



DEPARTMENT OF LABOR

Employment and Training Administration

TA-W-82,388

ALERIS RECYCLING BENS RUN, LLC
A SUBSIDIARY OF ALERIS CORPORATION
INCLUDING ON-SITE LEASED WORKERS FROM
WINANS EXTRAS SUPPORT STAFFING AND CDI CORPORATION
FRIENDLY, WEST VIRGINIA

Notice of Negative Determination
on Reconsideration

On May 8, 2013, the Department of Labor (Department) issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of Aleris Recycling Bens Run, LLC, Friendly, West Virginia (subject firm). The Department's Notice of determination was published in the Federal Register on May 24, 2013 (78 FR 31593). The workers were engaged in employment related to the production of pyramid- and cone-shaped deoxidizers, aluminum ingot in multiple alloys, and recycled secondary ingot and sows. Workers were not separately identifiable by article produced. The worker group included on-site leased workers from Winans Extras Support Staffing and CDI Corporation. The subject firm shut down in March 2013.

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 mis-interpretation of facts or of the law justified reconsideration of the decision.

The initial investigation resulted in a negative determination based on the Department's findings that worker separations were not attributable to increased imports of pyramid- and cone-shaped deoxidizers, aluminum ingot in multiple alloys, and recycled secondary ingot and sows (or articles like or directly competitive), by the subject firm or its declining customers, or a shift/acquisition of the production of pyramid- and cone-shaped deoxidizers, aluminum ingot in multiple alloys, and recycled secondary ingot and sows (or articles like or directly competitive) to/from a foreign country by the workers' firm during the time period under investigation (2011 and 2012).

In the request for reconsideration, the petitioner alleged that workers at the subject firm were impacted by foreign competition and that the initial negative determination was erroneous because the Department did not understand the articles produced by the subject firm and their use by the subject firm's customers.

Further, during the course of the reconsideration investigation, the petitioner provided additional information in which he alleged that the subject firm was a supplier to customers whose workers were eligible to apply for Trade Adjustment Assistance (TAA). Therefore, the petitioner alleged that workers of the subject firm are eligible to apply for TAA as secondarily-affected workers.

During the reconsideration investigation, the Department reviewed and confirmed information obtained during the initial investigation, sought clarification of previously-submitted information, and collected additional information from the subject firm and one of its major customers.

The reconsideration investigation findings confirmed that the subject firm did not import articles like or directly competitive with pyramid- and cone-shaped deoxidizers, aluminum ingot in multiple alloys, and recycled secondary ingot and sows in the period under investigation. Additionally, the findings confirmed that the subject firm did not shift the production of pyramid- and cone-shaped deoxidizers, aluminum ingot in multiple alloys, and recycled secondary ingot and sows (or like or directly competitive articles) to a foreign country or acquire the production of these article, or any like or directly competitive articles, from a foreign country during the period under investigation.

During the initial investigation, the Department conducted a customer survey of the major customers of the subject firm, which captured the majority of the subject firm's sales during the relevant time period. The surveyed customers reported no imports of articles like or directly competitive with those produced by the workers at the subject firm. Because the survey captured the majority of the subject firm's customer volume, no additional customer survey was conducted during the reconsideration investigation. During the reconsideration investigation, however, the Department contacted one of the surveyed customers to confirm information provided by this customer during the initial investigation.

The group eligibility requirements for workers of a firm under Section 222(b) of the Act, 19 U.S.C. § 2272(b), can be satisfied if the following criteria are met:

(1) a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, 19 U.S.C. § 2272(a), and such supply or production is related to the article or service that was the basis for such certification; and

(3) either

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm;

or

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

Section 222(c) of the Act, 19 U.S.C. § 2272(c), defines the term "Supplier" as "a firm that produces and supplies directly to another firm component parts for articles, or services used in the production of articles or in the supply of services, as the case may be, that were the basis for a certification of eligibility under subsection (a) [of Section 222 of the Act] of a group of workers employed by such other firm."

With respect to Section 222(b)(2) of the Act, the reconsideration investigation revealed that the subject firm is not a Supplier to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, 19 U.S.C. § 2272(a).

After careful review of the request for reconsideration, previously-submitted information, and information obtained during the reconsideration investigation, the Department determines that 29 CFR 90.18(c) has not been met.

Conclusion

After careful review, I determine that the requirements of Section 222 of the Act, 19 U.S.C. § 2272, have not been met and, therefore, deny the petition for group eligibility of Aleris Recycling Bens Run, LLC, a subsidiary of Aleris Corporation, Friendly, West Virginia, to apply for adjustment assistance, in accordance with Section 223 of the Act, 19 U.S.C. § 2273.

Signed in Washington, D.C. on this 6th day of September, 2013

DEL MIN AMY CHEN
Certifying Officer, Office of
Trade Adjustment Assistance
4510-FN-P

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