

The petitioning worker group was certified eligible to apply for trade adjustment assistance and alternative trade adjustment assistance under petition number TA-W-52,564, which expired on October 14, 2005. The subject firm closed in September 2005 and workers separated are covered by TA-W-52,564. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 21st day of November 2005.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E5-6880 Filed 12-5-05; 8:45 am]

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-57,938]

#### **OAG Worldwide, Inc., Custom Products Department, Downers Grove, IL; Notice of Negative Determination Regarding Application for Reconsideration**

By application dated October 19, 2005 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). The denial notice applicable to workers of OAG Worldwide, Inc., Custom Products Department, Downers Grove, Illinois was signed on October 4, 2005, and published in the **Federal Register** on November 4, 2005 (70 FR 67196).

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 misinterpretation of facts or of the law justified reconsideration of the decision.

The TAA petition filed on behalf of workers at OAG Worldwide, Inc., Custom Products Department, Downers Grove, Illinois were engaged in running database queries of airline schedules to provide customized information for customers worldwide was denied because the petitioning workers did not

produce an article within the meaning of section 222 of the Act.

The petitioner contends that the Department erred in its interpretation of work performed at the subject facility as a service and further conveys that workers of the subject firm "assemble custom software products and work closely with the IT teams in the United States to assemble the products".

A company official was contacted for clarification in regard to the nature of the work performed at the subject facility. The official stated that the role of the petitioning group of workers at the subject firm is providing airline schedules and other data to customers worldwide. In particular, workers of the subject firm query the OAG database, compile and audit information and create data files. These data files are further delivered to customers in electronic format. The official further clarified that this query is a programming process written by the information technology staff of the subject firm was for the internal use. The official supported the information previously provided by the subject firm that databases and software created at the subject facility are not mass-produced on any media device by the subject firm for further duplication and distribution to customers and that there are no products manufactured within the subject firm.

The sophistication of the work involved is not an issue in ascertaining whether the petitioning workers are eligible for trade adjustment assistance, but whether they produce an article within the meaning of section 222 of the Trade Act of 1974.

Querying the databases and compiling electronic information is not considered production of an article within the meaning of section 222 of the Trade Act. Petitioning workers do not produce an "article" within the meaning of the Trade Act of 1974. Information electronic databases are not tangible commodities, and they are not listed on the Harmonized Tariff Schedule of the United States (HTS), as classified by the United States International Trade Commission (USITC), Office of Tariff Affairs and Trade Agreements, which describes articles imported to the United States.

To be listed in the HTS, an article would be subject to a duty on the tariff schedule and have a value that makes it marketable, fungible and interchangeable for commercial purposes. Although a wide variety of tangible products are described as articles and characterized as dutiable in the HTS, informational products that could historically be sent in letter form

and that can currently be electronically transmitted are not listed in the HTS. Such products are not the type of products that customs officials inspect and that the TAA program was generally designed to address.

The investigation on reconsideration supported the findings of the primary investigation that the petitioning group of workers does not produce an article. Furthermore, workers of the subject firm did not support production of an article at any affiliated facility.

The petitioner further alleges that because workers lost their jobs due to a transfer of job functions to the United Kingdom, petitioning workers should be considered import impacted.

The company official stated that creation of the customer data files was transferred from the subject facility to the United Kingdom.

Compiling and creating databases which contain informational documentation and are electronically transmitted is not considered production within the context of TAA eligibility requirements.

Service workers can be certified only if worker separations are caused by a reduced demand for their services from a parent or controlling firm or subdivision whose workers produce an article domestically who meet the eligibility requirements, or if the group of workers are leased workers who perform their duties on-site at a facility that meet the eligibility requirements.

### 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 in Washington, DC, this 25th day of November, 2005.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E5-6882 Filed 12-5-05; 8:45 am]

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-58,148]

#### **Ranco North America, a Division of Invensys, Brownsville, TX; Notice of Termination of Investigation**

Pursuant to section 221 of the Trade Act of 1974, as amended, an

investigation was initiated on October 17, 2005 in response to a petition filed by a company official on behalf of workers of Ranco North America, a division of Invensys, Brownsville, Texas.

The worker group is covered by a certification, (TA-W-53,125) which expired on October 23, 2005. The plant closed and all workers were separated in June 2005. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 23rd day of November 2005.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E5-6876 Filed 12-5-05; 8:45 am]

BILLING CODE 4510-30-P

## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-58,216]

#### Yankee Plastics, Incorporated Easthampton, MA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on October 26, 2005 in response to a worker petition filed by a company official on behalf of workers at Yankee Plastics, Incorporated, Easthampton, Massachusetts.

The petitioner has requested that the petition be withdrawn. Consequently the investigation has been terminated.

