(6) *An estimate of the total public burden (in hours) associated with the collection:* The total respondent burden is approximately 13,260 hours.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: November 25, 2008.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E8–28477 Filed 11–28–08; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–0184]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-day Notice of Information Collection Under Review: School Crime Supplement (SCS) to the National Crime Victimization Survey (NCVS).

The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 73, Number 186, page 55134 on September 24, 2008, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until December 31, 2008. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—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 agencies 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.

Overview of This Information

(1) *Type of information collection:* Reinstatement, without change, of a previously approved collection for which approval has expired.

(2) *Title of the Form/Collection:* School Crime Supplement (SCS) to the National Crime Victimization Survey.

(3) *Agency form number, if any, and the applicable component of the department sponsoring the collection:* SCS–1. Bureau of Justice Statistics, Office of Justice Programs, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract. Primary:* Persons ages 12 to 18 in NCVS sampled households in the United States. The School Crime Supplement (SCS) to the National Crime Victimization Survey collects, analyzes, publishes, and disseminates statistics on the prevalence, economic cost, and consequences of identity theft on victims.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* Approximately 9,445 persons ages 12 to 18 will complete an SCS interview. We estimate the average length of the ITS interview for these individuals will be 0.167 hours (10 minutes).

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total respondent burden is approximately 1,577 hours.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: November 24, 2008.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E8–28390 Filed 11–28–08; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Policy; Retiree Health Policy

AGENCY: Office of the Assistant Secretary for Policy, DOL.

ACTION: Request for information.

SUMMARY: This document requests information from the public to assist the Department of Labor in studying and understanding the role of Voluntary Employees' Beneficiary Associations in providing health and welfare benefits to retired workers in the United States.

DATES: Written or electronic responses must be submitted to the Department of Labor on or before December 31, 2008.

Responses: To facilitate the receipt and processing of responses, OASP encourages interested persons to submit their responses electronically to *http://www.regulations.gov.* Persons submitting responses electronically should not submit paper copies. Persons interested in submitting written responses on paper should send or deliver their responses (preferably, at least three copies) to the Office of the Assistant Secretary for Policy, Frances Perkins Building, 200 Constitution Avenue, NW., Room S–2312, Washington, DC 20210. All written responses will be available to the public, without change, online at _____.

FOR FURTHER INFORMATION CONTACT: Kathleen Franks, Office of the Assistant Secretary for Policy, Room S–2312, U.S. Department of Labor, Washington, DC 20210, telephone (202) 693–5959. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

A. Background

An important goal of the Department of Labor (the Department or DOL) is to advance the public's knowledge and understanding of retirement savings and health benefits and their critical importance to the future well-being of workers and their families. The Employee Benefits Research Institute

(EBRI), a major industry funded research group, recently reported in its 2008 *Retirement Confidence Survey* (RCS), that health care costs have become an important issue for retirees, with almost half of retirees saying they have spent more than expected on health care expenses.[1] The EBRI survey found that 34 percent of all workers now expect to have access to employer-sponsored health insurance in retirement, down 8 percentage points from 2007. The survey also found that, although 41 percent of retirees say they currently have access to health insurance through a former employer, many employers are eliminating health care coverage for future retirees. A key policy question, therefore, is how to better help employers and employees prepare for post-retirement health care costs.

In 1928, the Internal Revenue Code (the Code) was amended to provide tax-exempt status for a Voluntary Employees' Beneficiary Association (VEBA). VEBAs are one way that employers can fund and pay for welfare benefits for their employees. The federal government primarily regulates VEBAs through the Code, U.S. Department of the Treasury (Treasury) regulations, and DOL regulations related to the Employee Retirement Income Security Act (ERISA). Section 501(c)(9) of the Code defines a VEBA as an association organized to pay life, sick, accident, and similar benefits to members or their dependents, or designated beneficiaries. Typically established as a trust, the VEBA uses its assets to pay eligible benefits under a plan. Employer contributions to a VEBA for retiree health coverage may be excludable from an employee's gross income under section 106 of the Code. Retiree health benefits paid from a VEBA are generally excludable from retirees' gross income under section 105(b) of the Code and a VEBA's income is generally exempt from taxation.[2] To qualify as a VEBA, an association must meet, among other requirements, the following requirements under Section 501(c) (9) of the Code and Treasury regulations at 26 CFR Section 1.501(c) (9)–1:

