

must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

*2. Tips for preparing your comments.* When submitting comments, remember to:

- i. Identify this document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).
- ii. Follow directions. Follow the detailed instructions as provided under **ADDRESSES**. Respond to specific questions posed by the Agency.
- iii. Explain why you agree or disagree; suggest alternatives.
- iv. Describe any assumptions and provide any technical information and/or data that you used.
- v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced by the Agency and others.
- vi. Provide specific examples to illustrate your concerns and suggest alternatives.
- vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- viii. Make sure to submit your comments by the comment period deadline identified in this document.

## II. Background

In the **Federal Register** of April 22, 2008 (73 FR 21692) (FRL-8355-7), EPA published the Lead-Based Paint Renovation, Repair and Painting rule, which requires contractors to use lead-safe work practices during renovation, repair, and painting activities that disturb lead-based paint in target housing and child-occupied facilities built before 1978 unless a determination can be made that no lead-based paint would be disturbed during the renovation or repair. The use of an EPA-recognized lead test kit, when used by a trained professional, can reliably determine that regulated lead-based paint is not present by virtue of a negative result. The federal standards for lead-based paint in target housing and child-occupied facilities is a lead content in paint that equals or exceeds a level of 1.0 milligram per square centimeter ( $\text{mg}/\text{cm}^2$ ) or 0.5 percent by weight. If regulated lead-based paint is not present, there is no requirement to employ lead-safe work practices under the RRP rule.

The RRP rule established negative-response and positive-response criteria outlined in 40 CFR 745.88(c) for lead test kits recognized by EPA. Lead test kits recognized before September 1,

2010 must meet only the negative-response criterion outlined in 40 CFR 745.88(c)(1). The negative-response criterion states that for paint containing lead at or above the regulated level, 1.0  $\text{mg}/\text{cm}^2$  or 0.5 percent by weight, a demonstrated probability (with 95% confidence) of a negative response less than or equal to 5 percent of the time must be met. The recognition of kits that meet only this criterion will last until EPA publicizes its recognition of the first test kit that meets both of the criteria outlined in the rule.

Lead test kits recognized after September 1, 2010 must meet both the negative-response and positive-response criteria outlined in 40 CFR 745.88(c)(1)-(2). The positive-response criterion states that for paint containing lead below the regulated level, 1.0  $\text{mg}/\text{cm}^2$  or 0.5% by weight, a demonstrated probability (with 95% confidence) of a positive response less than or equal to 10% of the time must be met. Qualitatively speaking, lead test kits recognized by EPA should also serve as a quick, inexpensive, reliable, and easy to perform option for lead-based paint testing in the field.

Despite the EPA's commitment of resources to this effort, to date no test kit has met both of the performance criteria outlined in the RRP rule. However, there are two EPA-recognized test kits commercially available nationwide that meet the false-negative criterion and continue to be recognized by EPA. Therefore, in an effort to understand the current state of the science for lead test kits and lead-based paint field testing alternatives, as well as the existing market and potential availability of additional test kits, EPA is soliciting input from relevant stakeholders. EPA is convening a meeting and webinar for interested stakeholders and the public on Thursday, June 4, 2015 to seek information related to: (1) The existing market for lead test kits as referenced in the 2008 RRP rule; (2) the development or modification of lead test kit(s) that may meet EPA's positive-response criterion (in addition to the negative-response criterion); and (3) other alternatives for lead-based paint field testing. EPA will provide further information regarding topics to be discussed at the meeting in an Information Document to be posted on [www2.epa.gov/lead](http://www2.epa.gov/lead) and placed in the docket for this action. Meeting participants and other interested parties who wish to respond in writing to the requested lead test kit topics outlined above, as well as the forthcoming Information Docket, may submit written

materials to the docket until July 6, 2015.

## III. References

As indicated under **ADDRESSES**, a docket has been established for this rulemaking under docket ID number EPA-HQ-OPPT-2005-0049. The docket includes this document and other information.

EPA. Lead; Renovation, Repair, and Painting Program; Final Rule. **Federal Register**, April 22, 2008 (73 FR 21692) (FRL-8355-7).

**Authority:** 15 U.S.C. 2601 *et seq.*

Dated: May 8, 2015.

**James Jones**,

*Assistant Administrator, Office of Chemical Safety and Pollution Prevention.*

[FR Doc. 2015-11669 Filed 5-13-15; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

#### 43 CFR Part 2

[156D0102DM/DS10700000/  
DMSN0000.000000/DX.10701.CEN00000]

**RIN 1090-AB10**

### Privacy Act Regulations

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

**ACTION:** Proposed rule.

**SUMMARY:** The Department of the Interior is proposing to amend its regulations to exempt certain records in the Indian Arts and Crafts Board system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative law enforcement requirements.

