federal Mine Safety and Health Act of 1977, the Secretary of Labor (Secretary) may allow the modification of the application of a mandatory safety standard to a mine if the Secretary determines either that an alternate method exists at a specific mine that will guarantee no less protection for the miners affected than that provided by the standard, or that the application of the standard at a specific mine will result in a diminution of safety to the affected miners.

Final decisions on these petitions are based on the petitioner's statements, comments and information submitted by interested persons, and a field investigation of the conditions at the mine. MSHA, as designee of the Secretary, has granted or partially granted the requests for modification listed below. In some instances, the decisions are conditioned upon compliance with stipulations stated in the decision. The term FR Notice appears in the list of affirmative decisions below. The term refers to the **Federal Register** volume and page where MSHA published a notice of the filing of the petition for modification.

##### FOR FURTHER INFORMATION CONTACT:

Petitions and copies of the final decisions are available for examination by the public in the Office of Standards, Regulations, and Variances, MSHA, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209. For further information contact Barbara Barron at 202-693-9447.

Dated at Arlington, Virginia this 15th day of September 2004.

**Marvin W. Nichols, Jr.,**

*Director, Office of Standards, Regulations, and Variances.*

##### Affirmative Decisions on Petitions for Modification

*Docket No.:* M-2002-028-C.

*FR Notice:* 67 FR 19284.

*Petitioner:* Consolidation Coal Company.

*Regulation Affected:* 30 CFR

75.364(b)(2).

*Summary of Findings:* Petitioner's proposal is to amend the Proposed Decision and Order (PDO) for its previously granted petition for modification, docket number M-1993-275-C, as it relates to air courses ventilating the No. 3 North seals and the No. 2½ North seals at the Loveridge No. 22 Mine. The petitioner's request is to amend paragraph 4 of the previous PDO to permit a certified person to conduct weekly examinations of each of the eight (8) monitoring stations to evaluate the quality of methane and oxygen content (measured by a hand-held instrument) and quantity of air entering and exiting the monitoring station, and to determine air course leakage. This is considered an acceptable alternative method for the Loveridge No. 22 Mine. MSHA grants the petition for modification for continuous monitoring using intrinsically safe sensors installed as part of the mine's Atmospheric Monitoring System (AMS) and weekly evaluation of air entering and leaving the intake air courses ventilating No. 3 North seals and No. 2½ North seals for the Loveridge No. 22 Mine with conditions.

*Docket No.:* M-2002-043-C.

*FR Notice:* 67 FR 37443.

*Petitioner:* Lone Mountain Processing, Incorporated.

*Regulation Affected:* 30 CFR

75.901(a).

*Summary of Findings:* Petitioner's proposal is to use a 480-volt, three-phase, 300KW/375VA diesel powered generator (DPG) set to supply power to a three-phase wye connected 300 KVA auto transformer and three-phase 480-volt and 995-volt power circuits. This is considered an acceptable alternative method for the Darby Fork No. 1 Mine. MSHA grants the petition for modification for the LIMA MAC, 480-volt, Model No. 68MDL10094, 300KW diesel powered generator (DPG) set, supplying power to a 300 KVA autotransformer to develop 995-volt power circuits for the Darby Fork No. 1 Mine with conditions.

*Docket No.:* M-2002-044-C.