(a) It must be an employees' association;

(b) Membership in the association must be voluntary; [3]

(c) The organization must provide for payment of life, sick, accident, or other benefits to its members or their dependents or designated beneficiaries, and substantially all of its operations must be in furtherance of providing such benefits; and

(d) No part of the net earnings of the organization may inure, by other than by the payment of benefits referred to in paragraph (c) above, to the benefit of any private shareholder or individual.

The membership of a Section 501(c)(9) VEBA must consist of individuals who are employees with an employment-related common bond. This common bond may be a common employer or affiliated employers, coverage under one or more collective bargaining agreements, membership in a labor union, or membership in one or more locals of a national or international labor union. Thus, a VEBA can fund benefits for employees and retirees of a single employer or, in certain cases, for a group of employers.

A trust does not satisfy the requirements for VEBA status under Section 501(c)(9) of the Code unless it gives timely notice to the Internal Revenue Service (IRS) that it is applying for recognition of such status,[4] and receives such recognition from IRS. In addition, a VEBA must meet certain nondiscrimination requirements under Section 505 of the Code, unless it is part of a plan maintained pursuant to a collective bargaining agreement and the plan was the subject of good faith bargaining between employee representatives and employers.[5]

B. Laws Regulating VEBAs

A VEBA that is part of a private sector employee welfare benefit plan must also adhere to the fiduciary, annual reporting, disclosure and other requirements of ERISA, which are administered by the Department's Employee Benefit Security Administration (EBSA). Persons responsible for investment and management of the VEBA's assets are fiduciaries, and must comply with ERISA's general prudence and prohibited transaction provisions. The employee welfare benefit plans funded by a VEBA generally must also file an annual Form 5500 financial report. If the plan has 100 or more participants, the annual report must include an audit report prepared by an independent qualified public accountant.

Pursuant to ERISA's annual reporting requirements, the audit report must comply with American Institute of Certified Public Accountants (AICPA), Statement of Position (SOP) 92–6, *Accounting and Reporting by Health and Welfare Benefit Plans,* which governs employee benefit plan's accounting for post-retirement benefits other than pensions. SOP 92–6 was issued in August 1992 and generally became effective for single-employer plans for plan years beginning after December 15, 1992.[6] Employer accounting for postretirement benefits other than pensions must comply with Financial Accounting Standard Number 106 (FAS 106), Employers' Accounting for Postretirement Benefits Other Than Pensions. FAS 106 was issued in December 1990 and became mandatory for most employers for fiscal years beginning after December 15, 1992.[7]

ERISA does not impose an explicit requirement on employers or on unions to fund VEBAs, nor does it outline any rules for determining what a ''proper'' level of funding for a VEBA would be. Rather, employer contributions to VEBAs are generally made either on a contractual basis or at the employer's discretion.[8] Some VEBAs are established based on a collective bargaining agreement requiring the employer to make a substantial initial payment and then much smaller, if any,

[1] See EBRI Issue Brief No. 316, *The 2008 Retirement Confidence Survey: Americans Much More Worried about Retirement, Health Costs a Big Concern* (April 2008), available at *http://www.ebri.org.*

[2] However, a VEBA's income, including income on amounts set aside for post-retirement medical benefits, might be subject to unrelated business income tax. See sections 511 and 512 of the Code and Treasury regulations at 26 CFR 1.512(a)–5T, Q&A–3. Finally, the Code provides guidance regarding the type of health benefits that may be received by employees and retirees on a tax-free basis.

