

modification, or alteration is sought to be enforced.

26. If any provision of the Agreement and Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Agreement and Order, such provision shall be fully severable. The balance of the Agreement and Order shall remain in full force and effect, unless the Commission and Excelligence agree that severing the provision materially affects the purpose of the Agreement and Order.

Excelligence Learning Corporation

Dated: 10-28-08

By:

*Kelly Crampton, Chief Executive Officer  
Excelligence Learning Corporation  
d/b/a Discount School Supply  
2 Lower Ragsdale Drive, Suite 200  
Monterey, CA 93940*

Dated: 10-27-08

By:

*Jonathan I. Price, Esq.  
Goodwin Procter LLP  
The New York Times Building  
620 Eighth Avenue  
New York, NY 10018-1405  
Counsel for Excelligence Learning  
Corporation*

U.S. Consumer Product Safety Commission  
Staff

*Cheryl A. Falvey  
General Counsel  
Office of the General Counsel*

*Ronald G. Yelenik  
Assistant General Counsel  
Division of Compliance  
Office of the General Counsel*

Dated: 11-17-09

By:

*M. Reza Malihi, Trial Attorney  
Division of Compliance  
Office of the General Counsel*

## **United States of America Consumer Product Safety Commission**

### **CPSC Docket No. 10-C0001**

*In the Matter of: Excelligence Learning Corporation D/B/A Discount School Supply*

## **Order**

Upon consideration of the Settlement Agreement entered into between Excelligence Learning Corporation, d/b/a Discount School Supply ("Excelligence") and the U.S. Consumer Product Safety Commission ("Commission") staff, and the Commission having jurisdiction over the subject matter and over Excelligence, and it appearing that the Settlement Agreement and Order are in the public interest, it is

Ordered, that the Settlement Agreement be, and hereby is, accepted; and it is Further ordered, that Excelligence shall pay a civil penalty in the amount of twenty five thousand dollars (\$25,000.00) within twenty (20) calendar days of service of the Commission's final Order accepting the Agreement. The payment shall be made by check payable to the order of the United States Treasury. Upon the failure of Excelligence to make the foregoing payment when due, interest on the unpaid amount shall accrue and be paid by Excelligence at the federal legal rate of interest set forth at 28 U.S.C. 1961(a) and (b).

Provisionally accepted and provisional Order issued on the 4th day of December 2009.

By Order of the Commission:

*Todd A. Stevenson, Secretary  
U.S. Consumer Product Safety Commission  
[FR Doc. E9-29943 Filed 12-15-09; 8:45 am]*

**BILLING CODE 6355-01-P**

## **DEPARTMENT OF DEFENSE**

### **Office of the Secretary**

#### **Defense Advisory Committee on Military Personnel Testing; Meeting**

**AGENCY:** Under Secretary of Defense for Personnel and Readiness, DoD.

**ACTION:** Meeting notice.

**SUMMARY:** Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102-3.150, DoD announces that the Defense Advisory Committee on Military Personnel Testing will meet on January 21 and 22, 2010, to review planned changes and progress in developing computerized and paper-and-pencil enlistment tests. Subject to the availability of space, the meeting is open to the public.

**DATES:** The meeting will be held on January 21 (from 8:30 a.m. to 4 p.m.) and January 22, 2010 (from 8:30 a.m. to noon).

**ADDRESSES:** The meeting will be held at The EPIC Hotel, 270 Biscayne Blvd., Miami, Florida 33131.

**FOR FURTHER INFORMATION CONTACT:** Committee's Designated Federal Officer or Point of Contact: Dr. Jane M. Arabian, Assistant Director, Accession Policy, Office of the Under Secretary of Defense (Personnel and Readiness), Room 2B271, The Pentagon, Washington, DC 20301-4000, telephone (703) 697-9271.

## **SUPPLEMENTARY INFORMATION:**

### **Agenda**

The Committee will meet to review planned changes and progress in developing computerized and paper-and-pencil enlistment tests. The agenda includes an overview of current enlistment test development timelines and planned research for the next three years.

### **Public's Accessibility to the Meeting**

Pursuant to 5 U.S.C. 552b and 41 CFR 102-3.140 through 102-3.165, and the availability of space, this meeting is open to the public.

### **Oral Presentations/Written Statements**

Persons desiring to make oral presentations or submit written statements for consideration at the Committee meeting must contact Dr. Jane M. Arabian (see **FOR FURTHER INFORMATION CONTACT**) no later than January 10, 2010.

Dated: December 10, 2009.

