

The Department reviewed the request for reconsideration and will conduct further investigation to determine if the workers meet the eligibility requirement under Section 223 of the Trade Act.

### Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 25th day of July, 2002.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-52,224]

#### **VF Imagewear, Inc., Brownsville, Texas; 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 Certification of Eligibility to Apply for Worker Adjustment Assistance on July 18, 2003, applicable to workers of VF Imagewear, Inc., Brownsville, Texas. The notice will be published soon in the **Federal Register**.

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers produce men's and boys' workpants.

New findings show that there was a previous certification, TA-W-39,146, issued on May 31, 2001, for workers of VF Imagewear, Inc., Brownsville, Texas who were engaged in employment related to the production of men's and boys' workpants. That certification expired May 31, 2003. To avoid an overlap in worker group coverage, the certification is being amended to change the impact date from July 2, 2002 to June 1, 2003, for workers of the subject firm.

The amended notice applicable to TA-W-52,224 is hereby issued as follows:

All workers of VF Imagewear, Inc., Brownsville, Texas, who became totally or partially separated from employment on or after June 1, 2003, through July 18, 2005, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC this 30th day of July, 2003.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-42,113]

#### **The Wackenhut Corporation, San Manuel, AZ; Notice of Negative Determination on Reconsideration on Remand**

The United States Court of International Trade (USCIT) granted the Secretary of Labor's motion for a voluntary remand for further investigation in *Former Employees of Wackenhut Corporation v. U.S. Secretary of Labor*, No. 02-00758.

October 15, 2002, the Department of Labor (Department) issued a denial of Trade Adjustment Assistance (TAA) certification for the workers of The Wackenhut Corporation, San Manuel, Arizona. The decision was based on the investigation finding that the workers firm provided security services and did not produce an article in accordance with section 222(3) of the Trade Act of 1974. The notice of negative determination regarding eligibility for workers of The Wackenhut Corporation, San Manuel, Arizona (hereafter referred to as Wackenhut), was published in the **Federal Register** on November 5, 2002 (67 FR 67421-67423).

The initial TAA investigation showed that Wackenhut in Phoenix, Arizona, supplied workers to perform security services at BHP Copper, Inc. in San Manuel, Arizona. Workers of BHP Copper, Inc., in San Manuel, Arizona produced copper cathodes. On March 25, 2002, the Department issued a certification of eligibility for workers of BHP Copper, Inc., Pinto Valley, Miami, Arizona, to apply for TAA (TA-W-39,949). On August 8, 2002, the Department amended that certification to include workers of BHP Copper, Inc. (hereafter referred to as BHP), Tucson/San Manuel Operations, Tucson/San Manuel, Arizona (TA-W-39,949A). The workers of BHP in Tucson/San Manuel, Arizona produced copper cathodes.

The Wackenhut petitioners did not file a request with the Department for administrative reconsideration, but chose instead to seek judicial review with the U.S. Court of International Trade. The U.S. Department of Labor

submitted to the Court the administrative record for the Wackenhut petition investigation (TA-W-42,113).

The plaintiffs' counsel subsequently submitted declarations about the work performed at the BHP site by the Wackenhut employees. The declarations alleged that the worker group performed work involving copper production.

A former Wackenhut employee, the Captain, also known as Officer in Charge (OIC) of Wackenhut operations at BHP in San Manuel, Arizona, declared that by 2002, Wackenhut employees' responsibility for copper production-related work at BHP included, but was not limited to: (1) Preparation of finished copper cathodes for shipment, including completion of paperwork relating to the shipping and inspecting; (2) receipt of shipments of sulfuric acid necessary for the production processes of copper cathodes, and (3) the disposal operations for byproducts.

A former BHP official, the Corporate Manager for Safety, Health and Security, who spent about 60 percent of his time at the Tucson/San Manuel facility, made similar statements and declared that Wackenhut employees at BHP in San Manuel, Arizona were an integral part of production and shipping operations, in addition to their security functions. He declared that as layoffs of BHP employees occurred, the responsibilities of Wackenhut employees increased; they were asked to assume increasing responsibilities relating to the production of copper at the facility.

On remand, the Department contacted the BHP Vice President, Administration, to obtain information about the work performed by Wackenhut at the BHP San Manuel, Arizona facility. He provided a copy of the contract between BHP and Wackenhut. It is noted that the contract includes BHP facilities other than the San Manuel, Arizona location. The contract was for a 3-year period, between January 1998 and January 2001 and was informally extended on a month-to-month basis until terminated in August of 2002. The BHP Vice President, Administration, consulted with BHP officials that were responsible for operations and production of copper cathodes at San Manuel. The primary duties of Wackenhut, as described in the contract between Wackenhut and BHP, were to control ingress and egress of all employees, visitors, deliveries and service providers, and to escort material deliveries to appropriate unloading areas and assure correct paperwork is completed.

Under the contract, Wackenhut provided security services. The Department determined that such