**DATES:** Submit written comments on or before July 13, 2015.

**ADDRESSES:** Send written comments, identified by RIN number 1090-AB10, by one of the following methods:

- *Federal e-Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Teri Barnett, Departmental Privacy Officer, U.S. Department of the Interior, 1849 C Street NW., Mail Stop 5547 MIB, Washington, DC 20240.

- *Email:* Teri Barnett, Departmental Privacy Officer, U.S. Department of the Interior, [Privacy@ios.doi.gov](mailto:Privacy@ios.doi.gov).

**FOR FURTHER INFORMATION CONTACT:** Teri Barnett, Departmental Privacy Officer, U.S. Department of the Interior, 1849 C Street NW., Mail Stop 5547 MIB, Washington, DC 20240. Email at [Privacy@ios.doi.gov](mailto:Privacy@ios.doi.gov).

**SUPPLEMENTARY INFORMATION:**

## Background

The Privacy Act of 1974, as amended, 5 U.S.C. 552a, governs the means by which the U.S. Government collects, maintains, uses and disseminates personally identifiable information. The Privacy Act applies to records about individuals that are maintained in a “system of records.” A system of records is a group of any records under the control of an agency from which information about an individual is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. See 5 U.S.C. 552a(a)(4) and (5).

An individual may request access to records containing information about him or herself, 5 U.S.C. 552a(b), (c) and (d). However, the Privacy Act authorizes Federal agencies to exempt systems of records from access by individuals under certain circumstances, such as where the access or disclosure of such information would impede national security or law enforcement efforts. Exemptions from Privacy Act provisions must be established by regulation, 5 U.S.C. 552a(k).

The Department of the Interior (DOI), Office of the Secretary, created the Indian Arts and Crafts Board, DOI-24, system of records to assist the Department of the Interior’s Indian Arts and Crafts Board (IACB) in overseeing the implementation of the Indian Arts and Crafts Act of 1990, as amended. The purposes of this system of records include documenting investigations, including investigations by DOI law enforcement, of individuals or organizations that offer or display for sale or sell any good, with or without a Government trademark, in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian tribe or Indian arts and crafts organization within the United States. Additionally, the system helps the IACB manage its program activities, promote the economic development of American Indians and Alaska Natives of Federally recognized tribes through the expansion of the Indian arts and crafts market; provide promotional opportunities, general business advice, and information on the Indian Arts and Crafts Act to Native American artists, craftspeople, businesses, museums, and cultural centers of Federally recognized tribes; manage museum exhibitions and activities; and produce a source directory of American Indian and Alaska Native owned and operated arts and crafts businesses.

In this notice of proposed rulemaking, the Department of the Interior is proposing to exempt the Indian Arts and Crafts Board system of records from certain provisions of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2) because of criminal, civil, and administrative law enforcement requirements.

Under 5 U.S.C. 552a(k)(2), the head of a Federal agency may promulgate rules to exempt a system of records from certain provisions of 5 U.S.C. 552a if the system of records is “investigatory material compiled for law enforcement purposes

Because this system of records contains investigatory material compiled for law enforcement purposes within the provisions of 5 U.S.C. 552a(k)(2), the Department of the Interior proposes to exempt the Indian Arts and Crafts Board system of records from the following provisions: 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G) through (e)(4)(I), and (f). Where a release would not interfere with or adversely affect law enforcement activities, including but not limited to revealing sensitive information or compromising confidential sources, the exemption may be waived on a case-by-case basis. Exemptions from these particular subsections are justified for the following reasons:

1. 5 U.S.C. 552a(c)(3). This section requires an agency to make the accounting of each disclosure of records required by the Privacy Act available upon request to the individual named in the record. Release of the accounting of disclosures could alert the subjects of an investigation to the existence of the investigation and the fact that they are subjects of the investigation. The release of such information to the subjects of an investigation would provide them with significant information concerning the nature of the investigation, and could seriously impede or compromise the investigation; endanger the physical safety of confidential sources, witnesses and their families; and lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony.

2. 5 U.S.C. 552a(d); (e)(4)(G) and (e)(4)(H); and (f). These sections require an agency to provide notice and disclosure to individuals that a system contains records pertaining to the individual, as well as providing rights of access and amendment. Granting access to investigatory records in the Indian Arts and Crafts Board system of records could inform the subject of an investigation of the existence of that investigation, the nature and scope of the information and evidence obtained, the identity of confidential sources,

witnesses, and law enforcement personnel, and could provide information to enable the subject to avoid detection or apprehension. Granting access to such information could seriously impede or compromise an investigation; endanger the physical safety of confidential sources, witnesses, and law enforcement personnel, as well as their families; lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony; and disclose investigative techniques and procedures. In addition, granting access to such information could disclose security-sensitive, or confidential information and could constitute an unwarranted invasion of the personal privacy of others.

