

October 31, 2023

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Wesley L. Mooty  
Acting Deputy Executive Director  
Flight Standards Service  
Federal Aviation Administration  
800 Independence Avenue, SW  
Room 821  
Washington, DC 20591-0001

RE: Notice 8900.679: New OpSpec D090, Coordinating Agency for Supplier  
Evaluation (C.A.S.E.)

Dear Mr. Mooty:

The Aeronautical Repair Station Association and Aircraft Electronics Association have serious concerns about FAA Notice 8900.679, "Part 145 Repair Stations and New OpSpec D090, Coordinating Agency for Supplier Evaluation (C.A.S.E.)."

We request the immediate withdrawal of the Notice and D090 as well as a meeting to discuss the attached summary and justification for the Aviation Rulemaking Advisory Committee's Part 145 Working Group recommendation 5 regarding operations specifications paragraphs.

Section 145.5 requires repair stations to operate in compliance of the "certificate, ratings, or operations specifications issued under [part 145]." The limitations imposed by this section require the FAA be judicious in the creation of OpSpecs paragraphs. Despite the guidance in Order 8900.1, which has defined multiple paragraphs as "mandatory," the only ones supported by the regulations are A003, "Ratings and Limitations" and A449, "Drug and Alcohol Testing Program". Other paragraphs merely represent a convenience to the FAA, e.g., Designated Persons (A007), Electronic Recordkeeping (A025), Additional Fixed Locations (A101).

With respect to N. 8900.679, repair stations exercising the privileges of their certificate by arranging for another person to perform work have clear standards for determining appropriateness of their contractors' quality control systems (see, §§ 145.201(a)(2) and 145.217(b)). The rule does not require the use of a specific audit methodology, nor does it mandate membership in any program. The Notice is not required for compliance with any requirement in part 145. C.A.S.E. is not a third-party accreditation program that complies with the Office of Management and Budget's Circular No. A-119 guidance on federal agency acceptance of external standard setting programs.

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We are available for the requested meeting at your convenience.

Sincerely,

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Executive Director  
Aeronautical Repair Station Association  
121 North Henry Street  
Alexandria, VA 22314-2905  
703.785.6605  
[sarah.macleod@arsa.org](mailto:sarah.macleod@arsa.org)

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Suite 900, South Building  
Washington, DC 20004-3647  
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[ricp@aea.net](mailto:ricp@aea.net)

cc: Larry Fields [lawrence.fields@faa.gov](mailto:lawrence.fields@faa.gov)  
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Enclosure: Aviation Rulemaking Advisory Committee Part 145 Working Group  
Recommendation 5 Summary and Suggested Actions

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## Recommendation (5)

Review the operations specifications' paragraphs and remove any that are not safety limitations.

### *History of Automated Operations Specifications*

Automation of operations specifications paragraphs was originally envisioned for operators of aircraft, i.e., part 91 and 119; the operator's regulations provide a distinction between those paragraphs that are part of the certificate and those that are not (*see*, section 119.7).

The procedures for implementing operations specifications paragraphs (Order 8900.1, Volume 3, Chapter 18, Section 10) do not clearly distinguish between and among certificate holders. Nor could any public information be found on the policy and procedures for developing, implementing, reviewing, and improving operations specifications paragraphs for any certificate holder.

### *Forms Associated with Repair Stations*

The forms associated with part 145 are—

(1) The Air Agency Certificate, **FAA Form 8000-4 (1-67)** has remained virtually the same since the inception of the repair station rules. It is the only form that can be found in the Office of Management and Budget associated with repair station certificates.

(2) Operations Specification Paragraph A-003 replaced traditional **FAA Form 8000-4-1 (1-75)**, which superseded FAA Form 390. The form did not contain information on private citizens, it only set forth—

(a) Limitations relating to the ratings issued, which comports with the plain language of the regulation, i.e., “with appropriate ratings prescribing such operations specifications and limitations as are necessary in the interest of safety.” In other words, the limitations on FAA Forms 8000-4-1 only contained necessary safety limitations on the *ratings*.

(b) Name of the government employee issuing the certificate and the date of issuance, information that is already public.

### *For Repair Station's Today*

According to section 145.5(a) *no person may operate as a certificated repair station without, or in violation of, a repair station certificate, ratings, or operations specifications issued under this part.*

According to section 145.53(a), an applicant is *entitled to* a repair station certificate with ratings and limitations *as are necessary in the interest of safety*.

