

1 ICR SUPPORTING STATEMENT OUTLINE

Part A

1. Identification of the Information Collection

1(a) Title of the Information Collection

Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency (Renewal); EPA ICR No. 2260.06, OMB Control No. 2090-0029

1(b) Short Characterization/Abstract

The purpose of this information collection request is to assist the United States Environmental Protection Agency (EPA or the Agency) in selecting federal advisory committee members who will be appointed as Special Government Employees (SGEs), mostly to EPA's scientific and technical committees and panels. To select SGE members as efficiently and cost effectively as possible, the Agency needs to evaluate potential conflicts of interest before a candidate is hired as an SGE and appointed as a member to a committee or panel.

Agency officials developed the "Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency," also referred to as Form 3110-48, for a greater inclusion of information to discover any potential conflicts of interest as recommended by the Government Accountability Office.

2. Need for and use of the Collection

2(a) Need/Authority for the Collection

In June 2001, the Government Accountability Office (GAO) issued a report entitled "EPA's Science Advisory Board Panels – Improved Policies and Procedures Needed to Ensure Independence and Balance." GAO recommended that EPA develop policies and procedures that better identify and mitigate potential conflicts of interest and support the development of balanced panels. Recommendations included gathering the required conflict of interest information before a member is selected, specifically:

- Determine whether each panel will be reviewing a "particular matter" before selecting the panel in order to identify the financial conflict-of-interest requirements, if any, to which the panelists will be subject.
- Obtain and evaluate relevant background information on peer review panel candidates before appointing panel members. The evaluation should include explicitly discussing with potential panelists: (1) items not adequately reported on the confidential financial disclosure form as well as items reported that could present conflicts of interest; (2) other

information relevant to assessing impartiality, such as research conducted and previous public statements or positions on the matter being reviewed, interest of the employer or clients in the matter, participation in legal proceedings, work for chemical companies or other affected industries, and prior or current research grants that could be affected by the matter; and (3) whether they have any potential conflicts of interest related to the specific panel being established. Further, pertinent information obtained from discussions with panelists should be documented.”

As part of that effort to respond to GAO’s recommendations, EPA developed a new and improved form for all of its scientific and technical committee’s Special Government Employees.

EPA’s Designated Federal Officers (DFOs) who manage EPA federal advisory committees experienced great difficulty trying to use the OGE Form 450 to identify actual or potential conflicts of interest of potential candidates for Federal Advisory Committee membership. The OGE Form 450 was confusing for the proposed members and they did not identify all financial interests of possible concern. In response to the GAO’s recommendations, EPA developed the Form 3110-48 to ensure that all relevant financial interests are identified and considered during the member selection process. It is important for EPA to have this information collection in place because we continuously need to appoint new SGE members as new advisory committees are created or as members’ terms of appointment expire.

The Form 3110-48 is completed by candidates for membership as SGEs on EPA federal advisory committees. The form is completed as part of the member selection process and before they are invited to serve as a member of a federal advisory committee at EPA. The Form 3110-48 is reviewed by the Committee’s Designated Federal Officer, and the Program Office Deputy Ethics Official (DEO) to determine whether there is a financial conflict of interest between the proposed member’s public responsibilities and private interests/activities and whether there is any appearance of a lack of impartiality. In some cases, the Alternate Designated Agency Ethics Official also reviews the form. As GAO recommended, it is important to collect this information before the potential member is appointed to the advisory committee, because if a conflict of interest is identified after the person is appointed, the Agency may have to terminate the person’s membership and identify another person to serve on the committee. This is potentially embarrassing to both the Agency and the appointed member. It is also important to know upfront that a candidate could serve if appointed, as the appointment process is time consuming and, as required by the Federal Advisory Committee Act, the Agency must ensure that the advisory committee is balanced in the points of view represented. If a conflict is identified after a person is appointed to an advisory committee as an SGE, additional time is needed to select a replacement and the Agency loses valuable time and expertise in receiving the advice it needs. Also important is the fact that finding replacement members creates a burden of additional cost and staff hours. Using the Form 3110-48 benefits EPA by increasing efficiency and saving time and money.

Currently eleven of EPA’s 23 federal advisory committees appoint members as SGEs and have a need to use the Form 3110-48. This number may increase as new committees are added, or

decrease as committees are terminated. EPA anticipates averaging approximately 500 SGEs during the next 3 years.