[3] Although membership in a VEBA must be voluntary for the participating employees, an association is considered voluntary although membership is required of all employees, provided that the employees do not incur a detriment (for example, in the form of deductions from pay) as a result of membership in the association. Nor will an employer be deemed to have imposed involuntary membership on an employee if membership is required as the result of a collective bargaining agreement or as an incident of membership in a labor organization.

[4] IRS Form 1024 is used for this purpose. See 26 CFR 1.501(a)–1(a)(2), 1.505(c)–1T.

[5] For other rules regarding VEBAs, see generally 26 CFR 1.501(c)(9)–2 through 1.501(c)(9)–9.

[6] SOP 92–6 was subsequently amended by Statement of Position 01–02, issued in April 2001. SOP 01–02 clarifies some of the disclosures required by SOP 92–6.

[7] FAS 106 was amended by the issuance of FAS 132, *Employers' Disclosures about Pensions and Other Postretirement Benefits,* issued in February 1998, which revised employers' disclosures about pension and other postretirement benefit plans.

[8] Sections 419 and 419A of the Code, which set forth specific rules regarding the amount and timing of employer deductions for contributions to VEBAs and other welfare benefit funds, were enacted in DEFRA, in response to concerns with abuses of VEBAs and other welfare benefit funds. DEFRA also added Code section 512(a)(3), which contains special rules for computing the unrelated business taxable income of a VEBA, and section 4976, which provides for an excise tax on certain benefits paid from welfare benefit funds (including VEBAs) and on reversions to the benefit of the employer of any portion of a welfare benefit fund.

additional payments thereafter. These funds are invested, and some combination of the initial assets and the returns on the investments are then used to pay benefits over time. Naturally, the size of the initial payment, the returns on the investments, and the level of benefits provided will have major impacts on the VEBA's ability to pay for benefits over the long-term.

Depending on the purpose of a VEBA with fixed initial assets, the fiduciaries charged with administering the employee welfare benefit plan may be faced with difficult choices. Unless the VEBA's investment returns cover all the costs incurred by the VEBA for payment of benefits and administration, the assets of the VEBA will diminish over time, and eventually the VEBA may be unable to continue to pay the plan benefits. Thus, depending on its level of initial funding, a plan funded solely through a diminishing-asset VEBA faces a potential trade-off between the level of health benefits secured by the VEBA and the length of time that the plan will be able to continue to provide benefits. This could result in conflicting interests between older participants, who may be primarily interested in maximizing the value of short-term benefits, and younger participants, who may have a greater interest in maximizing the number of years that the plan is able to provide benefits. When considering this trade-off, plan participants should be aware that, even in an apparently well-funded VEBA, investment risks and other cost factors may affect the VEBA's financial condition and may, in some cases, necessitate that plan benefits be substantially reduced.

C. The Department's Observations on VEBAs

The Department has observed that employers, particularly large employers with unionized workforces, are increasingly exploring the financial, tax and accounting advantages of transferring retiree health liabilities to a stand-alone VEBA not managed or controlled by the employer. Most notably, recent agreements between several automobile manufacturers and the United Auto Workers (UAW) union have called for the establishment of stand-alone VEBAs to fund retiree health care liabilities. These VEBAs were formed pursuant to settlements resolving long-standing disputes between the UAW and the auto makers regarding the extent to which the auto makers had a legal obligation to continue to provide health care benefits to retired workers. The settlements call for the new VEBAs to be funded with tens of billions of dollars in assets transferred from the automobile manufacturers. Both the investment strategies for the VEBAs and the level of benefits paid by the plans funded through the VEBAs will be set by an eleven member board of which five are appointed by the UAW, and the other six individuals selected initially by the judge approving the settlement. Under the terms of the settlement agreement, a candidate for a vacancy among the six non-UAW-selected board positions would be selected by a favorable vote of nine of the existing board members with arbitration available in the event of deadlock, giving the UAW-selected members substantial control over the process.