According to section 145.201(a)(1) once certificated, the repair station may perform maintenance, preventive maintenance, or alterations in accordance with part 43 on any article for which it is rated and *within the limitations in its operations specifications*.

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Since certificate holders can be accused of violations for failure to follow an operations specifications paragraph, it is important to only issue paragraphs that are *limitations* “necessary in the interest of safety”.

### ***Suggested Actions***

Industry’s April 13, 2018 [letter](#) suggested a method for developing clear guidance to both the agency personnel and the public for creating, implementing, continual review, and aligning the paragraphs with the regulations. However, that letter has never been answered and operations specification paragraphs continue to be invented and used without regard to the plain language of the regulation, the time it takes the agency to manage the paragraphs, and the potential non-safety violations that could be levied against the certificate holder for failure to keep the paragraphs which are controlled by the agency up to date.

We again urge the agency to—

- (1) Only create new paragraphs based upon written finding of necessity, from objective and historical evidence of an imminent threat to safety.
- (2) When adding and reviewing paragraphs distinguish between—
  - (a) The different types of certificates—
    - (i) Those that have paragraphs that are separate from the certificate, i.e., those authorizations, limitations, and certain procedures under which each kind of operation, is conducted (see, section 119.7).<sup>1</sup>
    - (ii) Those with paragraphs that are part of the certificate, *see*, sections 91.403, 91.409, 91.609, 91.709, 91.867, 91.851, 91.875, 91.1007, 119.7(b), 145.53(a), and 147.3.
  - (b) The operations specifications paragraphs—
    - (i) Required by the regulations, i.e., some parts 91, 119, 145, and 147 paragraphs. See the cites immediately above.
    - (ii) Required by or for the convenience or administration of the agency and only applicable to the agency (e.g., noting a certificate holder uses electronic methods for creating and storing required documents or information).
    - (iii) Necessary to establish an authority or limitation either in the interest of safety or to capture essential safety information on particular types of part 91 or 119 operators or operations—only applicable to a specific class, type, or group of certificate holders or an individual certificate holder under objective and specific criteria.

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<sup>1</sup> Under part 119 the operator may challenge the issuance of an operations specifications paragraph that is issued separate from those required to be included in the certificate (see, section 119.51).

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- (iv) The nature of the paragraph, for example—
  - (A) Temporary
  - (B) Permanent
- (3) After the appropriate objective standards are created, review each and every “available” operations specifications paragraph assigned to operators and air agencies to—
  - (a) Determine and assign their type and nature; and,
  - (b) Remove those that are outdated, unnecessary, or ones that cannot be supported by a written finding of necessity, based on objective and historical evidence of imminent threat to safety.
- (4) Establish procedures for developing—
  - (a) New operations specifications paragraphs that adhere to the objective criteria.
  - (b) Metrics to track efficiencies for the agency and the public.
- (5) Review existing operations specifications paragraphs issued to certificate holders on a regular and ongoing basis for reassignment or elimination.

***Examples of Problematic Part 145 Operations Specifications Paragraphs***

When determining the problematic nature of an operations specifications paragraph, the question is simply, can the requirement be enforced? If the answer is no, the paragraph needs to be removed.

In the case of each example, the answer is no, first because the rule, history, and intent only contemplated the issuance of paragraphs necessary in the interest of safety limiting the *rating* issued to the repair station. It is also because the agency cannot force an applicant or certificate holder to obtain an operations specifications paragraph for items that were clearly addressed in agency rulemaking documents, such as preambles to notices of proposed rulemaking and final rules. Finally, it is because the agency must cite a regulation to sustain a violation; when the rule specifically addresses the activity, a non-compliance for failure to obtain an operations specifications paragraph cannot stand.

The only additional paragraph required for part 145 certificate holders introduced under 14 CFR part 120, *i.e.*, sections 120.1(c), 120.117(a)(5), and 120.225(a)(5). The paragraph would only be required if the repair station has implemented an anti-alcohol and drug testing program.

**Operations Specifications Paragraph D-100**

The ability to work away from the fixed location is allowed when the repair station includes procedures in its required manual on how it will conduct those operations (*see*, section

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145.209(f)). There is no requirement for an operations specifications paragraph; working away from the fixed location is not a limitation.

