

**DEPARTMENT OF LABOR****Employment and Training Administration**

[TA-W-55,340]

**Ripplewood Phosphorous U.S., LLC, Formerly Akzo Nobel Functional Chemical LLC, Gallipolis Ferry, WV; Notice of Negative Determination Regarding Application for Reconsideration**

By application dated September 2, 2004, a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA). The negative determination applicable to workers of Ripplewood Phosphorous U.S., LLC, Formerly Akzo Nobel Functional Chemical LLC, Gallipolis Ferry, West Virginia was issued on August 6, 2004. The Notice of determination was published in the **Federal Register** on August 20, 2004 (69 FR 51715).

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 subject company produces flame-retardant chemicals, including Fyrol PCF, Fyrol FR-2, Fyroflex RDP, Fyroflex BDP, Phosphorus Trichloride, Phosphorous Oxychloride, Phosflex 4, Phosflex TBEP and Fyrol CEF. The workers are not separately identifiable by product line.

The TAA/ATAA petition was denied because during the relevant time period, subject company sales and production increased and the subject company did not shift production abroad.

In the request for reconsideration, the petitioner agrees that subject company sales and production increased during the relevant time period but contends that the increased sales were due to increased imports and infers that the increased imports were the cause of worker separations. Further, the petitioner contends that the Department should investigate imports of

phosphorous, a raw material for phosphorus trichloride.

According to the petitioner, phosphorus trichloride "was the base product for the facility; which was used in 80% of all the manufacturing products." The company confirmed that phosphorous was imported to make phosphorus trichloride and that phosphorus trichloride was, in turn, used to make the other flame-retardant chemicals. The company also stated that although some phosphorus trichloride was sold to customers, the company did not sell any phosphorus.

Increased company imports of article(s) produced at the subject facility could be a basis for TAA certification when there are decreased company sales and/or production and worker separations during the relevant period. However, increased imports of raw material used in production of articles produced at the subject facility cannot be the basis for TAA certification, since the workers do not produce that article. Thus, alleged import increases of a raw material (phosphorous) cannot be a basis for TAA certification for the subject worker group.

**Conclusion**

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 21st day of September, 2004.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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**DEPARTMENT OF LABOR****Employment and Training Administration****Workforce Investment Act; Native American Employment and Training Allotments**

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** This Notice announces the Workforce Investment Act (WIA) section 166 final allotments for both the Supplemental Youth Services (SYS) and the Comprehensive Services (CS) programs for Program Year (PY) 2004. These individual grantee allotments are

based on formulas defined in the section 166 program regulations at 20 CFR 668.296(b) for the Comprehensive Services program and 20 CFR 668.440(a) for the Supplemental Youth Services program. The rationale for the formulas is the same as described in the Interim Final Rule and the Final Rule published in the **Federal Register** on April 15, 1999 at 64 FR 18683 and on August 11, 2000 at 65 FR 49373-49375, respectively, and has been in effect for prior years of section 166 funding under WIA. Barring any changes which may arise as the result of WIA reauthorization legislation, the criteria used in these funding formulas will remain in effect for the foreseeable future.

**ADDRESSES:** Submit any written comments on the formulas used to allot these funds to the Employment and Training Administration, Office of Financial and Administrative Management, Room N-4702, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Ms. Sherryll Bailey, (202) 693-2813 (voice), (202) 693-2859 (fax), e-mail: [bailey.sherryll@dol.gov](mailto:bailey.sherryll@dol.gov).

**FOR FURTHER INFORMATION CONTACT:** Mr. Greg Gross, Division of Indian and Native American Programs, Office of National Programs, (202) 693-3752 (voice) (this is not a toll-free number) or 1-800-877-8339 (TTY) or speech-to-speech at 1-877-877-8982 (these are toll-free numbers), (202) 693-3818 (fax), e-mail: [gross.gregory@dol.gov](mailto:gross.gregory@dol.gov).

**SUPPLEMENTARY INFORMATION:** The Department of Labor (DOL or Department) is announcing final WIA section 166 formula allotments for PY 2004 (July 1, 2004—June 30, 2005) for both the Supplemental Youth Services and Comprehensive Services programs. This document provides information on the amount of funds available during PY 2004 to section 166 grantees with a two-year Comprehensive Services plan as approved by the Grant Officer, Mr. Eric Luetkenhaus. These allotments are based on the funds appropriated in the Department of Labor Appropriations Act, 2004 (Division E, title I of the Consolidated Appropriations Act, 2004, Pub. L. 108-199). The attached table displays both the PY 2004 Supplemental Youth Services allotments and the PY 2004 Comprehensive Services allotments.

*Supplemental Youth Services Allotments.* Pursuant to WIA section 127(b)(1)(C)(i)(I), PY 2004 SYS funds are \$14,925,890, which represents 1.5 percent of the total PY 2004 WIA youth activities funding level of \$995,059,306. These funds are available and only