

Pt. 90

indicates the need for additional information, all material will be returned to FmHA with instructions indicating the additional information needed to make a certification. Continuation of the 60-day time limit will begin again when the additional material is returned to Labor.

(6) All denials will be given additional consideration if the applicant or the Department of Agriculture provides additional evidence which they believe merits further consideration. If the DOL reaffirms its denial after a review of all available facts and such additional investigation as it may make, such denial shall be considered as final.

[40 FR 4394, Jan. 29, 1975]

PART 90—CERTIFICATION OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Subpart A—General

Sec.

- 90.1 Purpose.
- 90.2 Definitions.
- 90.3 Applicability of part.

Subpart B—Petitions and Determinations of Eligibility To Apply for Adjustment Assistance

- 90.11 Petitions.
- 90.12 Investigation.
- 90.13 Public hearings.
- 90.14 Subpoena power.
- 90.15 [Reserved]
- 90.16 Determinations and certifications of eligibility to apply for adjustment assistance.
- 90.17 Termination of certification of eligibility.
- 90.18 Reconsideration of determinations.
- 90.19 Judicial review of determinations.

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.
- 90.22 Dissemination of program knowledge and assistance to workers.

Subpart D—General Provisions

- 90.31 Filing of documents.
- 90.32 Availability of information.
- 90.33 Confidential business information.
- 90.34 Notice procedures.
- 90.35 Transitional provisions.

29 CFR Subtitle A (7-1-06 Edition)

90.36 Computation of time.

AUTHORITY: 19 U.S.C. 2320; Secretary's Order No. 3-81, 46 FR 31117.

SOURCE: 42 FR 32772, June 28, 1977, unless otherwise noted.

Subpart A—General

§ 90.1 Purpose.

The purpose of this part 90 is to set forth regulations relating to the responsibilities vested in the Secretary of Labor by the Trade Act of 1974 (Pub. L. 93-618), as amended, concerning petitions and determinations of eligibility to apply for worker adjustment assistance. Section 248 of the Act directs the Secretary of Labor to prescribe regulations which will implement the provisions relating to adjustment assistance for workers. This part will provide for the prompt and effective disposition of workers' petitions for certification of eligibility to apply for adjustment assistance.

[52 FR 23401, June 19, 1987]

§ 90.2 Definitions.

As used in this part, the term:

Act means the Trade Act of 1974, Public Law 93-618, 88 Stat. 1978, 2011-2030 (19 U.S.C. 2271-2321, 2395), as amended.

Appropriate subdivision means an establishment in a multi-establishment firm which produces the domestic articles in question or a distinct part or section of an establishment (whether or not the firm has more than one establishment) where the articles are produced. The term *appropriate subdivision* includes auxiliary facilities operated in conjunction with (whether or not physically separate from) production facilities.

Certifying officer means an official, including the Director, Office of Trade Adjustment Assistance, in the Employment and Training Administration, United States Department of Labor, who has been delegated responsibility to make determinations and issue certifications of eligibility to apply for adjustment assistance, and to perform such further duties as may be required by the Secretary or by this part 90.

Commission means the United States International Trade Commission, formerly named the United States Tariff Commission.

Date of filing means the date on which petitions and other documents are received by the Office of Trade Adjustment Assistance, Employment and Training Administration, United States Department of Labor, 601 D Street, NW., Washington, DC 20213.

Date of issuance means the date on which a certification of eligibility to apply for adjustment assistance is signed by the certifying officer.

Date of the petition means the date thereon, but which in no event shall be more than 30 days before the date of filing.

Deputy Director means the Deputy Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, United States Department of Labor, Washington, DC.

Director means the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, United States Department of Labor, Washington, DC.

Firm includes an individual proprietorship, partnership, joint venture, association, corporation (including a development corporation), business trust, cooperative, trustee in bankruptcy, and receiver under decree of any court. A firm, together with any predecessor or successor-in-interest, or together with any affiliated firm controlled or substantially beneficially owned by substantially the same persons, may be considered a single firm.

Group means three or more workers in a firm or an appropriate subdivision thereof.

Increased imports means that imports have increased either absolutely or relative to domestic production compared to a representative base period. The representative base period shall be one year consisting of the four quarters immediately preceding the date which is twelve months prior to the date of the petition.

Layoff means a suspension from pay status for lack of work initiated by the employer and expected to last for no less than seven (7) consecutive calendar days.