2(b) Practical Utility/Users of the Data

Information gathered from Form 3110-48 will continuously help EPA to evaluate relevant background information on Special Government Employee candidates before appointing members. Using this form enables DFOs to expedite the process of selecting viable candidates for membership on EPA's federal advisory committees.

3. Non duplication, Consultations, and Other Collection Criteria-

3(a) Non duplication

Almost all information requested from respondents under this ICR is personal in nature, and in most cases, is not available from other sources.

3(b) Public Notice Required Prior to ICR submission to OMB

On August 21, 2017 (82 FR 39579), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received an email on August 22, 2017, from Will Ollison, American Petroleum Institute, asking the agency to make public portions of Form 3110-48 that don't pertain to financial conflicts of interest, such as Section 6. Information reported on Form 3110-48 is confidential pursuant to applicable Federal laws and regulations. See Section 3(f). A second comment period will be opened for 30 days once this ICR is submitted to OMB.

3(c) Consultations

In accordance with OMB's Terms of Clearance on the previous approval of this ICR, EPA has reviewed the actual number of SGE confidential disclosure forms received over the last three years and consulted with various agency staff to determine trends in expected committee membership over the next three years. While committee membership can vary year to year, EPA anticipates that the number of SGEs completing the form during the period of this ICR will average 500 per year.

The below respondents were contacted for feedback on this ICR. They confirmed that, on average, it takes approximately an hour to fill out the form.

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(3(d) Effects of Less Frequent Collection

The form is required to be updated once a year. The form allows Government officials to determine whether there is a statutory conflict between Special Government Employees public responsibilities and private interests and activities, or the appearance of a lack of impartiality, as defined by federal regulation.

18 U.S.C. 208: "An employee is prohibited from participating personally and substantially in an official capacity in any particular matter in which, to his knowledge, he or any person whose interests are imputed to him under this statute has a financial interest, if the particular matter will have a direct and predictable effect on that interest."

5 C.F.R. 2635.502: Appearance of lack of impartiality: "Where an employee knows that a particular matter involving specific parties is likely to have a direct and predictable effect on the financial interest of a member of his household, or knows that a person with whom he has a covered relationship is or represents a party to such matter, and where the person determines that the circumstances would cause a reasonable person with knowledge of the relevant facts to question his impartiality in the matter, the employee should not participate in the matter unless he has informed the agency designee of the appearance of a problem and received authorization from the agency designee".

3(e) General Guidelines

This ICR complies with OMB's general guidelines for the collection of information.

3(f) Confidentiality

Title I of the Ethics in Government Act of 1978 (the Act), 5 USC App., Executive Order 12674, and 5 CFR Part 2634, Subpart I, of the Office of Government Ethics regulations require the reporting of financial information that is relevant to the administration and application of the criminal financial conflict of interest laws, administrative standards of conduct, and agency-specific statutory and program-related restrictions. The primary use of the information collected on this form is to allow EPA to conduct the conflicts reviews in accordance with applicable Federal laws and regulations. The information reported on the Form 3110-48 is "confidential" and required to be withheld from the public pursuant to Section 107(a) of the Act. Agency personnel shall not publicly release the reports or the information contained therein except that disclosures may be pursuant to (1) a Federal, State or local law enforcement agency if the disclosing agency becomes aware of a violation or potential violation of law or regulation; (2) a court or party in a court or Federal administrative proceeding if the Government is a party or in

order to comply with a judge-issued subpoena; (3) a source when necessary to obtain information relevant to a conflict of interest investigation or decision; (4) the National Archives and Records Administration or the General Services Administration in records management inspections; (5) the Office of Management and Budget during legislative coordination on private relief legislation; and (6) in response to a request for discovery or for the appearance of a witness in a judicial or administrative proceeding, if the information is relevant to the subject matter. The confidential report will not be disclosed to any requesting person unless authorized by law.

EPA requires SGEs who are new to a federal advisory committee to complete parts 2-9 of Form 3110-48 before participating in a Committee activity. Subsequently, SGEs must file reports annually to report on the previous calendar year. For these annual reports, the SGEs must complete parts 2-8. In addition, they must complete Part 1 (“Statement regarding any change since annual submission of the form”) and Part 9 (“Identification of any other information related to conflicts of interest or appearance of a lack of impartiality”) before participating in any new advisory activity. Filers must provide sufficient information about outside interests and activities so that EPA DFOs and ethics officials can make an informed judgment regarding any conflict of interest or appearance of lack of impartiality. EPA staff may contact proposed SGEs to obtain additional information if necessary to determine whether there is a conflict between an SGE’s public responsibilities and his/her or his/her spouse's private interests and activities.