3. 5 U.S.C. 552a(e)(1). This section requires the agency to maintain information about an individual only to the extent that such information is relevant or necessary. The application of this provision could impair investigations and law enforcement, because it is not always possible to determine the relevance or necessity of specific information in the early stages of an investigation. Relevance and necessity are often questions of judgment and timing, and it is often only after the information is evaluated that the relevance and necessity of such information can be established. In addition, during the course of the investigation, the investigator may obtain information which is incidental to the main purpose of the investigation, but which may relate to matters under the investigative jurisdiction of another agency. Such information cannot always be readily segregated. Furthermore, during the course of the investigation, an investigator may obtain information concerning the violation of laws outside the scope of the investigator’s jurisdiction. In the interest of effective law enforcement, DOI investigators should retain this information, since it could aid in establishing patterns of criminal activity and provide valuable leads for other law enforcement agencies.

4. 5 U.S.C. 552a(e)(4)(I). This section requires an agency to provide public notice of the categories of sources of records in the system. To the extent this provision is construed to require more detailed disclosure than the broad, generic information currently published in the systems of records notice, an exemption from this provision is necessary to protect the confidentiality of sources of information, and to protect the privacy and physical safety of witnesses and informants.

## Procedural Requirements

### 1. Regulatory Planning and Review (E.O. 12866)

The Office of Management and Budget (OMB) has determined that this rule is not a significant rule and has not reviewed it under the requirements of Executive Order 12866. We have evaluated the impacts of the rule as required by E.O. 12866 and have determined that it does not meet the criteria for a significant regulatory action. The results of our evaluation are given below.

(a) This rule will not have an annual effect of \$100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities.

(b) This rule would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(c) This rule does not alter the budgetary effects of entitlements, grants, user fees, concessions, loan programs, water contracts, management agreements, or the rights and obligations of their recipients.

(d) This rule does not raise any novel legal or policy issues.

### 2. Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*). This rule does not impose a requirement for small businesses to report or keep records on any of the requirements contained in this rule. The exemptions to the Privacy Act apply to individuals, and individuals are not covered entities under the Regulatory Flexibility Act.

### 3. Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Does not have an annual effect on the economy of \$100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based

enterprises to compete with foreign-based enterprises.

### 4. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments in the aggregate, or on the private sector, of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. This rule makes only minor changes to 43 CFR part 2. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

### 5. Takings (E.O. 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. This rule makes only minor changes to 43 CFR part 2. A takings implication assessment is not required.

### 6. Federalism (E.O. 13132)

In accordance with Executive Order 13132, this rule does not have any federalism implications to warrant the preparation of a Federalism Assessment. The rule is not associated with, nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. A Federalism Assessment is not required.

### 7. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Does not unduly burden the judicial system.

(b) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(c) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

### 8. Consultation With Indian Tribes (E.O. 13175)

In accordance with Executive Order 13175, the Department of the Interior has evaluated this rule and determined that it would have no substantial effects on Federally recognized Indian tribes.

### 9. Paperwork Reduction Act

This rule does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required.

### 10. National Environmental Policy Act

This rule does not constitute a major Federal action and would not have a significant effect on the quality of the human environment. Therefore, this rule does not require the preparation of an environmental assessment or environmental impact statement under the requirements of the National Environmental Policy Act of 1969.

### 11. Data Quality Act

In developing this rule, there was no need to conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106-554).

### 12. Effects on Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

### 13. Clarity of This Regulation

We are required by Executive Order 12866 and 12988, the Plain Writing Act of 2010 (H.R. 946), and the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means each rule we publish must:

- Be logically organized;
- Use the active voice to address readers directly;
- Use clear language rather than jargon;
- Be divided into short sections and sentences; and
- Use lists and table wherever possible.

### List of Subjects in 43 CFR Part 2

Administrative practice and procedure, Confidential information, Courts, Freedom of Information Act, Privacy Act.

Dated: April 15, 2015.

**Kristen J. Sarri,**

Principal Deputy Assistant Secretary for Policy, Management and Budget.

For the reasons stated in the preamble, the Department of the Interior proposes to amend 43 CFR part 2 as follows:

## PART 2—FREEDOM OF INFORMATION ACT; RECORDS AND TESTIMONY

- 1. The authority citation for part 2 continues to read as follows:

**Authority:** 5 U.S.C. 301, 552, 552a, 553; 31 U.S.C. 3717; 43 U.S.C. 1460, 1461.

- 2. Amend § 2.254 by adding paragraph (b)(17) to read as follows:

### § 2.254 Exemptions.

\* \* \* \* \*

(b) \* \* \*

(17) Indian Arts and Crafts Board, DOI-24.

