

SECURITIES AND EXCHANGE COMMISSION

FORM UPLOAD

SEC-originated letters to filers

Filing Date: **2009-01-26**
SEC Accession No. [0000000000-09-003666](#)

([HTML Version](#) on [secdatabase.com](#))

FILED FOR

APPLIED ENERGETICS, INC.

CIK:[879911](#) | IRS No.: **770262908** | State of Incorporation: **DE** | Fiscal Year End: **1231**

Type: **UPLOAD**

SIC: **3812** Search, detection, navigation, guidance, aeronautical sys

Mailing Address

*C/O APPLIED ENERGETICS,
INC.*

*3590 EAST COLUMBIA
STREET
TUCSON AZ 85714*

Business Address

*C/O APPLIED ENERGETICS,
INC.*

*3590 EAST COLUMBIA
STREET
TUCSON AZ 85714
520-628-7415*

Mail Stop 3561

January 23, 2009

Via U.S. Mail and Facsimile

Dana A. Marshall
Chief Executive Officer
Applied Energetics, Inc.
3590 East Columbia Street
Tucson, Arizona 85714

RE: Applied Energetics, Inc.
Form 10-K for the fiscal year ended December 31, 2007
Form 10-Q for the quarterly period ended September 30, 2008
File No. 001-14015

Dear Mr. Marshall:

We have reviewed your response letter dated December 29, 2008 and have the following comment. Where indicated, we think you should revise your document in response to this comment and comply with the remaining part of the comment in all future filings. If you disagree, we will consider your explanation as to why our comment is inapplicable or a revision is unnecessary. Please be as detailed as necessary in your explanation. In our comment, we may ask you to provide us with information so we may better understand your disclosure. After reviewing this information, we may raise additional comments.

We look forward to working with you in these respects. We welcome any questions you may have about our comment or any other aspect of our review. Feel free to call us at the telephone numbers listed at the end of this letter.

Form 10-Q for the quarterly period ended September 30, 2008

Note 13. Subsequent Events

1. We note your response to our prior comment 1 but continue to have concern that your planned accounting treatment for the exchange of Series A Convertible Preferred shares into the Company's common shares may not appropriate.

In this regard, we note from your response that the planned business purpose of the exchange transaction was to significantly reduce the Company's quarterly preferred dividend expense. We also note from your response, that the conversion of Series A Preferred shares into common shares by certain shareholders in November of 2008, resulted primarily from discussions initiated by the Company in October 2008 with preferred shareholders with the largest positions in the Company's Series A preferred stock and that other conversions which occurred resulted largely from other preferred shareholders learning of these shareholders planned conversions. We further note from your response that at the time the Company negotiated these revised conversion terms, the Company did not set a time period by which the agreements had to be executed to complete the exchange transactions and the exchange offer was neither fixed for a limited period of time nor open for an unlimited period of time. We additionally note that based on the copies of the exchange agreements provided in connection with your response, that all exchange agreements with the Series A Preferred shareholders were executed shortly after the negotiations were conducted with the Series A Preferred shareholders in October of 2008 as they are all dated during the period ranging from November 3, 2008 through November 10, 2008.

Since all of the exchange transactions were executed within a very short period of time after the negotiations were conducted with the Series A Preferred shareholders in October of 2008, it would appear that the exchange offer was open for and completed within a very limited period. Also, we note from your response that "the offer was neither fixed for a limited period of time nor open for an unlimited period of time", which would appear to indicate that your intent was restrictive in keeping this preferred stock exchange offer open for only a finite or limited period of time. In addition, we note that the revised conversion terms of the Series A Preferred shares appear to be significantly more favorable than the original conversion terms of the Series A Preferred shares indicating that changed conversion terms were negotiated in order to induce the Series A Preferred shareholders to convert their preferred shares into common shares. Furthermore, your planned business purpose in reducing the quarterly dividend requirements is a factor in inducing conversion of this security.

Given the above factors, it appears that your proposed accounting treatment of recording a gain or benefit on the redemption of the Series A Preferred shares and

a corresponding benefit to arrive at net income (loss) available to common shareholders may be inconsistent with the nature of the exchange transaction. Based on the above, we continue to believe that this transaction may be more appropriately accounted for as an induced conversion of the preferred shares, which should be accounted for pursuant to the guidance in SFAS No. 84. In this regard, we suggest you carefully consider our concerns in assessing your accounting treatment for the preferred stock exchange transactions. Please note that we do not believe that because the exchange transactions were individually negotiated transactions with the Series A Preferred shareholders, as noted in your response, provides a basis or rationale for not accounting for the exchange transactions in accordance with the guidance in SFAS No. 84. Please revise or advise accordingly.

As appropriate, please respond to this comment within 10 business days or tell us when you will provide us with a response. Please furnish a cover letter that keys your response to our comment and provides any requested information. Detailed cover letters greatly facilitate our review. Please understand that we may have additional comments after reviewing your response to our comment.

Your response should be submitted in electronic form, under the label "corresp" with a copy to the staff.

You may contact Jeffrey Jaramillo at (202) 551-3212 if you have questions regarding comments on the financial statements and related matters. Please contact me at (202) 551-3813 with any other questions.

Sincerely,

Linda Cvrkel
Branch Chief

Via facsimile: Kenneth M. Wallace, Chief Financial Officer
(520) 622-3835