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§ 90.17 Termination of certification of eligibility.

(a) *Investigation*. Whenever the Director of the Division of Trade Adjustment Assistance has reason to believe, with respect to any certification of eligibility, that the total or partial separations from a firm or appropriate subdivision thereof are no longer attributable to the conditions specified in section 222 of the Act and § 90.16(b), the Director shall promptly make an investigation. Notice of the initiation of the investigation shall be published in the FEDERAL REGISTER and shall be transmitted to the group of workers concerned.

(b) *Opportunity for comment and hearing*. Within 10 days after publication of the notice under paragraph (a) of this section, the group of workers or other persons showing a substantial interest in the proceedings may request a public hearing or may make written submissions to show why the certification should not be terminated. If a hearing is requested under this paragraph, such hearing shall be conducted in accordance with § 90.13.

(c) [Reserved]

(d) *Notice of termination*. A certifying officer shall determine whether or not such certification shall be terminated. Upon reaching a determination that the certification of eligibility shall be terminated, the certifying officer shall make findings of fact and shall promptly have published in the FEDERAL REGISTER a summary of the determination and the reasons therefor (with the exception of information which the certifying officer determines to be confidential). Such summary shall constitute a Notice of Termination. Such termination shall apply only with respect to total or partial separations occurring after the termination date specified by the certifying officer. The termination date specified by the certifying officer shall be not sooner than the date on which notice of such termination is published in the FEDERAL REGISTER.

(e) *Notice of partial termination*. A notice of termination may cover only a portion of the group of workers specified in the certification. Such notice shall constitute a Notice of Partial Termination.

(f) *Notice of continuation of certification*. Upon reaching a determination that the certification of eligibility should be continued, the certifying officer shall promptly publish in the FEDERAL REGISTER a summary of the determination with the reasons therefor. Such summary shall constitute a Notice of Continuation of Certification.

[42 FR 32772, June 28, 1977, as amended at 52 FR 23402, June 19, 1987; 72 FR 37104, July 9, 2007]

§ 90.18 Reconsideration of determinations.

(a) *Determinations subject to reconsideration; time for filing*. Any worker, group of workers, certified or recognized union, or authorized representative of such worker or group, aggrieved by a determination issued pursuant to the Act and § 90.16 paragraphs (c), (f), and (g), or § 90.17(d) may file an application for reconsideration of the determination with the Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington DC 20210. All applications must be in writing and must be filed no later than thirty (30) days after the notice of the determination has been published in the FEDERAL REGISTER.

(b) *Contents of application for reconsideration*. An application for reconsideration shall include: (1) Name(s), address(es), and telephone number of the applicant(s); (2) The name or a description of the group of workers on whose behalf the application for reconsideration is filed; (3) The name and case number of the determination complained of; and (4) A statement of reasons for believing that the determination complained of is erroneous. If the application is based, in whole or in part, on facts not previously considered in the determination, such facts shall be specifically set forth. If the application is based, in whole or in part, on an allegation that the determination complained of was based on mistake of facts which were previously considered, such mistake of facts shall be specifically set forth. If the application is based, in whole or in part, on an allegation as to a misinterpretation of facts

or of the law, such misinterpretation shall be specifically set forth.

(c) *Determination regarding application for reconsideration.* Not later than fifteen (15) days after receipt of the application for reconsideration, the certifying officer shall make and issue a determination granting or denying reconsideration. The certifying officer may grant an application for reconsideration 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 mistake in the determination of facts previously considered; or

(3) If, in the opinion of the certifying officer, a misinterpretation of facts or of the law justifies reconsideration of the determination.

(d) *Notice of affirmative determination regarding application for reconsideration.* Upon reaching a determination that an application for reconsideration meets the requirements of paragraph (c) of this section, the certifying officer shall issue an affirmative determination regarding the application and shall promptly publish notice in the FEDERAL REGISTER that the application for reconsideration has been received and granted. Such notice shall constitute a Notice of Affirmative Determination Regarding Application for Reconsideration.

(e) *Notice of negative determination regarding application for reconsideration.* Upon reaching a determination that an application for reconsideration does not meet the requirements of paragraph (c) of this section, the certifying officer shall issue a negative determination regarding the application and shall promptly publish in the FEDERAL REGISTER a summary of the determination, including the reasons therefor. Such summary shall constitute a Notice of Negative Determination Regarding Application for Reconsideration. A determination issued pursuant to this paragraph shall constitute a final determination for purposes of judicial review pursuant to section 284 of the Act, 19 U.S.C. 2395, and §90.19(a).

(f) *Opportunity for comment.* Within ten (10) days after publication of a notice under paragraph (d) of this section, the group of workers or other persons showing an interest in the proceedings may make written submissions to show why the determination under reconsideration should or should not be modified.