Since the rule covers the subject, the paragraph cannot be justified in the interest of safety. Further, the agency's advisory circular 145-9 provides no guidance on "requesting authorization" to be accorded the ability to work away from the repair station's fixed location and the agency could not sustain a violation for failure to obtain the paragraph.

While the information is certainly helpful to the government, the operations specifications paragraph cannot be "required" without a rule change.

#### Operations Specification Paragraph A-025

When a government form must be completed, electronic means can be used for completion and storage. This isn't only required by law, the government accepts ubiquitous software to obtain information, *i.e.*, Adobe forms and signatures for formal applications or by electronic means, *i.e.*, WebOPSS, SAS external portal.

Records required to be obtained, stored, and retrieved (created by the certificate holder under its own system)—can be inspected by the government upon request to show compliance with the applicable regulations. These data are not "government records" and should only be copied with permission from the certificate holder. When the form is in the government's possession, personal, confidential, and proprietary information is protected by federal laws and from release under the Freedom of Information Act.

Advisory Circular 120-17A originally applied to part 119 certificate holders. It states at paragraph 1.1 PURPOSE. *This advisory circular (AC) provides "approval" or "acceptance" guidelines for electronic signature, electronic recordkeeping, and electronic manual systems/programs. It is the certificate holder's responsibility to address all Title 14 of the Code of Federal Regulations (14 CFR) parts that apply to their operation(s).*

Under part 145, all documents and data, except for the training program manual, must be in a format *acceptable to the FAA*, not "accepted" or "approved" by the agency. The preambles to the 1999 notice of proposed rulemaking and 2001 final rule made it clear that "in a format acceptable to the FAA" meant any media under which the repair station managed its records, including electronic means.

What regulation would drive the issuance of this paragraph for a repair station, perhaps the requirement for a signature? If so, when is a signature required?

- On applications—government accepts electronic signatures on its forms without demanding the person applying the signature have a "system acceptable to" the FAA or any other additional "requirements" other than the ubiquitous software called Adobe.
- Operations Specifications **Paragraph A-007 (no form number)** needs to be eliminated as unnecessary. There is no need for a repair station certificate holder to sign this document. It

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also contains personal information that is not being collected as a requirement of a law and the individuals listed are not informed that the data will be made public. (See, **Government Collection of Personal Information** for information on release of personal information by the federal government.)

- Section 43.9 maintenance record approval for return to service—for repair stations using the FAA Form 8130-3, electronic signatures can be applied as set forth in Order 8130-21, and as allowed by the electronic version of the *government's form* in the ubiquitous software called Adobe.
- Section 43.11 inspection records approval/disapproval for return to service—when completed by a repair station in the owner/operator's system, the repair station's storage of that information has never been scrutinized.
- Section 145.209(i) merely requires a description of the required records and the recordkeeping system used to obtain, store, and retrieve the required records, but the repair station may include signature requirements in its repair station, quality control, form instructions, or training program manual.

The bottom line is that the certificate holder must produce the reports required by the regulation or a violation can be sustained, *even if the system was previously found "acceptable to" or was "accepted by" or even "approved by" the agency.*

Limitations, *as are necessary in the interest of safety*, cannot be justified when the agency makes clear in its rulemaking that the electronic method is acceptable. If a certificate holder chooses to use electronic recordkeeping means to maintain required records, the agency could not sustain a violation for failure to obtain an operations specifications paragraph.

#### Operations Specifications Paragraph A-007

This paragraph is for the agency's convenience. It contains information on private citizens that must be collected as outlined in Privacy Act of 1974, as amended, 5 U.S.C. § 552a (see, information on **Government Collection of Personal Information**). Furthermore, the "requirement" that the paragraph be signed by the certificate holder is unenforceable. The agency issues the certificate, it does not need the signature of the "person" receiving that document.

Operations Specifications paragraph A-007 contains information that must be kept up to date *by the certificate holder* even though no regulation requires any such information be provided to the government. Section 145.5 states that "[no] person may operate as a certificated repair station...in violation of a repair station certificate...operations specifications," leaving the repair station subject to civil penalties for a lapse *by the agency* if the paragraph is not updated.



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FAA Form 8000-4 (1-67)

UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION

## Air Agency Certificate

*Number* W3ER617N

*This certificate is issued to*

WYSONG ENTERPRISES, INC.