3(g) Sensitive Questions

See response to 3(f).

4. The Respondents and the Information Requested

4(a) Respondents/SIC Codes

A Special Government Employee (SGE) is a person who is retained, designated, appointed, or employed to perform, with or without compensation, for a period not to exceed 130 days during any period of 365 consecutive days, temporary duties for the Federal Government either on a full-time or intermittent basis. SGEs who provide advice to EPA are required to file the Form 3110-48 in lieu of the Office of Government Ethics Form 450 to disclose confidential financial information. Form 3110-48 has been reviewed and approved for use by the Office of Government Ethics.

4(b) Information Requested

(i) Data items, including record keeping requirements

The Agency will maintain records of the Form 3110-48. Designated Federal Officers from Offices sponsoring federal advisory committees will retain files of the completed form. The Agency does not anticipate any record keeping activities on the part of the respondents under this ICR.

(ii) Respondent Activities

After being nominated by an outside party or themselves, respondents will be asked to Complete the Form 3110-48. Forms may be mailed or e-mailed to candidates. Although candidates may type their information on the form on-line, they must then print the form and sign it. They may return the form by mail, but may not return the form by e-mail as an original signature is required. Each form will involve reading instructions and completing the form. The form will require one hour to complete. Subsequent forms filed annually should take less time to complete as respondents gain familiarity with its information requirements and may only need to make slight changes to information filed previously.

5. The Information Collected—Agency Activities, Collection Methodology, and Information Management

5(a) Agency Activities

To respond to this ICR, we estimated the DFO spends one hour reviewing each Form 3110-48 (sometimes calling and asking for further clarification or to address areas not filled out completely). The DFO labor cost is estimated to be a GS-14 Step 10, which is \$69.78 per hour (rounded to \$70 per hour) according to the Office of Personnel Management’s 2017 Salary Table (https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/17Tables/html/DCB_h.aspx).

The EPA Deputy Ethics Official (DEO) labor cost is estimated to be a GS-15 Step 7, which in 2017 was \$75.77, rounded to \$76 per hour at one hour per form. Both DFO and DEO total labor rates below include a factor of 1.6 (60%) for overhead costs.

DFO Cost

EPA estimates that approximately 500 SGEs will serve on EPA’s federal advisory committees over the next 3 years. Multiplying the number of SGEs (500) by the 3-year average dollar amount paid to EPA’s DFOs (\$70), and multiplying the subtotal cost of \$35,000 by 1.6 (60% overhead) to allow for employee overhead costs, we estimate the subtotal to be \$56,000.

Year 1 @ \$70 for 1 hour x 500 = \$35,000 x 1.6 = \$56,000

Year 2 @ \$70 for 1 hour x 500 = \$35,000 x 1.6 = \$56,000

Year 3 @ \$70 for 1 hour x 500 = \$35,000 x 1.6 = \$56,000

DEO Cost

Multiplying the number of SGEs (500) by the dollar amount paid to EPA’s DEO with a 3-year average cost (\$76), and multiplying the cost of \$38,000 by 1.6 (60% overhead) to allow for employee overhead costs, we estimate the subtotal to be \$60,800.

Year 1 @ \$76 for 1 hour x 500 = \$38,000 x 1.6 = \$60,800

Year 2 @ \$76 for 1 hour x 500 = \$38,000 x 1.6 = \$60,800

Year 3 @ \$76 for 1 hour x 500 = \$38,000 x 1.6 = \$60,800

Total DFO and DEO Cost Using 3-Year Average

The total 3-year average dollar burden estimate for this ICR (for both DFOs and DEO) is approximately \$116,800 each year.

DFO 3-year average \$56,000 + DEO 3-year average \$60,800 = \$116,800

Agency (EPA) activities associated with the collection of information include:

Designated Federal Officers (DFOs) for each committee with Special Government Employees (SGEs), Deputy Ethics Official, Assistant Deputy Ethics Official:

- First internal EPA review and approval of Form 3110-48 (completed 2003)
- Second internal EPA review and approval of Form 3110-48 (completed 2007)
- Taking actions to review the form, ascertain improvements, and revise periodically (approximately 3 year intervals or more if needed)

Designated Federal Officers (DFOs) for each committee with Special Government Employees (SGEs):

- Providing copies of the mandatory form
- Answering any respondent questions, follow-up
- Gathering respondents completed forms
- Reviewing and analyzing data
- Recordkeeping/storing completed form
- Forwarding form to EPA's Deputy Ethics Official for review and analyzing

Deputy Ethics Official:

- Review, analyze, follow-up, and approve or disapprove form

5(b) Collection Methodology and Management

In collecting and analyzing the information associated with this ICR, EPA will use a telephone system, personal computers, e-mail and websites from which the respondents can obtain blank forms, as well as using the mail and committee meetings for distribution of the form. Although candidates (respondents) may type their information on the form on-line, they must then print the form and sign it. They may return the form by mail, but may not return the form by e-mail as an original signature is required.