The Department reviewed documents that were publicly disclosed during the litigation and discussed the formation of the VEBAs with the parties. Some of the specific concerns raised by the Department were whether the investment expectations that had been used to calculate the VEBAs' longevity were set at unrealistically high levels, and whether the projected cost of providing benefits was set too low. The Department was also concerned that the plan documents did not provide the trustees with any guidance on how, in the exercise of their fiduciary duties, they should resolve the inherent conflict of interest between older workers, who might prefer higher benefit levels even if those higher benefits exhaust the VEBAs more quickly, and younger workers, who might prefer somewhat lower benefits if that meant that the benefits would be available over a longer period of time. As a result of these discussions, the parties agreed to make available to the beneficiaries and other interested members of the public more financial information about the VEBAs, including more information about the various financial and actuarial assumptions behind the VEBAs. The parties also agreed to a modification in the trust agreement governing the VEBAs to clarify the intent of the parties and provide guidance to the fiduciary Committee members that ''[i]n exercising its authority over benefit design, the Committee shall be guided by the principle that the Plans should provide substantial health benefits for the duration of the lives of all participants and beneficiaries.''

The Department is interested in learning whether broader changes in the labor market may result in changes in retiree health plan offerings and how VEBAs can play a role in accommodating those changes. Examples of these changes may include the aging of the labor force and increasing number of retirees, the increasing concentration of employment in the service sector, and changes in skill, productivity, and compensation patterns. The labor market may be affected by increases in the cost and utilization of health care, and by global competition facing plan sponsors. Changes in the labor markets, including effects on retirement ages, labor force participation, career patterns, and the way in which workers are compensated, may ultimately affect group and individual health insurance markets, government programs, and the demand for health care goods and services.

Recent regulatory changes which will allow employers to coordinate retiree health benefits with Medicare for Medicare-eligible retirees may also spur interest in how plans funded by VEBAs can be used to provide retirees health care coverage that ''bridges'' the gap between retirement and eligibility for Medicare or cover additional expenses not covered by Medicare. Specifically, a final rule published by the Equal Employment Opportunity Commission (EEOC) in December 2007 permits employers to create, adopt or maintain a wide range of retiree health plan designs that provide different coverage for retirees age 65 and over without violating the Age Discrimination in Employment Act. The rule also allows unions to negotiate for health benefits that coordinate with Medicare.[9]

Finally, the Department is aware of recent research on VEBAs that has highlighted the benefits from VEBAs to employers and employees, and that suggests that VEBAs may be a desirable option for them. One recent study, by the Segal Company, entitled *Study of Retiree Health VEBAs,* examined 25 stand-alone VEBAs in the manufacturing, retail or transportation industries (Segal Study).[10] According to the Segal Study, VEBAs can provide security for current and future retirees by setting aside funds for retiree benefits that cannot be used for other corporate purposes. It also noted that VEBAs are a vehicle for an employer to remove FAS 106 liability from its financial statements, and that employers can fund the trust through a variety of mechanisms, including cash, company

[9] See EEOC Final Rule under 29 CFR Parts 1625 and 1627 on Age Discrimination in Employment Act and Retiree Health Benefits, 72 Fed. Reg. 72938 (Dec. 26, 2007).

[10] *http://www.segalco.com/publications/surveysandstudies/2008VEBAs.pdf.* For another synopsis of the Segal Study, see Wohl, *Under the Hood: After Acceptance from UAW, VEBAs Get a Closer Look,* Employee Benefits News (March 2008) (available at *ebn.benefitnews.com/asset/article/547851/under-hood-after-acceptance-uaw-vebas.html?pg=*).

stock, or other assets. The Segal Study further pointed out that VEBAs may allow unions and retirees more input into benefit levels and contributions because they may have seats on the VEBA's board of trustees or other governing body. On the other hand, the Segal Study suggested that it is not possible for VEBAs to guarantee a set level of benefits far into the future, or to provide retirees with protection from investment risk, because the financial condition of the trust may be adversely affected by unpredictable risks, downturns in the market, or health care cost increases.

