

Dated: October 21, 2008.

**Joseph T. Rannazzisi,**

*Deputy Assistant Administrator, Office of  
Diversion Control, Drug Enforcement  
Administration.*

[FR Doc. E8-25649 Filed 10-27-08; 8:45 am]

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## DEPARTMENT OF LABOR

### Office of the Secretary

#### Submission for OMB Review: Comment Request

October 22, 2008.

The Department of Labor (DOL) hereby announces the submission of the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation; including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at <http://www.reginfo.gov/public/do/PRAMain> or by contacting Amy Hobby on 202-693-4553 (this is not a toll-free number)/e-mail: [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment Standards Administration (ESA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202-395-7316/Fax: 202-395-6974 (these are not toll-free numbers), e-mail: [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov) within 30 days from the date of this publication in the **Federal Register**. In order to ensure the appropriate consideration, comments should reference the OMB Control Number (see below).

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and

- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Agency:* Employment Standards Administration.

*Type of Review:* Extension without change of an existing OMB Control Number.

*Title of Collection:* Notice of Controversion of Right to Compensation.

*OMB Control Number:* 1215-0023.

*Agency Form Number(s):* LS-207.

*Affected Public:* Businesses or other for-profits.

*Total Estimated Number of Respondents:* 700.

*Total Estimated Annual Burden Hours:* 4,375.

*Total Estimated Annual Costs Burden:* \$8,662.

*Description:* The LS-207 is used by insurance carriers and self-insured employers to controvert claims under the Longshore and Harbor Workers' Compensation Act. For additional information, see related notice published at 73 FR 37987 on July 2, 2008.

**Darrin A. King,**

*Departmental Clearance Officer.*

[FR Doc. E8-25652 Filed 10-27-08; 8:45 am]

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-63,761]

#### Level 3 Communications, L.L.C., Austin, TX; Notice of Negative Determination Regarding Application for Reconsideration

By application dated September 29, 2008, a worker requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA) applicable to workers and former workers of Level 3 Communications, L.L.C., Austin, Texas (subject firm). The determination was issued on September 11, 2008. The Department's Notice of determination was published in the **Federal Register** on September 24, 2008 (73 FR 55137). The subject workers are engaged in telecommunication activities

related to network design and provisioning in support of customer requests, infrastructure, and network grooming activities.

The petition for TAA was denied because the workers do not produce an article within the meaning of Section 222(a)(2) of the Trade Act of 1974. In order to be certified eligible to apply for ATAA, the worker group must be eligible to apply for TAA. Since the worker group is denied eligibility to apply for TAA, they cannot be certified eligible to apply for ATAA.

In the request for reconsideration, the worker stated that "the position I held did create an article that was required by the customers \* \* \* a document referred to as an LOA (Letter of Authorization)." The worker also states that the LOA "provided vital information, which included the actual circuit and channel assignment, to the customer. Without this information they would not be able to physically connect to the correct equipment in the field \* \* \* The LOA also gave them a legal document that stated they were allowed to connect to our equipment and or we were allowed to connect to their equipment in the field. The circuit design and or provisioning could not be done or move forward without this LOA."

Pursuant to 29 CFR 90.18(c), administrative 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.

In order to be considered eligible to apply for adjustment assistance, the worker group seeking certification must work for a firm or appropriate subdivision that produces an article and there must be a relationship between the workers' work and the article produced by the workers' firm or appropriate subdivision.

The workers' firm provides telecommunication network services. The firm's Web site states that it is a "provider of fiber-based communication services \* \* \* Our network offerings include Internet Protocol (IP) services \* \* \* content and video delivery, data and voice services." Further, previously-submitted documents, including the petition and the

questionnaire completed by the subject firm, confirm that the subject firm provides a service.

Unlike a manufacturing firm, Level 3 Communications, L.L.C. (Level 3) is not in the business of producing an article and then selling it, and the subject firm does not receive revenue from the sales of the LOA. Level 3's revenue flows from providing its customers with network communication services. The LOA merely memorializes the service agreement between the subject firm and its customer. As such, it is not an article produced by the subject firm. Rather, the issuance of a LOA is merely incidental to the service provided by the subject firm.

