

plans, and illustrations of \* \* \* components from engineering \* \* \* specifications" as "drafting services" (NAICS 541340). Another code that describes "engineering in the design, development, and utilization of machines" (emphasis added) is classified within a code that signifies services (specifically, NAICS 541330).

Workers of Murray Engineering neither make a product nor transform an existing product into something new and different. The Department thoroughly investigated and could not find any evidence that workers of Murray Engineering produced any articles or that the petitioners transformed anything into something new and different; to the contrary, the evidence cited above supports a conclusion that the Murray workers did not produce an article. Consequently, they are not eligible for certification as production workers.

The second issue is whether the workers of Murray Engineering are adversely-affected secondary workers.

In the August 1, 2003 letter to the Department, the plaintiff asserts that: (1) Murray Engineering was a supplier of designs to a TAA-certified company (Lamb Technicon, Machining Systems, Warren, Michigan) and that such supply is related to the article that was the basis for certification (automated metal removal equipment, transfer lines, and dial transfers); and (2) Lamb Technicon accounted for at least twenty percent of Murray Engineering's production or sales or otherwise must have contributed importantly to the workers' separations. These assertions appear to be provided in an attempt to show that the subject firm workers should be certified as eligible to apply for TAA on the basis of serving as secondary upstream suppliers.

In order to be eligible as secondary suppliers, the petitioning worker group must have produced a component part of the product that is the basis of the TAA certification. Because Murray Engineering did not produce a component part of the automated metal removal equipment produced by Lamb Technicon, they were not secondary suppliers of a TAA-certified facility, as required by the relevant TAA legislation. Even if, as plaintiff asserts, the subject firm workers' design specifications were sometimes mounted or affixed on their customers' manufacturing equipment, such mounting or affixment were not necessary for the equipment to function properly and, thus, were not component parts.

Further, the subject firm's business with Lamb Technicon ceased prior to

the beginning of the investigative period. The subject firm workers' petition was dated January 15, 2003 and instituted on January 16, 2003.

Therefore, the relevant investigative period is 2001 and 2002. However, according to the subject firm official, Murray Engineering did no business with Lamb Technicon after 1999. Therefore, Lamb Technicon did not account for at least twenty percent of Murray Engineering's production or sales, nor did loss of business with this customer contribute importantly to the subject firm, during the relevant period.

Finally, the petitioner argues that Complete Design Service did the same work as Lamb Technicon and, thus, should be certified for TAA. The workers of Lamb Technicon were certified (TA-W-40,267 & TA-W-40,267A) based on the fact that the workers were engaged in employment related to the production of articles (automated metal removal equipment, transfer lines, and dial transfers). Any workers who may have been engaged in design and engineering solutions at Lamb Technicon were included in the certification because their separation was caused importantly by a reduced demand for their services due to a decline in manufacturing by their subject firm, or a parent firm, or a firm otherwise related to their firm by ownership or control. Additionally, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification, and the reduction must directly relate to the product impacted by imports. These conditions in meeting the TAA eligibility requirements were met for workers in support activities at Lamb Technicon. However, workers at Murray Engineering, Inc., Complete Design Center, Flint, Michigan do not meet these criteria and, thus, may not be certified based on Lamb Technicon's workers' certification.

### Conclusion

Under section 222 of the Act, what is relevant to determining whether a worker group is eligible for TAA certification is whether the workers' firm or an appropriate subdivision of the workers' firm produced an article.

The workers' firm in this case is Murray Engineering, Complete Design Service, Flint, Michigan. The evidence clearly establishes that Murray Engineering does not produce, directly or through an appropriate subdivision, an article within the meaning of the Trade Act. Once the Department concludes that the workers' employer was not a firm that produced an article,

it must conclude that the workers are not eligible for assistance. Because the petitioners are employees of a firm or subdivision that does not produce an article within the meaning of the Trade Act, they are not eligible for certification.

As the result of the findings of the investigation on voluntary remand, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance for workers and former workers of Murray Engineering, Complete Design Service, Flint, Michigan.

Signed at Washington, DC this 20th day of August, 2003.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[NAFTA-5051]

#### **Quality Fabricating, Inc., North Huntingdon, PA; Affirmative Finding Regarding Qualification as a Secondly Affected Worker Group Pursuant to the Statement of Administrative Action Accompanying the North American Free Trade Agreement (NAFTA) Implementation Act**

The Department of Labor herein presents the results of an investigation regarding qualification as a secondarily impacted firm, pursuant to the Statement of Administrative Action accompanying the North American Free Trade Agreement (NAFTA) Implementation Act.

In order for an affirmative finding to be made, the following requirements must be met:

(1) The subject firm must be a supplier—such as of components, unfinished or semi-finished goods—to a firm that is directly affected by imports from Mexico or Canada of articles like or directly competitive with articles produced by that firm or shifts in production of such articles to those countries; or

(2) The subject firm must assemble or finish products made by a directly-impacted firm; and

(3) The loss of business with the directly affected firm must have contributed importantly to worker separations at the subject firm.

The investigation revealed that requirements (1) and (3) are met.

Quality Fabricating, Inc., North Huntingdon, Pennsylvania, produces