Like or directly competitive means that *like* articles are those which are substantially identical in inherent or intrinsic characteristics (i.e., materials from which the articles are made, appearance, quality, texture, etc.); and *directly competitive* articles are those which, although not substantially identical in their inherent or intrinsic characteristics, are substantially equivalent for commercial purposes (i.e., adapted to the same uses and essentially interchangeable therefor).

An imported article is *directly competitive with* a domestic article at an earlier or later stage of processing, and a domestic article is *directly competitive with* an imported article at an earlier or later stage of processing, if the importation of the article has an economic effect on producers of the domestic article comparable to the effect of importation of articles in the same stage of processing as the domestic article.

Partial separation means, with respect to an individual who has not been totally separated, that:

(a) The worker's hours of work have been reduced to 80 percent or less of the worker's average weekly hours at the firm or appropriate subdivision thereof, and

(b) The worker's wages have been reduced to 80 percent or less of the worker's average weekly wage at the firm or appropriate subdivision thereof.

Secretary means the Secretary of Labor, U.S. Department of Labor.

Significant number or proportion of the workers means that:

(a) In most cases the total or partial separations, or both, in a firm or appropriate subdivision thereof, are the equivalent to a total unemployment of five percent (5 percent) of the workers or 50 workers, whichever is less; or

(b) At least three workers in a firm (or appropriate subdivision thereof) with a work force of fewer than 50 workers would ordinarily have to be affected.

Threatened to begin means, in the context of impending total or partial separations, the date on which it could reasonably be predicted that separations were imminent.

§ 90.3

Total separation means the layoff or severance of an individual from a firm or an appropriate subdivision thereof.

[42 FR 32772, June 28, 1977, as amended at 52 FR 23401, June 19, 1987]

§ 90.3 Applicability of part.

This part 90 generally relates to certifications of eligibility made under the Act. Subpart B specifically applies to the initiation and conduct of worker investigations and the issuance of determinations and certifications of eligibility to apply for adjustment assistance. Subpart C applies to studies of workers in industries which are the subject of investigations for industry import relief. Subpart D contains general provisions with respect to filing of documents and public availability of documents.

Subpart B—Petitions and Determinations of Eligibility To Apply for Adjustment Assistance

§ 90.11 Petitions.

(a) *Who may file petitions.* A petition under section 221(a) of the Act and this subpart B shall be filed by a group of workers for a certification of eligibility to apply for adjustment assistance or by their certified or recognized union or other duly authorized representative.

(b) *Identification of petitioners.* Every petition filed with the Department shall clearly state the group of workers on whose behalf the petition is filed and the name(s) and address(es) of the person(s) by whom the petition is filed. Every petition shall be signed by at least three individuals of the petitioning group or by an official of a certified or recognized union or other duly authorized representative. Signing of a petition shall constitute acknowledgement that each signer has read the entire petition, that to the best of the signer's knowledge and belief the statements therein are true, and that each signer is duly authorized to sign such a petition.

(c) *Contents.* Petitions may be filed on a U.S. Department of Labor form. Copies of the form may be obtained at a local office of a State Employment

29 CFR Subtitle A (7-1-06 Edition)

Security Agency or by writing to the Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213. Every petition shall include:

(1) The name(s), address(es), and telephone number(s) of the petitioner(s);

(2) The name or a description of the group of workers on whose behalf the petition is filed (e.g., all hourly and salaried employees of the XYZ plant of ABC corporation);

(3) The name and address of the workers' firm or appropriate subdivision thereof;

(4) The name, address, telephone number, and title of an official of the firm;

(5) The approximate date(s) on which the total or partial separation of a significant number or proportion of the workers in the workers' firm or subdivision began and continued, or threatened to begin, and the approximate number of workers affected by such actual or threatened total or partial separations;

(6) A statement of reasons for believing that increases of like or directly competitive imports contributed importantly to total or partial separations and to the decline in the sales or production (or both) of the firm or subdivision (e.g., company statements, articles in trade association publications, etc.); and

(7) A description of the articles produced by the workers' firm or appropriate subdivision, the production or sales of which are adversely affected by increased imports, and a description of the imported articles concerned.

If available, the petition also should include information concerning the method of manufacture, end uses, and wholesale or retail value of the domestic articles produced and the United States tariff provision under which the imported articles are classified.

(d) *Number of copies.* One (1) signed original and two (2) clear copies of the petition shall be filed. The name(s) of the person(s) signing the petition shall