Another study, the Mercer *2007 National Survey of Employer-Sponsored Health Plans* (Mercer Study), found that among employers with 500 or more employees that offer retiree health insurance, 11 percent use a VEBA to fund it, and an additional 5 percent are considering using one. The Mercer Study also determined that VEBA use is most common among the largest retiree health sponsors (28 percent of those with 10,000 or more employees) and those in the transportation-communications-utilities industry group (38 percent), followed by the financial services (19 percent) and manufacturing (13 percent) industry groups.[11]

Finally, a recent paper by Aaron Bernstein entitled *''Can VEBAs Alleviate Retiree Health Care Problems?,''* published as part of the Harvard Law School Pensions and Capital Stewardship Project Labor and Worklife Program, examined VEBAs in the context of declining retiree health coverage and discussed the ways that VEBAs could help union and nonunion employees in both the private and public sector.[12]

D. Request for Information

The purpose of this notice is to obtain information to assist the Department in studying and understanding the role of VEBAs in providing health and welfare benefits to retired workers in the United States. In order to assist interested parties in responding, this document contains a list of specific areas of interest. The Department recognizes that these areas of interest may not address all relevant issues. Accordingly, interested parties are invited to submit comments on other issues that they believe are pertinent.

1. What economic and demographic forces are driving changes in retiree health plan offerings and VEBA use?

2. What are the consequences to employees, employers, and the public of increasing VEBA use by employers to fund retiree health benefits?

3. Is there a need for changes in ERISA or in the Department's ERISA regulations to better govern the administration of VEBAs?

4. Should VEBAs that are larger, whether in terms of assets, number of beneficiaries, or both, be subject to different regulatory requirements than smaller VEBAs?

5. Aside from the general fiduciary obligations imposed by ERISA, should other requirements be imposed on VEBA governance structure to better protect the economic interests of participants?

6. Should plan documents for VEBAs be required to provide fiduciaries guidelines on benefit payments to help the fiduciaries resolve any conflicts of interest that may develop between participants at different life cycle stages?

7. Should the law require that participants in plans funded by VEBAs must be provided with actuarial information indicating the potential range of benefits the plan is likely to be able to provide, taking into account potential future benefits, investment returns, and changes in the cost of health benefits?

Leon R. Sequeira,

Assistant Secretary for Policy.

[FR Doc. E8–28325 Filed 11–28–08; 8:45 am]

BILLING CODE 4510–23–P

[11] See *http://www.mercer.com/referencecontent.jhtml?idContent=1287790*

[12] The article is available at: *http://www.law.harvard.edu/programs/lwp/occasionalpapers_Ap9_.*

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W–63,957]

Phillips Plastics Corporation, Precision Decorating Facility, Including On-Site Leased Workers From Manpower, Medford, WI; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on October 31, 2008, applicable to workers of Phillips Plastics Corporation, Precision Decorating Facility, Medford, Wisconsin. The notice was published in the **Federal Register** on November 13, 2008 (73 FR 67209).

At the request of the State agency and the petitioners, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of interior automotive plastics (*i.e.* automotive radio faceplates, heater control faceplates and buttons and window switches).

New information shows that workers leased from Manpower were employed on-site at the Medford, Wisconsin location of Phillips Plastics Corporation, Precision Decorating Facility. The Department has determined that these workers were sufficiently under the control of Phillips Plastics Corporation, Precision Decorating Facility to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Manpower working on-site at the Medford, Wisconsin location of the subject firm.

The intent of the Department's certification is to include all workers employed at Phillips Plastics Corporation, Precision Decorating Facility, Medford, Wisconsin who were adversely affected by increased imports of interior automotive plastics (*i.e.*, automotive radio faceplates, heater control faceplates and buttons and wind switches).

The amended notice applicable to TA–W–63,957 is hereby issued as follows:

''All workers of Phillips Plastics Corporation, Precision Decorating Facility, including on-site leased workers from Manpower, Medford, Wisconsin, who became totally or partially separated from employment on or after July 27, 2007, through October 31, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.''

Signed at Washington, DC, this 18th day of November 2008.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–28360 Filed 11–28–08; 8:45 am]

BILLING CODE 4510–FN–P