*whose business address is*

2721 Highway 75  
Blountville, Tennessee 37617

*upon finding that its organization complies in all respects  
with the requirements of the Federal Aviation Regulations  
relating to the establishment of an Air Agency, and is  
empowered to operate an approved*

*with the following ratings:*

LIMITED RADIO (10-24-96)

SPECIALIZED  
SERVICE (02-11-97)

*This certificate, unless canceled, suspended, or revoked,  
shall continue in effect* INDEFINITELY

*Date issued:*

October 24, 1996

reissued: February 11, 1997

*By direction of the Administrator*

*Richard F. Martz*  
RICHARD F. MARTZ

Manager, Nashville, TN FSDO

This Certificate is not Transferable, and any major change in the basic facilities, or in the location thereof,  
shall be immediately reported to the appropriate regional office of the Federal Aviation Administration

Any alteration of this certificate is punishable by a fine of not exceeding \$1,000, or imprisonment not exceeding 3 years, or both



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FAA Form 8000-4-1 (1-75)

UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION

## Repair Station Operations Specifications

(Continuation)

*Limitations:*

*The ratings (s) set forth on Air Agency Certificate Number W3ER617N is/are limited to the following:*

LIMITED RATINGS:

RADIO: -Radio authorization is limited to maintenance of only those components/accessories identified in Wysong Enterprises' Capabilities List, dated January 10, 1997, or as revised, in accordance with the current manufacturer's manual, or other FAA approved documents. Only the referenced list will be authorized and any revisions to the list will require number and date of authorization.

SPECIALIZED

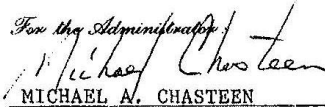
SERVICE: -Altimeter and pitot static systems test and certification perform static pressure system, altimeter instrument and automatic pressure altitude reporting system integration tests and inspection in accordance with FAR 43, Appendix E.

-Perform ATC transponder and automatic pressure altitude reporting systems integration tests and inspections in accordance with FAR 43, Appendix F, and FAR 43, Appendix E, Paragraph (c).

*Delegated authorities:* NONE

*Date issued or revised:*

MARCH 25, 1997

*For the Administrator*  


MICHAEL A. CHASTEEN  
PRINCIPAL AVIONICS INSPECTOR

FAA Form 8000-4-1 (1-75)

FORMERLY FAA FORM 390.1 PAGE 2

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Paragraph A-007 (no form number)

U.S. Department  
of Transportation  
Federal Aviation  
Administration

Operations Specifications

**A003. Ratings and Limitations**

HQ Control: 12/16/98  
HQ Revision: 00c

The Certificate Holder is authorized the following Ratings and/or Limitations:

Class Ratings

None Authorized

Limited Ratings

Rating

Manufacturer

Make / Model

Limitations

Radio

From the Approved  
Capabilities List.

This authorization does not include any Mode  
S Transponder.

Instruments

This authorization is limited to the testing and  
inspection of altimeters, altimeter systems,  
automatic pressure altitude reporting  
systems and the performance of transponder  
integration tests in accordance with FAR  
Part 43, Appendix E.

Airframe

From the Approved  
Capabilities List.

Limited Ratings - Specialized Services

Rating

Specifications

Limitations

None Authorized

Print Date: 6/4/2001

A003-1  
Wysong Enterprises, Inc.

Certificate No.: W3ER617N

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Government Collection of Personal Information

## Government Collection of Personal Information

The collection or use of personal information by the federal government is governed primarily by two laws: the Privacy Act of 1974 and the privacy provisions of the E-Government Act of 2002. The main requirements are summarized below to support Recommendation 5.

Privacy Act of 1974, as amended, 5 U.S.C. § [552a](#)

\* \* \*

(b) CONDITIONS OF DISCLOSURE.—No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be—

The Exception	
(1) to those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties;	Internal agency personnel
(2) required under section 552 of this title;	
(3) for a routine use as defined in subsection (a)(7) of this section and described under subsection (e)(4)(D) of this section;	
(4) to the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13;	Census related information (internal government)
(5) to a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;	De-identified for statistical research (internal government)
(6) to the National Archives and Records Administration as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Archivist of the United States or the designee of the Archivist to determine whether the record has such value;	NARA requirements
(7) to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;	For law enforcement upon written request
(8) to a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;	Health or safety of the individual at the last known address
(9) to either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;	Legislature
(10) to the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the Government Accountability Office;	Comptroller General
(11) pursuant to the order of a court of competent jurisdiction; or	Court order
(12) to a consumer reporting agency in accordance with section 3711(e) of title 31.	Consumer reports

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No Disclosure without Consent Rule

“No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains [subject to 12 exceptions].” 5 U.S.C. § 552a(b).

