

fair market value, including the appropriate date for such determination, must be set forth in the written settlement agreement.

(e) Nothing in section III (c) shall be construed to preclude the exemption from applying to a settlement that includes a written agreement to: (1) Make future contributions; (2) adopt amendments to the plan; or (3) provide additional employee benefits.

(f) The fiduciary acting on behalf of the plan has acknowledged in writing that it is a fiduciary with respect to the settlement of the litigation on behalf the plan.

(g) The plan fiduciary maintains or causes to be maintained for a period of six years the records necessary to enable the persons described below in paragraph (h) to determine whether the conditions of this exemption have been met, including documents evidencing the steps taken to satisfy sections II (b), such as correspondence with attorneys or experts consulted in order to evaluate the plan's claims, except that:

(1) if the records necessary to enable the persons described in paragraph (h) to determine whether the conditions of the exemption have been met are lost or destroyed, due to circumstances beyond the control of the plan fiduciary, then no prohibited transaction will be considered to have occurred solely on the basis of the unavailability of those records; and

(2) No party in interest, other than the plan fiduciary responsible for record-keeping, shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975(a) and (b) of the Code if the records are not maintained or are not available for examination as required by paragraph (h) below;

(h)(1) Except as provided below in paragraph (h)(2) and notwithstanding any provisions of section 504(a)(2) and (b) of the Act, the records referred to in paragraph (g) are unconditionally available at their customary location for examination during normal business hours by—

(A) any duly authorized employee or representative of the Department or the Internal Revenue Service;

(B) any fiduciary of the plan or any duly authorized employee or representative of such fiduciary;

(C) any contributing employer and any employee organization whose members are covered by the plan, or any authorized employee or representative of these entities; or

(D) any participant or beneficiary of the plan or the duly authorized

employee or representative of such participant or beneficiary.

(2) None of the persons described in paragraph (h)(1)(B)–(D) shall be authorized to examine trade secrets or commercial or financial information which is privileged or confidential.

#### *Section III. Definition*

For purposes of this exemption, the terms “employee benefit plan” and “plan” refer to an employee benefit plan described in section 3(3) of ERISA and/or a plan described in section 4975(e)(1) of the Code.

Signed at Washington, DC this 24th of December, 2003.

**Ivan L. Strasfeld,**

*Director, Office of Exemption Determinations,  
Employee Benefits Security Administration,  
U.S. Department of Labor.*

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## **DEPARTMENT OF LABOR**

### **Employment and Training Administration**

**[TA–W–53,551]**

#### **Allegheny Ludlum Corporation, Brackenridge Works, Brackenridge, PA**

Notice of Termination of Investigation Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on November 17, 2003 in response to a petition filed by a company official on behalf of workers at Allegheny Ludlum Corporation, Brackenridge Works, Brackenridge, Pennsylvania.

The petitioning group of workers is covered by an earlier petition instituted on November 14, 2003 (TA–W–53,538) that is the subject of an ongoing investigation for which a determination has not yet been issued. Further investigation in this case would duplicate efforts and serve no purpose; therefore the investigation under this petition has been terminated.

Signed at Washington, DC this 19th day of November, 2003.

**Linda G. Poole,**

*Certifying Officer, Division of Trade  
Adjustment Assistance.*

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## **DEPARTMENT OF LABOR**

### **Employment and Training Administration**

**[TA–W–42,222 and TA–W–42,222A]**

#### **EHV–Weidmann Industries, Inc., a Subsidiary of Wicor Americas, St. Johnsbury, Vermont; and Weidmann Systems International, Inc., St. Johnsbury, Vermont; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on November 25, 2002, applicable to workers of EHV–Weidmann Industries, Inc., a subsidiary of Wicor Americas, St. Johnsbury, Vermont. The notice was published in the **Federal Register** on December 23, 2002 (67 FR 78258).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of electrical insulation boards and components.

Information from the company shows that worker separations occurred at Weidmann Systems International, St. Johnsbury, Vermont a sister company of the subject firm. Workers at Weidmann Systems International, Inc. provide sales and customer services supporting the production of electrical insulation boards and components at the subject firm.

Based on these findings, the Department is amending the certification to include workers of Weidmann Systems International, Inc., St. Johnsbury, Vermont.

The intent of the Department's certification is to include all workers of EHV–Weidmann Industries, Inc., a subsidiary of Wicor Americas, St. Johnsbury, Vermont, who were adversely affected by increased imports.

The amended notice applicable to TA–W–42,222 is hereby issued as follows:

“All workers of EHV–Weidmann Industries, Inc., a subsidiary of Wicor Americas, St. Johnsbury, Vermont (TA–W–42,222) and Weidmann Systems International, Inc. St. Johnsbury, Vermont (TA–W–42,222A), who became totally or partially separated from employment on or after September 17, 2001, through November 25, 2004, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.”