

Signed at Washington, DC, this 30th day of December 2009.

**Jane Oates,**

*Assistant Secretary for Employment and Training.*

[FR Doc. E9-31262 Filed 1-4-10; 8:45 am]

**BILLING CODE 4510-FN-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Request for Certification of Compliance—Rural Industrialization Loan and Grant Program

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

**ACTION:** Notice.

**SUMMARY:** The Employment and Training Administration is issuing this notice to announce the receipt of a "Certification of Non-Relocation and Market and Capacity Information Report" (Form 4279-2) for the following:

*Applicant/Location:* Frazier & Frazier Industries, Inc./Coolidge, Texas.

*Principal Product/Purpose:* The loan, guarantee, or grant application is to refinance an existing loan to preserve current employment and to create additional working capital for new jobs, machinery, and equipment. The NAICS industry code for this enterprise is: 331111 Iron and Steel Mills.

**DATES:** All interested parties may submit comments in writing no later than January 19, 2010. Copies of adverse comments received will be forwarded to the applicant noted above.

**ADDRESSES:** Address all comments concerning this notice to Anthony D. Dais, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW., Room S-4231, Washington, DC 20210; or e-mail [Dais.Anthony@dol.gov](mailto:Dais.Anthony@dol.gov); or transmit via fax (202) 693-3015 (this is not a toll-free number).

**FOR FURTHER INFORMATION CONTACT:** Anthony D. Dais, at telephone number (202) 693-2784 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** Section 188 of the Consolidated Farm and Rural Development Act of 1972, as established under 29 CFR Part 75, authorizes the United States Department of Agriculture to make or guarantee loans or grants to finance industrial and business activities in rural areas. The Secretary of Labor must review the application for financial assistance for the purpose of certifying to the Secretary of Agriculture

that the assistance is not calculated, or likely, to result in: (a) A transfer of any employment or business activity from one area to another by the loan applicant's business operation; or, (b) an increase in the production of goods, materials, services, or facilities in an area where there is not sufficient demand to employ the efficient capacity of existing competitive enterprises unless the financial assistance will not have an adverse impact on existing competitive enterprises in the area. The Employment and Training Administration within the Department of Labor is responsible for the review and certification process. Comments should address the two bases for certification and, if possible, provide data to assist in the analysis of these issues.

Signed at Washington, DC, this 30th day of December 2009.

**Jane Oates,**

*Assistant Secretary for Employment and Training.*

[FR Doc. E9-31261 Filed 1-4-10; 8:45 am]

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-64,591]

#### Gensym Corporation, a Subsidiary of Versata Enterprises, Inc.; Burlington, MA; Notice of Revised Determination on Remand

On August 25, 2009, the U.S. Court of International Trade (USCIT) remanded to the U.S. Department of Labor (Department) for further review *Former Employees of Gensym Corporation v. United States Secretary of Labor*, Court No. 09-00240.

The group eligibility requirements for directly-impacted (primary) workers under Section 222(a) the Trade Act of 1974, as amended, can be satisfied in either of two ways:

Under Section 222(a)(2)(A), the following criteria must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of

separation and to the decline in sales or production of such firm or subdivision; or

Under Section 222(a)(2)(B), the following criteria must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles is a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

On December 2, 2008, a State Workforce Office filed a petition for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA) on behalf of workers and former workers of Gensym Corporation, a subsidiary of Versata Enterprises, Inc., Burlington, Massachusetts (Gensym-MA).

The initial investigation revealed that, during the relevant period, a significant number or proportion of workers at Gensym-MA was totally or partially separated from employment, the subject worker group performed information technology sales, consulting, and support services, and Gensym Corporation, a subsidiary of Versata Enterprises, Inc. (Gensym), did not produce an article within the meaning of Section 222(a)(2) of the Trade Act of 1974, as amended (the Trade Act).

The Department issued a Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on February 4, 2009. The Department's Notice of Determination was published in the **Federal Register** on March 3, 2009 (74 FR 9283).

By application dated February 20, 2009, the Division of Career Services, Trade Program Manager, Massachusetts,

requested administrative reconsideration of the Department's negative determination. The request for reconsideration alleged that Gensym produced software and that there may have been a shift of production to at least one foreign country.

The Department issued a Notice of Affirmative Determination Regarding Application of Reconsideration on March 2, 2009. The Department's Notice of Determination was published in the **Federal Register** on March 11, 2009 (74 FR 10616).

The reconsideration determination stated that Gensym did not produce software during the relevant period (the date one year prior to the petition date through the petition date). The Department concluded that because no production took place at Gensym during the relevant period, there could not have been a shift of production by Gensym to a foreign country during the relevant period and that the subject worker group could not have supported such domestic production during the relevant period.