Although EPA uses internet websites and e-mail to distribute the blank forms, this form is not a survey instrument, and no database is necessary to aggregate results. This information is not available to the public.

5(c) Small Entity Flexibility

Not applicable.

5(d) Collection Schedule

- After being nominated by an outside party or themselves, respondents are asked to Complete the Form 3110-48 (No schedule – dates are variable).
- After the initial completion of the Form 3110-48, respondents are asked to update the form annually (generally during January of each year). Respondent’s confidential financial information is not made public.

6. Estimating The Burden and Cost of the Collection

6(a) Estimating Respondent Burden

To respond to this ICR, we estimated that each responding SGE candidate will take one hour to complete the Form 3110-48. We anticipate that EPA will pay an estimated labor cost of \$70 (GS-14 Step 10), which including the standard overhead factor of 1.6 produces a loaded wage rate of \$112. We estimate that approximately 500 SGEs will have to respond to this request each year. Multiplying the estimated number of SGE members (500) by the dollar amounts to be paid to EPA’s SGEs each successive year, and multiplying the subtotal costs of each successive year by 1.6 to allow for respondent overhead costs, we estimate that the total dollar burden estimate for this ICR to be approximately \$56,000 for year 1, \$56,000 for year 2 and \$56,000 for year 3. The grand total for all 3 years is estimated at \$168,000. The annual average respondent cost over the three years is \$56,000, as indicated in the following annual respondent burden and cost table.

6(b) Estimating Respondent Costs

(i) Estimating Labor Costs

Respondent Activity	Burden Hours/Respondent	Labor Cost/Hour (Loaded)	Number of Respondents	Total Cost/Year
Complete and submit form	1	\$112	500	\$56,000

(ii) Estimating Capital and Operations and Maintenance Costs

Not applicable.

(iii) Capital/Start-up Operating and Maintenance (O&M) Costs

Not applicable.

(iv) Annualizing Capital Costs

Not applicable.

6(c) Estimating Agency Burden and Cost

Agency Activity	Burden Hours/Respondent	Labor Cost/Hour (Loaded)	Number of Respondents	Total Cost/Year
DFO: Review form and forward to DEO for approval; Maintain record copy	1	\$112	500	\$56,000
DEO: Review and approve form	1	\$122	500	\$60,800
Total Cost				\$116,800

6(d) Estimating the Respondent Universe and Total Burden and Costs

See 6(a) and (b).

6(e) Bottom Line Burden Hours and Cost Tables

(i) Respondent Tally

Respondent Activity	Burden Hours/Respondent	Labor Cost/Hour (Loaded)	Number of Respondents	Total Cost/Year
Complete and submit form	1	\$112	500	\$56,000

(ii) The Agency Tally

Agency Activity	Burden Hours/Respondent	Labor Cost/Hour (Loaded)	Number of Respondents	Total Cost/Year
DFO: Review form and forward to DEO for approval; Maintain record copy	1	\$112	500	\$56,000
DEO: Review and approve form	1	\$122	500	\$60,800
Total				\$116,800

(iii) Variations in the Annual Bottom Line

We do not anticipate major variations in the annual bottom line burden hours and costs for the respondents or the Agency.

6(f) Reasons for Change in Burden

There is an increase of 250 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This change is due to an increase in the estimated number of respondents (from 250 to 500).

6(g) Burden Statement

The annual public reporting and recordkeeping burden for this collection of information is estimated to average one hour per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this ICR under Docket ID Number EPA-HQ-OA-2010-0757, which is available for online viewing at www.regulations.gov, or in person viewing at the Office of Environmental Information Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW, Washington, D.C. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Office of Environmental Information Docket is (202) 566-9744. An electronic version of the public docket is available at www.regulations.gov. This site can be used to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select "search," then key in the Docket ID Number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, D.C. 20503, Attention: Desk Officer for EPA. Please include the EPA Docket ID Number EPA-HQ-OA-2010-0757 and OMB Control No. 2090-0029 in any correspondence.