Signed at Washington, DC, this 14th day of November 2005.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E5-6877 Filed 12-5-05; 8:45 am]

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## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

[V-04-2]

#### International Chimney Corporation, Karrena International, LLC, and Matrix Service Industrial Contractors, Inc.; Grant of a Permanent Variance

**AGENCY:** Occupational Safety and Health Administration (OSHA), Department of Labor.

**ACTION:** Notice of a grant of a permanent variance.

**SUMMARY:** This notice announces the grant of a permanent variance to International Chimney Corporation, Karrena International, LLC, and Matrix Service Industrial Contractors, Inc. ("the employers"). The permanent variance addresses the provision that regulates the tackle used for boatswains' chairs (§ 1926.452 (o)(3)), as well as the provisions specified for personnel hoists by paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of § 1926.552. Instead of complying with these provisions, the employers must comply with a number of alternative conditions listed in this grant; these alternative conditions regulate rope-guided personnel-hoisting systems used during inside or outside chimney construction to raise or lower employees in personnel cages, personnel platforms, and boatswains' chairs between the bottom landing of a chimney and an elevated work location. Accordingly, OSHA finds that these alternative conditions protect employees at least as well as the requirements specified by § 1926.452(o)(3) and § 1926.552(c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16).

**DATES:** The effective date of the permanent variance is December 6, 2005.

**FOR FURTHER INFORMATION:** For information about this notice contact Ms. MaryAnn S. Garrahan, Director, Office of Technical Programs and Coordination Activities, Room N-3655, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-2110; fax (202) 693-1644. You may obtain additional copies of this notice from the Office of Publications, Room N-3101, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-1888. For electronic copies of this notice, contact the Agency on its Webpage at <http://www.osha.gov>, and select "Federal Register," "Date of Publication," and then "2005."

Additional information also is available from the following OSHA Regional Offices:

U.S. Department of Labor, OSHA, JFK Federal Building, Room E340, Boston, MA 02203, telephone: (617) 565-9860; fax: (617) 565-9827

U.S. Department of Labor, OSHA, 201 Varick St., Room 670, New York, NY 10014, telephone: (212) 337-2378; fax: (212) 337-2371

U.S. Department of Labor, OSHA, Curtis Building, Suite 740 West, 170 South

Independence Mall West, Philadelphia, PA 19106-3309, telephone: (215) 861-4900; fax: (215) 861-4904

U.S. Department of Labor, OSHA, Sam Nunn Atlanta Federal Center, 61 Forsyth St., SW., Room 6T50, Atlanta, GA 30303, telephone: (404) 562-2300; fax: (404) 562-2295

U.S. Department of Labor, OSHA, 230 South Dearborn St., Room 3244, Chicago, IL 60604, telephone: (312) 353-2220; fax: (312) 353-7774

U.S. Department of Labor, OSHA, 525 South Griffith St., Suite 602, Dallas, TX 75202, telephone: (214) 767-4736; fax: (214) 767-4760

U.S. Department of Labor, OSHA, City Center Square, 1100 Main St., Suite 800, Kansas City, MO 64105, telephone: (816) 426-5861; fax: (816) 426-2750

U.S. Department of Labor, OSHA; *Overnight:* 1999 Broadway, Suite 1690, Denver, CO 80201-6550; *Mail:* P.O. Box 46550, Denver, CO 80201-6550, telephone: (720) 264-6550; fax: (720) 264-6585

U.S. Department of Labor, OSHA, 71 Stevenson St., Room 420, San Francisco, CA 94105, telephone: (415) 975-4310; fax: (415) 744-4319

U.S. Department of Labor, OSHA, 1111 Third Ave., Suite 715, Seattle, WA 98101-3212, telephone: (206) 553-5930; fax: (206) 553-6499

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In the past 30 years, a number of chimney-construction companies have demonstrated to OSHA that several personnel-hoist requirements (*i.e.*, paragraphs (c)(1), (c)(2), (c)(3), (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of § 1926.552), as well as the tackle requirements for boatswains' chairs (*i.e.*, paragraph (o)(3) of § 1926.452), result in access problems that pose a serious danger to their employees. These companies requested permanent variances from these requirements, and proposed alternative equipment and procedures to protect employees while being transported to and from their elevated worksites during construction and repair work inside and outside chimneys. The Agency subsequently granted these companies permanent variances based on the proposed alternatives (see 38 FR 8545 (April 3, 1973), 44 FR 51352 (August 31, 1979), 50 FR 40627 (October 4, 1985), 52 FR 22552 (June 12, 1987), and 68 FR 52961 (September 8, 2003)).<sup>1</sup>

<sup>1</sup> Zurn Industries, Inc. received two permanent variances from OSHA. The first variance, granted