The Department's Notice of Negative Determination of Reconsideration was issued on April 21, 2009. The Department's Notice of determination was published in the **Federal Register** on April 30, 2009 (74 FR 19997).

In the Complaint, the Plaintiff asserts that "new releases" of existing software were produced during the relevant period, and provided a copy of a Gensym news release ("Gensym Announces Release of Gensym G2 8.3 R2," Austin, Texas, March 20, 2008).

In order to determine whether the subject workers meet the TAA group eligibility requirements, the Department must first determine whether or not an article was produced at the subject firm, then determine whether the subject workers are adversely impacted by increased imports of articles like or directly competitive with those produced by the subject firm or by a shift in production abroad of articles like or directly competitive with articles produced by the subject firm.

In order for a worker group to qualify for TAA as primary workers, they must either be (1) engaged in domestic production, or (2) in support of an affiliated domestic production facility. Where the workers support production, the facility that they support must be import-impacted or have shifted production pursuant to Section 222(a)(2)(B).

The requirement that the firm employing the subject workers produce an article domestically was stated in the Notice of Revised Determination on Remand for Lands' End, A Subsidiary of

Sears Roebuck and Company, Business Outfitters CAD Operations, Dodgeville, Wisconsin, TA-W-56,688 (issued on March 24, 2006, published at 71 FR 18357). The determination also stated that articles can be either tangible or intangible. Software code, software enhancements/updates, software "patches" and new releases of existing software are considered articles, for purposes of the Trade Act.

During the remand investigation, the Department sought from Gensym information regarding the software releases identified in Plaintiff's support documentation ("Gensym Announces Release of Gensym G2 8.3 R2" news release). Based on information submitted during the course of the remand investigation, the Department also sought information from Gensym regarding articles (software updates/enhancements) produced at its Austin, Texas facility during the relevant period and the relationship between Gensym-MA and the Austin, Texas facility.

The Department had requested that Plaintiff's counsel provide new and additional information that Plaintiff indicated was relevant to the remand investigation, but did not receive any such information. Therefore, the remand determination is based solely on new information provided by Gensym.

During the remand investigation, Gensym confirmed that the firm did produce updates/enhancements for existing software products. Gensym also provided new information that revealed that production of software updates/enhancements was shifted abroad and that the shift was followed by increased imports of articles like or directly competitive with those produced by Gensym.

Based on the new information provided by Gensym during the remand investigation, the Department determines that the criteria set forth in Section 222(a)(2)(B) has been satisfied.

In accordance with Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department herein presents the results of its investigation regarding certification of eligibility to apply for ATAA.

The Department has determined in the immediate case that the group eligibility requirements of Section 246 have been met.

A significant number of workers at Gensym-MA are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

### Conclusion

After careful review of the facts generated through the remand

investigation, I determine that a shift of production to a foreign country by Gensym of articles like or directly competitive with software updates/enhancements, followed by increased imports of articles like or directly competitive with those produced by Gensym, contributed to the total or partial separation of a significant number or proportion of workers at Gensym Corporation, Burlington, Massachusetts.

In accordance with the provisions of the Act, I make the following certification:

All workers of Gensym Corporation, a subsidiary of Versata Enterprises, Inc., Burlington, Massachusetts, who became totally or partially separated from employment on or after December 2, 2007, through two years from the issuance of this revised determination, are eligible to apply for Trade Adjustment Assistance under Section 223 of the Trade Act of 1974, and are eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 23rd day of December 2009.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E9-31387 Filed 1-4-10; 8:45 am]

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## LIBRARY OF CONGRESS

### Copyright Royalty Board

[Docket No. 2010-1 CRB Cable Rate]

### Adjustment of Cable Statutory License Royalty Rates

**AGENCY:** Copyright Royalty Board, Library of Congress.

**ACTION:** Notice announcing commencement of proceeding with request for Petitions to Participate.

**SUMMARY:** The Copyright Royalty Judges are announcing the commencement of the proceeding to adjust the rates for the cable statutory license. The Copyright Royalty Judges also are announcing the date by which a party who wishes to participate in the rate adjustment proceeding must file its Petition to Participate and the accompanying \$150 filing fee.

**DATES:** Petitions to Participate and the filing fee are due no later than February 4, 2010.

**ADDRESSES:** An original, five copies, and an electronic copy in Portable Document Format (PDF) on a CD of the Petition to Participate, along with the \$150 filing fee, may be delivered to the Copyright Royalty Board by either mail