A “disclosure” can be by any means of communication – written, oral, electronic, or mechanical. See OMB 1975 Guidelines, 40 Fed. Reg. at 28,953, [https://www.justice.gov/paooverview\\_omb-75](https://www.justice.gov/paooverview_omb-75).

OMB guidelines, and some, but not all, courts have advised that disclosures can occur by either transferring a record or simply “granting access” to a record.

A disclosure of information from a non-record source does not violate the Privacy Act’s disclosure provision.

Direct evidence that an agency disclosed a record is generally not required, but plaintiffs must produce more than mere speculation or conjecture.

At least one court has held that there will be an “adverse inference” against an agency that destroys evidence in order to undermine the plaintiff’s ability to prove that a disclosure occurred.

Many, but not all, courts have held that a disclosure does not occur if the disclosure is to a person who was already aware of the information.

Courts are split over whether a disclosure occurs if the information disclosed is publicly available or was previously published.

While “written consent” under the Privacy Act is not defined, courts have held that “implied consent” is not sufficient.

OMB guidelines suggest, and courts have generally approved of, written consent that states the general purposes for, or types of recipients to, which disclosures may be made; the scope of an agency’s permitted disclosures is then defined by the terms on which the individual provided written consent.

*5 U.S.C. § 552a(b)(1) – Need to Know within Agency*

“No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains unless the disclosure would be –

- (1) to those officers and employees of the agency which maintains the record [81] who have a need for the record in the performance of their duties.” 5 U.S.C. § 552a(b)(1).

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Courts generally focus on whether the agency employee receiving the information had a need for the record in the performance of the employee's duties.

Courts generally have found that intra-agency disclosures to employees that do not have a need for the record in the performance of their duties are outside the scope of the "need to know" disclosure exception.

*5 U.S.C. § 552a(b)(2) – Required FOIA Disclosure*

"No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains unless the disclosure would be –

...

(2) required under section 552 of this title [the Freedom of Information Act]." 5 U.S.C. § 552a(b)(2).

As a function of the required FOIA disclosure exception, the Privacy Act never prohibits a disclosure that the FOIA requires.

*5 U.S.C. § 552a(b)(3) – Routine Uses*

"No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains unless the disclosure would be –

...

(3) for a routine use as defined in subsection (a)(7) of this section and described under subsection (e)(4)(D)." 5 U.S.C. § 552a(b)(3).

*Cross-references*

Subsection (a)(7) defines the term "routine use" to mean "with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected."

Subsection (e)(4)(D) requires Federal Register publication of "each routine use of the records contained in the system, including the categories of users and the purpose of such use."

Electronic Signatures in Global and National Commerce Act

FDIC Consumer Compliance Examination Manual—January 2014

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The Electronic Signatures in Global and National Commerce Act (E-Sign Act), signed into law on June 30, 2000, provides a general rule of validity for electronic records and signatures for transactions in or affecting interstate or foreign commerce. The E-Sign Act allows the use of electronic records to satisfy any statute, regulation, or rule of law requiring that such information be provided in writing, if the consumer has affirmatively consented to such use and has not withdrawn such consent.

Implementation of the Government Paperwork Elimination Act

Office of Management and Budget

The *agency* is to protect *its* records from security breaches.

IV. Comments regarding privacy protection

Some commenters were concerned with the privacy implications of the guidance. They want to ensure that any move to electronic transactions does not encourage the gathering of unnecessary information, and that Federal agencies adequately protect the personal information that does need to be collected. We agree that agencies must incorporate privacy protections when developing electronic processes. \*\*\* With respect to a commenters' concern that agencies not collect unnecessary information, the Privacy Act requires an agency to "maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency." 5 USC 552a(e)(1); see e.g., *Reuber v. United States*, 829 F.2d 133, 138-40 (DCC 1987). Furthermore, the collection by agencies of unnecessary information would be contrary to the Paperwork Reduction Act's mandate that agencies collect only information that is "necessary for the proper performance of the functions of the agency" and "has practical utility." 44. USC 3508.