It is the Department's policy that something which is created incidental to the provision of a service is not an "article" for purposes of the Trade Act. The Department's policy that those workers who provide services are not engaged in the production of an article for the purposes of the Act, even if something (tangible or intangible) is generated in the provision of those services, has been upheld by the U.S. Court of International Trade (USCIT) in *Former Employees of Mortgage Guaranty Insurance Corporation v. United States Secretary of Labor*, Court No. 07-00182. In its August 13, 2008, opinion, the USCIT stated "the Trade Act does not provide for the eligibility of workers engaged in the provision of services."

After careful review of the request for reconsideration, the Department determines that there is no new information that supports a finding that Section 222 of the Trade Act of 1974 was satisfied and that no mistake or misinterpretation of the facts or of the law with regards to the number or proportion of workers separated from the subject firm during the relevant period.

#### 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 10th day of October 2008.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E8-25463 Filed 10-27-08; 8:45 am]

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## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

[Docket No. OSHA-2008-0047]

### Federal Advisory Council on Occupational Safety and Health (FACOSH)

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

**ACTION:** Announcement of meeting.

**SUMMARY:** The Federal Advisory Council on Occupational Safety and Health (FACOSH) will meet November 13, 2008, in Washington, DC.

**DATES:** *FACOSH meeting:* FACOSH will meet from 1 p.m. to 4:30 p.m., Thursday, November 13, 2008.

*Submission of comments and requests to speak:* Comments and requests to speak at the FACOSH meeting must be received by November 6, 2008.

**ADDRESSES:** *FACOSH meeting:* FACOSH will meet in Room N-3437, Conference Rooms A/B/C, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

*Submission of comments and requests to speak:* Comments and requests to speak at the FACOSH meeting, identified by Docket No. OSHA-2008-0047, may be submitted by any of the following methods:

*Electronically:* You may submit materials, including attachments, electronically at <http://www.regulations.gov>, the Federal eRulemaking Portal. Follow the online instructions for making submissions.

*Facsimile:* If your submission, including attachments, does not exceed 10 pages, you may fax it to the OSHA Docket Office at (202) 693-1648.

*Mail, express delivery, hand delivery, messenger or courier service:* You must submit three copies of your submissions to the OSHA Docket Office, Room N-2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-2350 (TTY (877) 889-5627). Deliveries (hand, express mail, messenger and courier service) are accepted during the Department of Labor's and OSHA Docket Office's normal business hours, 8:15 a.m.-4:45 p.m., e.t.

*Instructions:* All submissions must include the Agency name and docket number for this **Federal Register** notice (Docket No. OSHA-2008-0047). Submissions in response to this **Federal Register** notice, including personal information provided, will be posted without change at <http://www.regulations.gov>. Therefore, OSHA

cautions interested parties about submitting certain personal information such as social security numbers and birth dates. Because of security-related procedures, submissions by regular mail may result in a significant delay in their receipt. Please contact the OSHA Docket Office, at the address above, for information about security procedures for making submissions by hand delivery, express delivery, and messenger or courier service. For additional information on submitting comments and requests to speak, see the **SUPPLEMENTARY INFORMATION** section below.

*Docket:* To read or download submissions in response to this **Federal Register** notice, go to Docket No. OSHA-2008-0047 at <http://www.regulations.gov> or the OSHA Docket Office at the address above. All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some documents (e.g., copyrighted material) are not publicly available to read or download through <http://www.regulations.gov>. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

#### FOR FURTHER INFORMATION CONTACT:

*For press inquiries:* Jennifer Ashley, OSHA, Office of Communications, U.S. Department of Labor, Room N-3647, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-1999.

*For general information:* Francis Yebesi, OSHA, Office of Federal Agency Programs, U.S. Department of Labor, Room N-3622, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-2122; fax (202) 693-1685; e-mail [ofap@dol.gov](mailto:ofap@dol.gov).

*For special accommodations for the FACOSH meeting:* Veneta Chatmon, OSHA, Office of Communications, Room N-3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-1999.

**SUPPLEMENTARY INFORMATION:** FACOSH will meet Thursday, November 13, 2008, in Washington, DC. All FACOSH meetings are open to the public.

FACOSH is authorized by section 19 of the Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 668), 5 U.S.C. 7902, and Executive Order 12196 to advise the Secretary of Labor on all matters relating to the occupational safety and health of Federal employees. This includes providing advice on how to reduce and keep to a minimum the number of injuries and illnesses in the Federal