**Mitchell S. Bryman,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. E9-29811 Filed 12-15-09; 8:45 am]

**BILLING CODE 5001-06-P**

## **DEPARTMENT OF DEFENSE**

### **Office of the Secretary**

#### **TRICARE Over-the-Counter Drug Demonstration Project**

**AGENCY:** Office of the Secretary, DoD.

**ACTION:** Notice of modifications and an extension to the TRICARE over-the-counter drug demonstration project.

**SUMMARY:** This notice is to advise interested parties of modifications to and an extension of the demonstration project entitled "TRICARE Over-the-Counter Drug Demonstration Project." The original demonstration notice was published on June 15, 2007 (72 FR 33208; FR Doc. E7-11558) and described a demonstration project to evaluate the costs/benefits and beneficiary satisfaction of providing OTC drugs under the pharmacy benefits program when the selected OTC drugs are determined to be clinically effective. The demonstration was to be conducted until the implementation of the combined TRICARE mail and retail contract (TPharm) which will be November 4, 2009. This demonstration project will now be modified and extended for three additional years (November 4, 2012).

**DATES:** The modification and extension of the demonstration project is effective from November 4, 2009, to November 4, 2012.

**FOR FURTHER INFORMATION CONTACT:** Colonel Everett McAllister, TRICARE Management Activity, Pharmaceutical Operations Directorate, telephone (703) 681-2890.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

For additional information on the TRICARE Over-the-Counter Drug Demonstration Project, see 72 FR 33208 (June 15, 2007).

**B. Description of Modifications to the Demonstration Project**

(1) Paragraph B(2) of the original notice at 72 FR 33209 is revised to read as follows:

*OTC drug availability through the demonstration project.* Eligible candidates for the demonstration are those who have a prescription for a prescription item that has an approved OTC drug equivalent, as defined by the program. The process used to verify eligibility will depend upon the dispensing venue the beneficiary chooses to use. Not all OTC drugs eligible for dispensing through this project will be available at all dispensing venues. The Pharmacy Program Office will communicate OTC drug availability through the use of the TRICARE Web site (<http://www.tricare.mil/pharmacy>), public affairs outreach, and through the representative military beneficiary organizations.

(2) Paragraph B(4) of the original notice at 72 FR 33209 and 33210 is revised to read as follows:

*Cost sharing requirements.* Until a modification to the new pharmacy contract software can occur to accept a \$0 cost share, beneficiaries will be charged a non-reimbursable TRICARE cost share of \$3 identical to that charged for a generic pharmaceutical agent. The \$3 cost share will apply until the earlier of January 1, 2010 or the date on which systems changes can be made to accommodate processing of the retail network pharmacy and mail order pharmacy claims with a \$0 cost share.

(3) Paragraph B(5) of the original notice at 72 FR 33210 is revised to read as follows:

*Period of demonstration.* The modification of the demonstration project will be effective November 4, 2009. This demonstration project will be extended for three additional years (November 4, 2012).

Dated: December 11, 2009.

**Mitchell S. Bryman,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. E9-29864 Filed 12-15-09; 8:45 am]

**BILLING CODE 5001-06-P**

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

**[Project No. 13596-000]**

**McGinnis, Inc.; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications**

December 10, 2009.

On September 29, 2009, McGinnis, Inc. filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Smithland Hydrokinetic Project, which would be located downstream of the U.S. Army Corps of Engineer's Smithland Lock and Dam on the Ohio River near the town of Hamlettsburg, Pope County, Illinois; and town of Smithland, Livingston County, Kentucky. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following:

(1) Ten 35-kilowatt turbine generators mounted to a barge anchored in the Ohio River downstream of the Smithland Lock and Dam; (2) an armored transmission cable extending from the barge to a small shore substation; and (3) an access road needed to access the shore substation. The project would have an estimated annual generation of 1,533,000 kilowatt-hours.

*Applicant Contact:* Mr. Bruce D. McGinnis, Sr.; McGinnis, Inc.; P.O. Box 534; 502 Second St. Ext.; South Point, OH 45680; or phone 740-377-4391.

*FERC Contact:* Monte TerHaar at [monte.terhaar@ferc.gov](mailto:monte.terhaar@ferc.gov) or phone 202-502-6035.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing

applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (<http://www.ferc.gov/docs-filing/ferconline.asp>) under the "eFiling" link. For a simpler method of submitting text only comments, click on "Quick Comment." For assistance, please contact FERC Online Support at [FEROnlineSupport@ferc.gov](mailto:FEROnlineSupport@ferc.gov); call toll-free at (866) 208-3676; or, for TTY, contact (202) 502-8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and eight copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of Commission's Web site at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-13596) in the docket number field to access the document. For assistance, contact FERC Online Support.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. E9-29916 Filed 12-15-09; 8:45 am]

**BILLING CODE 6717-01-P**

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

**[Project No. 13513-000]**

**Lock+ Hydro Friends Fund XXII, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications**

December 10, 2009.

On June 12, 2009, Lock+ Hydro Friends Fund XXII, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Project Darwin, which would be located at the U.S. Army Corps of Engineer's Cape Fear Lock and Dam No. 1 on the Cape Fear River near the town of Kings Bluff, Bladen County, NC. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.