(g) *Determinations on reconsideration.* Not later than forty-five (45) days after reaching an Affirmative Determination Regarding Application for Reconsideration, the certifying officer shall make a determination on the reconsideration.

(h) *Notice of revised certification of eligibility and notice of revised determination.* Upon reaching a determination on reconsideration that a group of workers has met all the requirements set forth in section 222 of the Act and paragraph (b) of §90.16, the certifying officer shall issue a revised determination concerning certification of eligibility to apply for adjustment assistance and shall promptly publish in the FEDERAL REGISTER a summary of the revised determination together with the reasons for making such revised determination (with the exception of information which the certifying officer determines to be confidential). Such summary shall include a certification of eligibility in accordance with paragraph (d) of §90.16. The summary shall constitute a Notice of Revised Certification of Eligibility when the determination under reconsideration was a certification of eligibility. The summary shall constitute a Notice of Revised Determination when the determination under reconsideration was a negative determination or a certification containing a negative determination. A determination issued pursuant to this paragraph shall constitute a final determination for purposes of judicial review pursuant to section 284 of the Act, 19 U.S.C. 2395, and §90.19(a).

(i) *Notice of negative determination on reconsideration.* Upon reaching a determination on reconsideration that a group of workers has not met all the requirements set forth in section 222 of the Act and paragraph (b) of §90.16, the certifying officer shall issue a negative determination on reconsideration and shall promptly publish in the FEDERAL

REGISTER a summary of the determination together with the reasons for making such determination (with the exception of information which the certifying officer determines to be confidential). Such summary shall constitute a Notice of Negative Determination on Reconsideration. A determination issued pursuant to this paragraph shall constitute a final determination for purposes of judicial review pursuant to section 284 of the Act, 19 U.S.C. 2395, and § 90.19(a).

[42 FR 32772, June 28, 1977, as amended at 52 FR 23402, June 19, 1987; 72 FR 37103, 37104, July 9, 2007]

§ 90.19 Judicial review of determinations.

(a) *General*. Pursuant to section 284 of the Act, 19 U.S.C. 2395, any worker, group of workers, certified or recognized union, or authorized representative of such worker or group, aggrieved by a final determination issued pursuant to the Act and § 90.16(c), § 90.16(f), § 90.16(g), § 90.17(d), § 90.18(e), § 90.18(h) or § 90.18(i) may commence a civil action for review of such determination with the United States Court of International Trade. The party seeking judicial review must file for review in the Court of International Trade within sixty (60) days after the notice of determination has been published in the FEDERAL REGISTER.

(b) *Certified record of the Secretary*. Upon receiving a copy of the summons and complaint from the clerk of the Court of International Trade, the certifying officer shall promptly certify and file in such court the record on which the determination was based. The record shall include transcripts of any public hearings, the findings of fact made pursuant to § 90.16(b), § 90.18(e), § 90.18(h) or § 90.18(i), and other documents on which the determination was based.

(c) *Further proceedings*. If a case is remanded to the Secretary by the Court of International Trade for the taking of further evidence, the Director shall direct that further proceedings be conducted in accordance with the provisions of subpart B of this part, including the taking of further evidence. A certifying officer, after the conduct of such further proceedings, may make new or modified findings of fact and may modify or affirm the previous determination. Upon the completion of such further proceedings, the certifying officer shall certify and file in the Court of International Trade the record of such further proceedings.

(d) *Substantial evidence*. The findings of fact by the certifying officer shall be conclusive if the Court of International Trade determines that such findings of fact are supported by substantial evidence.

[52 FR 23402, June 19, 1987, as amended at 72 FR 37104, July 9, 2007]

Subpart C—Initiation and Conduct of Study With Respect to Workers in Industry Which is the Subject of an Investigation for Industry Import Relief

§ 90.21 Study.

(a) *Initiation*. Upon notification by the Commission, pursuant to section 224 of the Act, that the Commission has begun an investigation under section 201 with respect to an industry import relief action, the Secretary shall direct the Director of the Division of Trade Adjustment Assistance to immediately begin a study of

(1) The number of workers in the domestic industry producing the like or directly competitive article(s) who have been or are likely to be certified eligible for adjustment assistance; and

(2) The extent to which the adjustment of such workers to the import competition may be facilitated through the use of existing programs.

(b) *Report*. The report of the Secretary of the study under section 224(a) of the Act and paragraph (a) of this section shall be made to the President not later than fifteen (15) days after the day on which the Commission makes its report under section 201.

(c) *Release of report*. Upon making the report of the study to the President, the Secretary shall also promptly make the report public (with the exception of information which the Secretary determines to be confidential)