\* \* \* \* \*

[FR Doc. 2015-11686 Filed 5-13-15; 8:45 am]

BILLING CODE 4334-12-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 1

[WC Docket No. 07-245, GN Docket No. 09-51; DA 15-542]

#### Parties Asked To Refresh Record Regarding Petition to Reconsideration Cost Allocators Used To Calculate the Telecom Rate for Pole Attachments

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Wireline Competition Bureau (Bureau) seeks to refresh the record on a petition for reconsideration or clarification filed by the National Cable and Telecommunications Association (NCTA), COMPTEL, and tw telecom inc. (Petitioners) in the above-referenced proceedings. Petitioners request that “the rules be clarified or amended by specifying [that] the cost allocator to be applied [will be] based on the number of attaching entities.”

**DATES:** Comments are due on or before June 4, 2015 and reply comments are due on or before June 15, 2015.

**ADDRESSES:** You may submit comments, identified by WC Docket No. 07-245 and GN Docket No. 09-51, by any of the following methods:

- *Federal Communications Commission’s Web site: <http://fjallfoss.fcc.gov/ecfs2/>.* Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Jonathan Reel, Wireline Competition Bureau, Competition Policy Division, (202) 418-0637, or send an email to [johnathan.reel@fcc.gov](mailto:johnathan.reel@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission’s document in WC Docket No. 07-245, GN Docket Nos. 09-51; DA 15-542

released on May 6, 2015. It is available on the Commission’s Web site at <http://www.fcc.gov>.

#### I. Public Notice

1. By this document, the Wireline Competition Bureau (Bureau) seeks to refresh the record on a petition for reconsideration or clarification filed by the National Cable and Telecommunications Association (NCTA), COMPTEL, and tw telecom inc. (Petitioners) on June 8, 2011 in the above-referenced proceedings.

2. With respect to the rule concerning the calculation of pole attachment rates charged to telecommunications providers pursuant to section 224(e) of the Communications Act, Petitioners request that “the rules be clarified or amended by specifying [that] the cost allocator to be applied [will be] based on the number of attaching entities.” In support of this request, Petitioners state that, in the *2011 Pole Attachment Order*, “the new formula adjusts the cost basis to 66 percent in urban service areas and to 44 percent in rural service areas. When paired with the presumptions that there are five entities on urban poles and three entities on rural poles, the illustrative calculation almost exactly equals the cable rate.” Petitioners assert, however, that as written the rule may be read to address only the cases of the presumed three and five attaching entities. Therefore, Petitioners request that the Commission clarify or expand the telecom rate formula to “provide the corresponding cost adjustments scaled to other entity counts.” Petitioners request, alternatively, that “the Commission could adopt the proposal in the *2010 Pole Attachment FNPRM* to establish the maximum just and reasonable rate as the higher of the cable rate . . . or the ‘lower bound’ telecom rate obtained by excluding capital costs from the definition of ‘cost of providing space’ in the existing telecom rate formula.”

3. A Public Notice released on June 20, 2011 announced the comment cycle for the Petition. The Commission subsequently published that document *A National Broadband Plan For Our Future; Petition for Reconsideration*, 76 FR 44495, July 26, 2011. The Commission received comment both for and against the Petition.

4. After the close of the comment cycle concerning the Petition, on February 26, 2013, the U.S. Court of Appeals for the DC Circuit upheld the *2011 Pole Attachment Order*, including the Commission’s rule for calculating the pole attachment rate for providers of telecommunications services. Among other things, the Court determined that

the term “cost,” as used in section 224(e), is open to a wide range of reasonable interpretations; that the Commission’s methodology for apportioning “cost” among pole attaches for purposes of the telecom rate is consistent with section 224(e); and that the Commission’s justifications for its decision concerning the telecom rate were reasonable. In addition, the Commission’s 2015 *Open Internet Order* discussed the concern raised in the Petition regarding consequences to the goals of the *2011 Pole Attachment Order* if the cost allocation rule were interpreted to apply fully only in instances where there are three and five attaching entities. With regard to any possible adverse effect on investment incentives from such an interpretation, the *Open Internet Order* stated that the Commission would be “concerned by any potential undermining of the gains the Commission achieved by revising the pole attachment rates paid by telecommunications carriers” in 2011 and accordingly would be “monitoring marketplace developments . . . and can and will promptly take further action in that regard if warranted.” Given the time that has elapsed since the filing and original comment cycle on the NCTA Petition, as well as the subsequent events discussed above, we seek to ensure that the record reflects current viewpoints on the issues raised in the NCTA Petition.

#### II. Procedural Matters

##### A. Accessible Formats

5. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty). Contact the FCC to request reasonable accommodations for filing comments (accessible format documents, sign language interpreters, CARTS, etc.) by email: [FCC504@fcc.gov](mailto:FCC504@fcc.gov); phone: (202) 418-0530 (voice), (202) 418-0432 (TTY).

##### B. Filing Requirements

6. **Ex Parte Rules.** This proceeding continues to be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte*