

## Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect 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.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a “significant regulatory action” under Executive Order 12866,

(2) Would not affect intrastate aviation in Alaska, and

(3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

## List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

## The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

### PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

**Airbus Helicopters:** Docket No. FAA–2024–0038; Project Identifier MCAI–2023–00645–R.

#### (a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by March 18, 2024.

#### (b) Affected ADs

None.

#### (c) Applicability

This AD applies to all Airbus Helicopters Model SA–365N, SA–365N1, AS–365N2, and AS 365 N3 helicopters, certificated in any category.

#### (d) Subject

Joint Aircraft System Component (JASC) Code 6720, Tail Rotor Control System.

#### (e) Unsafe Condition

This AD was prompted by a report of an obstructed tail rotor (TR) pedal control that was blocked during flight. The FAA is

issuing this AD to detect and address interference of the tail rotor pedal control. The unsafe condition, if not addressed, could result in loss of yaw control of the helicopter.

#### (f) Compliance

Comply with this AD within the compliance times specified, unless already done.

#### (g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2023–0090, dated May 4, 2023 (EASA AD 2023–0090).

#### (h) Exceptions to EASA AD 2023–0090

(1) Where paragraph (1) of EASA AD 2023–0090 requires compliance within 165 flight hours, this AD requires accomplishing paragraph (1) of EASA AD 2023–0090 within 100 hours time-in-service.

(2) Where EASA AD 2023–0090 refers to its effective date, this AD requires using the effective date of this AD.

(3) Where the service information referenced in EASA AD 2023–0090 specifies discarding parts, this AD requires removing those parts from service.

(4) This AD does not adopt the “Remarks” section of EASA AD 2023–0090.

#### (i) No Reporting Requirement

Although the service information referenced in EASA AD 2023–0090 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

#### (j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to: [9-AVS-AIR-730-AMOC@faa.gov](mailto:9-AVS-AIR-730-AMOC@faa.gov).

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

#### (k) Related Information

For more information about this AD, contact Dan McCully, Program Manager, International Validation Branch, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; phone: (404) 474–5548; email: [william.mccully@faa.gov](mailto:william.mccully@faa.gov).

#### (l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2023–0090, dated May 4, 2023.

(ii) [Reserved]

(3) For EASA AD 2023–0090 identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); internet [easa.europa.eu](http://easa.europa.eu). You may find the EASA material on the EASA website at [ad.easa.europa.eu](http://ad.easa.europa.eu).

(4) You may view this service information at the FAA Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit [www.archives.gov/federal-register/cfr/ibr-locations](http://www.archives.gov/federal-register/cfr/ibr-locations) or email [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov).

Issued on January 24, 2024.

**Victor Wicklund,**

*Deputy Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2024–01754 Filed 2–1–24; 8:45 am]

**BILLING CODE 4910–13–P**

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 146

RIN 3038–AF22

### Privacy Act Regulations

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Commodity Futures Trading Commission (CFTC or Commission) proposes to update its regulations regarding exemptions for certain systems of records from one or more provisions of the Privacy Act of 1974 (Privacy Act). The Commission proposes to revise these regulations to specifically identify the systems of records currently included in the regulation that the Commission is exempting, additional systems of records that the Commission intends to exempt, and the sections of the Privacy Act from which the Commission is exempting each system of records, and the reasons therefor, in order to better conform to the requirements of the Privacy Act and the guidance contained in Office of Management and Budget (OMB) Circular A–108, *Federal Agency Responsibilities for Review, Reporting, and Publication Under the Privacy Act* (OMB A–108). The Commission also proposes to reorganize the regulations for ease of reference.

**DATES:** Please submit comments on or before March 4, 2024.

**ADDRESSES:** You may submit comments identified as pertaining to “Privacy Act Regulations” by any of the following methods:

- *CFTC Comments Portal:* <https://comments.cftc.gov>. Select the “Submit Comments” link for this rulemaking and follow the instructions on the Public Comment Form.

- *Mail:* Send to Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

- *Hand Delivery/Courier:* Follow the same instructions as for Mail, above.

Please submit your comments using only one of these methods. To avoid possible delays with mail or in-person deliveries, submissions through the CFTC Comments Portal are encouraged.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to [www.cftc.gov](http://www.cftc.gov). You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that may be exempt from disclosure under the Freedom of Information Act (FOIA), 5 U.S.C. 552, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in the Commission’s regulations at 17 CFR 145.9.

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse, or remove any or all of a submission from [www.cftc.gov](http://www.cftc.gov) that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the notice will be retained in the comment file and will be considered as required under the Administrative Procedure Act (APA), and may be accessible under FOIA.

**FOR FURTHER INFORMATION CONTACT:** Kellie Cosgrove Riley, Chief Privacy Officer, [privacy@cftc.gov](mailto:privacy@cftc.gov), 202–418–5610, Office of the General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

**SUPPLEMENTARY INFORMATION:**

## I. Background

### A. The Privacy Act

The Privacy Act of 1974<sup>1</sup> establishes a code of fair information practice principles that govern Federal agencies’ collection, maintenance, use, and dissemination of an individual’s personal information. The Privacy Act applies to information that is maintained in a “system of records,” defined as a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.<sup>2</sup>

In addition to establishing a code of fair information practice principles, the Privacy Act restricts disclosure of records containing personal information that an agency maintains.<sup>3</sup> The Privacy Act also grants individuals an increased right of access to records maintained about themselves as well as the right to request amendment of those records upon a showing that they are not accurate, relevant, timely, or complete.<sup>4</sup>

### B. Privacy Act Exemptions

The Privacy Act permits agencies, where certain requirements are met and subject to limitations set forth in the Privacy Act, to specifically exempt systems of records from certain provisions of the Privacy Act, mainly pertaining to the Privacy Act’s provisions permitting individuals to access and request amendment of their records.<sup>5</sup> In order to claim an exemption, however, the agency must engage in a rulemaking process pursuant to the APA<sup>6</sup> and make clear to the public why particular exemptions are being invoked.<sup>7</sup>

Part 146 of the Commission’s regulations,<sup>8</sup> entitled “Records Maintained on Individuals,” contains the rules of the Commission implementing the Privacy Act. Commission regulations §§ 146.12 and 146.13 (together, Privacy Act regulations) currently assert exemptions for certain of the Commission’s systems of records that contain records related to the Commission’s investigatory mission and personnel security obligations. After reviewing those regulations, the Commission has preliminarily determined that the current Privacy Act regulations do not include all of the

systems of records for which the Commission would, in fact, assert exemptions, and those systems of records that are currently referenced are not clearly identified with each system of records’ number and accurate title. The Commission has also preliminarily determined to add more specificity regarding the rationale for exempting each of the systems of records in order to better demonstrate the Commission’s compliance with subsections (j) and (k) of the Privacy Act<sup>9</sup> and the corresponding guidance in OMB Circular A–108.<sup>10</sup> OMB A–108, issued in 2016, provides that, at minimum, an agency’s Privacy Act exemption regulations shall include the specific name of any systems of records that will be exempt pursuant to the regulations, the specific provisions of the Privacy Act from which the systems of records will be exempt and the reasons therefor, and an explanation of why the exemption is necessary and appropriate.<sup>11</sup> Accordingly, the Commission proposes to replace current § 146.12 of the Commission’s regulations with a more detailed provision that would more specifically identify all of the systems of records it proposes to exempt, the specific provisions of the Privacy Act from which each system of records is being exempted, and the reasons why the Commission is adopting those exemptions. Moreover, the Commission has preliminarily concluded that a separate Privacy Act regulation § 146.13 for exemptions taken for an Office of the Inspector General (OIG) system of records is not required by the Privacy Act or OMB guidance. Accordingly, the Commission proposes to remove current Commission regulation § 146.13 and add the OIG exemptions to proposed Commission regulation § 146.12, with revisions to the content as explained below.

### C. Specific Exempted Systems of Records

#### 1. CFTC–1 Enforcement Matter Register and Matter Indices (CFTC–1)

CFTC–1 contains an index and registry of enforcement investigations. This system of records is not currently identified in Commission regulation § 146.12 as a system of records that the Commission has exempted. The Commission is proposing to exempt this system of records because the records

<sup>1</sup> 5 U.S.C. 552a.

<sup>2</sup> 5 U.S.C. 552a(a)(5).

<sup>3</sup> 5 U.S.C. 552a(b).

<sup>4</sup> 5 U.S.C. 552a(d).

<sup>5</sup> 5 U.S.C. 552a(j) and (k).

<sup>6</sup> 5 U.S.C. 553.

<sup>7</sup> 5 U.S.C. 552a(j) and (k).

<sup>8</sup> 17 CFR 146.

<sup>9</sup> 5 U.S.C. 552a(j) and (k).

<sup>10</sup> OMB A–108, available at [https://www.whitehouse.gov/wp-content/uploads/legacy\\_drupal\\_files/omb/circulars/A108/omb\\_circular\\_a-108.pdf](https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/circulars/A108/omb_circular_a-108.pdf), at page 25.

<sup>11</sup> OMB A–108 at page 25.

are compiled for law enforcement purposes and must be protected from disclosure in order to maintain the integrity of the investigative process and not provide to any individual an opportunity to access records and compromise that process, such as through the destruction of evidence, interference with witnesses, or otherwise. In addition, the Commission is proposing to exempt this system of records in order to keep confidential the identity of sources who provided information to the Commission during the course of the investigation under an express promise that their identities would remain confidential. If an individual can access the identities of confidential sources, those sources may be unwilling to provide information that the Commission needs for its law enforcement activities. Specifically, the Commission is proposing to exempt CFTC–1, pursuant to subsection (k)(2) of the Privacy Act<sup>12</sup> and subject to the requirements and limitations set forth therein, from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d)(1), (2), (3), and (4); (e)(1); (e)(4)(G), (H), and (I); and (f).

#### Request for Comment

The Commission requests comment on the justification for and scope of the proposed CFTC–1 exemptions.

#### 2. CFTC–10 Investigatory Records (CFTC–10)

CFTC–10 contains records compiled for law enforcement purposes, including records developed during an investigation of violations or potential violations of the Commodity Exchange Act.<sup>13</sup> This system of records is included in the current Commission regulation § 146.12 but is identified as “Exempted Investigatory Records” and the exemptions identified in the current regulation lack the specificity that the Commission is proposing to include in new regulation § 146.12. The Commission is proposing to identify this system of records by its proper title and number and set forth the specific reasons for which it is being exempted from particular provisions of the Privacy Act. To that end, the Commission is proposing to explain in revised Commission regulation § 146.12 that this system of records is being exempted because the records must be protected from disclosure in order to maintain the integrity of the investigative process and not provide an individual an opportunity to access records and compromise that process, such as

through the destruction of evidence, interference with witnesses, or otherwise. In addition, the Commission is proposing to exempt this system of records in order to keep confidential the identity of sources who provided information to the Commission during the course of the investigation under an express promise that their identities would remain confidential. If an individual can access the identities of confidential sources, those sources may be unwilling to provide information that the Commission needs for its law enforcement activities. Specifically, the Commission is proposing to exempt CFTC–10, pursuant to subsection (k)(2) of the Privacy Act<sup>14</sup> and subject to the requirements and limitations set forth therein, from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d)(1), (2), (3), and (4); (e)(1); (e)(4)(G), (H), and (I); and (f).

#### Request for Comment

The Commission requests comment on the justification for and scope of the CFTC–10 exemptions.

#### 3. CFTC–12 National Futures Association (NFA) Applications Suite System (CFTC–12)

CFTC–12 contains records held by NFA on behalf of the Commission by delegated authority to support the Commission’s registration and other regulatory authority. These records include records pertaining to the fitness of individuals to be registered with the Commission and engage in business activities that are subject to the Commission’s jurisdiction and records pertaining to disciplinary or other adverse action investigated or taken with respect to individual registrants. This system of records is not currently identified in Commission regulation § 146.12 as a system of records that the Commission has exempted. The Commission is proposing to exempt this system of records because to the extent the records pertaining to individuals that NFA holds on behalf of the Commission are investigatory records compiled for law enforcement purposes, they must be protected from disclosure in order to maintain the integrity of the investigative process and not provide to any individual an opportunity to access records and compromise that process, such as through the destruction of evidence, interference with witnesses, or otherwise. In addition, the Commission is proposing to exempt this system of records in order to keep confidential the identity of sources who provided information to NFA acting on

behalf of the Commission during the course of the investigation under an express promise that their identities would remain confidential. If an individual can access the identities of confidential sources, those sources may be unwilling to provide information that the Commission needs for its law enforcement activities. Specifically, the Commission is proposing to exempt CFTC–12, pursuant to subsection (k)(2) of the Privacy Act<sup>15</sup> and subject to the requirements and limitations set forth therein, from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d)(1), (2), (3), and (4); (e)(1); (e)(4)(G), (H), and (I); and (f).

#### Request for Comment

The Commission requests comment on the justification for and scope of the CFTC–12 exemptions.

#### 4. CFTC–31 Closed Commission Meetings (CFTC–31)

CFTC–31 contains records about individuals who are the subject of discussion at closed Commission meetings, including those who are the subject of investigations or who are being considered for employment. This system of records is included in the current Commission regulation § 146.12 but identified as “Exempted Closed Commission Meetings” and the exemptions identified in the current regulation lack the specificity that the Commission is proposing to include in new regulation § 146.12. The Commission is proposing to identify this system of records by its proper title and number and to set forth the specific reasons for which it is being exempted from particular provisions of the Privacy Act. To that end, to the extent the records in this system of records pertain to law enforcement investigations, the Commission is proposing to exempt this system of records because the records must be protected from disclosure in order to maintain the integrity of the investigative process and not to provide to any individual an opportunity to compromise that process, such as through the destruction of evidence, interference with witnesses, or otherwise. In addition, the Commission is proposing to exempt this system of records in order to keep confidential the identity of sources who provided information to the Commission during the course of the investigation under an express promise that their identities would remain confidential. If an individual can access the identities of confidential sources, those sources may be unwilling to provide information that

<sup>12</sup> 5 U.S.C. 552a(k)(2).

<sup>13</sup> 7 U.S.C. 1 *et seq.*

<sup>14</sup> 5 U.S.C. 552a(k)(2).

<sup>15</sup> 5 U.S.C. 552a(k)(2).

the Commission needs for its law enforcement activities. Finally, to the extent records in this system of records are compiled solely for the purpose of determining the suitability, eligibility, or qualifications of an individual who is being considered for employment with the Commission, the Commission is proposing to exempt this system of records where the disclosure of records would reveal the identity of somebody who provided information in the context of the Commission's determination and who had expressly requested that their identity remain confidential. The Commission has preliminarily determined that such an exemption is necessary in order to obtain information relevant to its eligibility determinations. Accordingly, the Commission is proposing to exempt CFTC-31, pursuant to subsections (k)(2) and (k)(5) of the Privacy Act<sup>16</sup> and subject to the requirements and limitations set forth therein, from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d)(1), (2), (3), and (4); (e)(1); (e)(4)(G), (H), and (I); and (f).

#### Request for Comment

The Commission requests comment on the justification for and scope of the CFTC-31 exemptions.

#### 5. CFTC-32 Office of the Inspector General Investigative Files (CFTC-32)

CFTC-32 contains records relevant to criminal and civil investigations conducted by the Office of the Inspector General (OIG). This system of records is included in the current Commission regulation § 146.13 with exemptions promulgated pursuant to subsections (j)(2) and (k)(2) of the Privacy Act, the former for records related to the OIG's criminal law enforcement activities and the latter for investigatory records compiled for law enforcement purposes not within the scope of subsection (j)(2). The Commission has preliminarily concluded that a separate Privacy Act regulation § 146.13 for exemptions taken for this OIG system of records is not required by the Privacy Act or OMB guidance. Accordingly, the Commission, after consultation with the OIG, proposes to remove current Commission regulation § 146.13 and incorporate the exemptions from CFTC-32 into proposed Commission regulation § 146.12. Moreover, the Commission is proposing to set forth the specific reasons for which this system of records is being exempted from particular provisions of the Privacy Act. To that end, the Commission is proposing to explain in revised Commission regulation § 146.12

that this system of records is being exempted because the records must be protected from disclosure in order to maintain the integrity of the investigative process and not provide to any individual an opportunity to access records and compromise that process, such as through the destruction of evidence, interference with witnesses, or otherwise. In addition, the Commission is proposing to exempt this system of records in order to keep confidential the identity of sources who provided information to the Commission during the course of the investigation under an express promise that their identities would remain confidential. If an individual can access the identities of confidential sources, those sources may be unwilling to provide information that the Commission needs for its law enforcement activities, federal employee and contractor witnesses may risk retaliation in the federal workplace, and any witness may risk witness interference tactics including threats, harassment, and physical and emotional harm. Specifically, the Commission is proposing to exempt this system of records, pursuant to subsection (j)(2) of the Privacy Act<sup>17</sup> and subject to the requirements and limitations set forth therein, from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3) and (4); (d)(1), (2), (3), and (4); (e)(1), (2), (3), (4)(G)-(I), (5), and (8); (f); and (g). In addition, the Commission is proposing to exempt this system of records, pursuant to subsection (k)(2) of the Privacy Act<sup>18</sup> and subject to the requirements and limitations set forth therein, from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d)(1), (2), (3), and (4); (e)(1); (e)(4)(G), (H), and (I); and (f).

#### Request for Comment

The Commission requests comment on the justification for and scope of the CFTC-32 exemptions. The Commission also requests comment on whether the CFTC-32 exemptions should be included in proposed Commission regulation § 146.12 or remain in separate Commission regulation § 146.13.

#### 6. CFTC-44 Personnel Clearance System (CFTC-44)

CFTC-44 contains records related to the background investigations and security clearances of individuals who have been or are being considered for access to Commission facilities, information technology systems, and

classified or confidential information. These records may include statements from individuals who have provided information in the course of a background investigation and have requested that their identity remain confidential, and records that constitute investigatory materials compiled for law enforcement purposes. This system of records is identified in current regulation § 146.12 by its predecessor name, "Exempted Employee Background Investigation Material," and the current regulation exempts the system of records only pursuant to subsection (k)(5) of the Privacy Act. The Commission is proposing to identify this system of records by its proper title and number and to set forth the specific reasons for which it is being exempted from particular provisions of the Privacy Act pursuant to both subsection (k)(2) and (k)(5) of the Privacy Act.<sup>19</sup> To that end, to the extent records in this system of records are compiled solely for the purpose of determining an individual's suitability, eligibility, or qualifications for employment with the Commission, the Commission is proposing to explain in the revised Commission regulation § 146.12 that this system of records is exempt where the disclosure of records would reveal the identity of somebody who provided information in the context of the Commission's determination and who had expressly requested that their identity remain confidential in order to maintain the promised confidentiality and enable the Commission to obtain information relevant to its eligibility determinations. In addition, to the extent records in this system of records pertain to law enforcement investigations, the Commission is proposing to exempt this system of records because the records must be protected from disclosure in order to maintain the integrity of the investigative process and not provide to any individual the opportunity to compromise that process, such as through the destruction of evidence, interference with witnesses, or otherwise. The Commission is also proposing to exempt this system of records in order to keep confidential the identity of sources who provided information to the Commission during the course of the investigation under an express promise that their identities would remain confidential. If an individual can access the identities of confidential sources, those sources may be unwilling to provide information that the Commission needs for its law enforcement activities. Specifically, the Commission is proposing to exempt this

<sup>16</sup> 5 U.S.C. 552a(k)(2) and (k)(5), respectively.

<sup>17</sup> 5 U.S.C. 552a(j)(2).

<sup>18</sup> 5 U.S.C. 552a(k)(2).

<sup>19</sup> 5 U.S.C. 552a(k)(2) and (k)(5).

system of records, pursuant to subsections (k)(2) and (k)(5) of the Privacy Act<sup>20</sup> and subject to the requirements and limitations set forth therein, from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d)(1), (2), (3), and (4); (e)(1); (e)(4)(G), (H), and (I); and (f).

#### Request for Comment

The Commission requests comment on the justification for and scope of the CFTC–44 exemptions.

#### 7. CFTC–49 Whistleblower Records (CFTC–49)

CFTC–49 contains records related to whistleblower tips, complaints and referrals, records related to investigations and inquiries into whistleblower complaints, and records related to the whistleblower award claim and determination process. This system of records is not currently identified in Commission regulation § 146.12 as a system of records that the Commission has exempted. The Commission is proposing to exempt this system of records because the records are compiled for law enforcement purposes and must be protected from disclosure in order to maintain the integrity of the whistleblower process and not provide to any individual an opportunity to access records and compromise an investigation, such as through the destruction of evidence, interference with witnesses, or otherwise. In addition, the Commission is proposing to exempt this system of records in order to keep confidential the identity of sources who provided information during the course of the investigation under an express promise that their identities would remain confidential. If an individual can access the identities of confidential sources, those sources may be unwilling to provide information that the Commission needs to investigate whistleblower tips, complaints, and referrals. Specifically, the Commission proposes to exempt this system of records, pursuant to subsection (k)(2) of the Privacy Act<sup>21</sup> and subject to the requirements and limitations set forth therein, from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d)(1), (2), (3), and (4); (e)(1); (e)(4)(G), (H), and (I); and (f).

#### Request for Comment

The Commission requests comment on the justification for and scope of the CFTC–49 exemptions.

## II. Related Matters

### A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires federal agencies to consider whether the rules they propose will have a significant economic impact on a substantial number of small entities and, if so, to provide a regulatory flexibility analysis regarding the economic impact on those entities.<sup>22</sup>

The proposed regulations, issued under the Privacy Act, exempt certain systems of records maintained by the Commission from certain provisions of the Privacy Act, primarily those provisions related to an individual's right to access and seek amendment of those records. Individuals are defined in the Privacy Act as United States citizens or aliens lawfully admitted to the United States for permanent residence.<sup>23</sup> Small entities, as defined in the RFA, are not individuals under the Privacy Act and are not provided rights thereunder; therefore, small entities are outside the scope of the proposed regulations. Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b), that this proposed rule will not have a significant economic impact on a substantial number of small entities.

### B. Paperwork Reduction Act

The Paperwork Reduction Act (PRA) imposes certain requirements on federal agencies in connection with their conducting or sponsoring any collection of information.<sup>24</sup> The Commission may not conduct or sponsor, and a respondent is not required to respond to, a request for collection of information unless the information collection request displays a currently valid control number issued by OMB. This proposed rule does not contain a "collection of information," as defined in the PRA. Accordingly, the requirements imposed by the PRA are not applicable to this proposed rule.

### C. Cost-Benefit Considerations

Section 15(a) of the Commodity Exchange Act (CEA) provides that, before promulgating a regulation under the CEA or issuing an order, the Commission shall consider the costs and benefits of the action of the Commission.<sup>25</sup> Section 15(a) further specifies that the costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) protection of market participants and

the public; (2) efficiency, competitiveness, and financial integrity of the futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations.<sup>26</sup> The proposed rules are being promulgated under the Privacy Act and pertain to the rights of individuals with respect to records the Commission maintains about them. The proposed rules are not being promulgated under the CEA. Therefore, the Commission preliminarily finds that the considerations enumerated in section 15(a)(2) of the CEA are not applicable here.

#### Request for Comment

The Commission requests comment on whether its preliminary finding is correct.

### D. Antitrust Considerations

Section 15(b) of the CEA requires the Commission to take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the purposes of the CEA, in issuing any order or adopting any Commission rule or regulation (including any exemption under section 4(c) or 4c(b)), or in requiring or approving any bylaw, rule, or regulation of a contract market or registered futures association established pursuant to section 17 of the CEA.<sup>27</sup> The Commission believes that the public interest to be protected by the antitrust laws is generally to protect competition. The Commission has considered the proposed rule to determine whether it is anticompetitive and has preliminarily identified no anticompetitive effects.

Because the Commission has preliminarily determined that the proposed rule is not anticompetitive and has no anticompetitive effects, the Commission has not identified any less anticompetitive means of achieving the purposes of the Act.

#### Request for Comment

The Commission requests comment on whether the proposed rule is anticompetitive and, if it is, what the anticompetitive effects are and whether there are less anticompetitive means of achieving the relevant purposes of the Act that would otherwise be served by adopting the proposed rule. The Commission also requests comment on whether the proposed rule implicates any other specific public interest to be protected by the antitrust laws.

<sup>22</sup> 5 U.S.C. 601 *et seq.*

<sup>23</sup> 5 U.S.C. 552a(a)(2).

<sup>24</sup> 5 U.S.C. 3501 *et seq.*

<sup>25</sup> 7 U.S.C. 19(a).

<sup>26</sup> 7 U.S.C. 19(a)(2).

<sup>27</sup> 7 U.S.C. 19(b).

<sup>20</sup> 5 U.S.C. 552a(k)(2) and (k)(5).

<sup>21</sup> 5 U.S.C. 552a(k)(2).

**List of Subjects in 17 CFR Part 146**

Privacy.

For the reasons stated in the preamble, the Commodity Futures Trading Commission proposes to amend 17 CFR part 146 as follows:

**PART 146—RECORDS MAINTAINED ON INDIVIDUALS**

- 1. The authority citation for part 146 continues to read as follows:

**Authority:** 88 Stat. 1896 (5 U.S.C. 552a), as amended; 88 Stat. 1389 (7 U.S.C. 4a(j)).

- 2. Revise § 146.12 to read as follows:

**§ 146.12 Exemptions.**

The Commission is exempting from certain provisions of the Privacy Act the systems of records set forth in this section. In addition, when these systems of records and any other of the Commission's systems of records maintain a record received from another system of records that is exempted from one or more provisions of the Privacy Act, the Commission will claim the same exemptions for that record that are claimed for the system of records from which it originated.

(a) *CFTC-1 Enforcement Matter Register and Matter Indices.* The system of records identified as CFTC-1 Enforcement Matter Register and Matter Indices contains an index and registry of enforcement investigations. Pursuant to 5 U.S.C. 552a(k)(2) and subject to the requirements and limitations set forth therein, the Commission is exempting this system of records from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d)(1), (2), (3), and (4); (e)(1); (e)(4)(G), (H), and (I); and (f), and from the following corresponding sections of this part: 146.3; 146.5; 146.6(d); 146.11(a)(7), (8), and (9); and 146.7(a). Exemptions from these particular subsections of the Privacy Act and sections of this part promulgated thereunder are justified for the following reasons:

(1) From subsection (c)(3) (Accounting of Certain Disclosures), because release of the accounting of certain disclosures could alert the subject of an investigation to the existence and extent of that investigation and reveal the investigative interests of the Commission and the recipient entity. Release of such information to the subject of an investigation could reasonably be anticipated to impede and interfere with the Commission's efforts to identify and investigate unlawful activities.

(2) From subsection (d)(1), (2), (3), and (4) (Access and Amendment),

because individual access to these records could alert the subject of an investigation to the existence and extent of that investigation and reveal the investigative interests of the Commission and others. Providing a subject with access to these records could impair the effectiveness of the Commission's investigations and could significantly impede the investigation by providing the opportunity for the subject to destroy documentary evidence, improperly influence witnesses and confidential sources, fabricate testimony, and engage in other activities that could compromise the investigation. In addition, providing an individual with access to these records may reveal the identity of a source who furnished information under an express promise that their identity would remain confidential. Allowing the subject of the investigation to amend records in this system of records could likewise interfere with ongoing law enforcement proceedings and impose an impossible administrative burden by requiring law enforcement investigations to be continuously reinvestigated.

(3) From subsection (e)(1) (Relevancy and Necessity of Information), because in the course of investigations into potential violations of law, the significance of certain information may not be clear or the information may not be strictly relevant or necessary to a specific investigation; but, effective law enforcement requires the retention of all information that may aid in establishing patterns of unlawful activity and providing investigative leads.

(4) From subsection (e)(4)(G), (H), and (I) (Agency Requirements) and (f) (Agency Rules), because the Commission is not required to establish requirements, rules, or procedures related to access and amendment of records in a system of records that is exempt from the individual access and amendment provisions in subsection (d) of the Privacy Act.

(b) *CFTC-10 Investigatory Records.* The system of records identified as CFTC-10 Investigatory Records contains records compiled for law enforcement purposes, including records developed during an investigation of violations or potential violations of the Commodity Exchange Act. Pursuant to 5 U.S.C. 552a(k)(2) and subject to the requirements and limitations set forth therein, the Commission is exempting this system of records from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d)(1), (2), (3), and (4); (e)(1); (e)(4)(G), (H), and (I); and (f), and from the following corresponding sections of this part: 146.3; 146.5;

146.6(d); 146.11(a)(7), (8), and (9); and 146.7(a). Exemptions from these particular subsections of the Privacy Act and sections of this part promulgated thereunder are justified for the following reasons:

(1) From subsection (c)(3) (Accounting of Certain Disclosures), because release of the accounting of certain disclosures could alert the subject of an investigation to the existence and extent of that investigation and reveal the investigative interests of the Commission and the recipient entity. Release of such information to the subject of an investigation could reasonably be anticipated to impede and interfere with the Commission's efforts to identify and investigate unlawful activities.

(2) From subsection (d)(1), (2), (3), and (4) (Access and Amendment), because individual access to these records could alert the subject of an investigation to the existence and extent of that investigation and reveal the investigative interests of the Commission and others. Providing a subject with access to these records could impair the effectiveness of the Commission's investigations and could significantly impede the investigation by providing the opportunity for the subject to destroy documentary evidence, improperly influence witnesses and confidential sources, fabricate testimony, and engage in other activities that could compromise the investigation. In addition, providing an individual with access to these records may reveal the identity of a source who furnished information under an express promise that their identity would remain confidential. Allowing the subject of the investigation to amend records in this system of records could likewise interfere with ongoing law enforcement proceedings and impose an impossible administrative burden by requiring law enforcement investigations to be continuously reinvestigated.

(3) From subsection (e)(1) (Relevancy and Necessity of Information), because in the course of investigations into potential violations of law, the significance of certain information may not be clear or the information may not be strictly relevant or necessary to a specific investigation; but, effective law enforcement requires the retention of all information that may aid in establishing patterns of unlawful activity and providing investigative leads.

(4) From subsection (e)(4)(G), (H), and (I) (Agency Requirements) and (f) (Agency Rules), because the Commission is not required to establish

requirements, rules, or procedures related to access and amendment of records in a system of records that is exempt from the individual access and amendment provisions in subsection (d) of the Privacy Act.

(c) *CFTC-12 National Futures Association (NFA) Applications Suite System.* The system of records identified as CFTC-12 National Futures Association (NFA) Applications Suite System contains records held by NFA on behalf of the Commission, by delegated authority to support the Commission's registration and other regulatory authority. These records include records pertaining to the fitness of individuals to be registered with the Commission and engage in business activities that are subject to the Commission's jurisdiction and records pertaining to disciplinary or other adverse action investigated or taken with respect to individual registrants. Pursuant to 5 U.S.C. 552a(k)(2) and subject to the requirements and limitations set forth therein, the Commission is exempting this system of records from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d)(1), (2), (3), and (4); (e)(1); (e)(4)(G), (H), and (I); and (f), and from the following corresponding sections of this part: 146.3; 146.5; 146.6(d); 146.11(a)(7), (8), and (9); and 146.7(a). Exemptions from these particular subsections of the Privacy Act are justified for the following reasons:

(1) From subsection (c)(3) (Accounting of Certain Disclosures), because release of accountings of certain disclosures could alert the subject of an investigation to the existence and extent of that investigation and reveal the investigative interests of the Commission and the recipient entity. Release of such information to the subject of an investigation could reasonably be anticipated to impede and interfere with the Commission's efforts to identify and investigate unlawful activities.

(2) From subsection (d)(1), (2), (3), and (4) (Access and Amendment), because individual access to these records could alert the subject of an investigation to the existence and extent of that investigation and reveal the investigative interests of the Commission and others. Providing a subject with access to these records could impair the effectiveness of the Commission's investigations and could significantly impede the investigation by providing the opportunity for the subject to destroy documentary evidence, improperly influence witnesses and confidential sources, fabricate testimony, and engage in other

activities that could compromise the investigation. In addition, providing an individual with access to these records may reveal the identity of a source who furnished information under an express promise that their identity would remain confidential. Allowing the subject of the investigation to amend records in this system of records could likewise interfere with ongoing law enforcement proceedings and impose an impossible administrative burden by requiring law enforcement investigations to be continuously reinvestigated.

(3) From subsection (e)(1) (Relevancy and Necessity of Information), because in the course of investigations into potential violations of law, the significance of certain information may not be clear or the information may not be strictly relevant or necessary to a specific investigation; but, effective law enforcement requires the retention of all information that may aid in establishing patterns of unlawful activity and providing investigative leads.

(4) From subsection (e)(4)(G), (H), and (I) (Agency Requirements) and (f) (Agency Rules), because the Commission is not required to establish requirements, rules, or procedures related to access and amendment of records in a system of records that is exempt from the individual access and amendment provisions in subsection (d) of the Privacy Act.

(d) *CFTC-31 Closed Commission Meetings.* The system of records identified as CFTC-31 Closed Commission Meetings contains records about individuals who are the subject of discussion at closed Commission meetings, including those who are the subject of investigations or who are being considered for employment. These records may include statements from individuals who have provided information in the course of an applicant's or employee's background investigation or other Commission investigation and who have requested that their identities remain confidential. Pursuant to 5 U.S.C. 552a(k)(2) and (k)(5) and subject to the requirements and limitations set forth therein, the Commission is exempting this system of records from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d)(1), (2), (3), and (4); (e)(1); (e)(4)(G), (H), and (I); and (f), and from the following corresponding sections of this part: 146.3; 146.5; 146.6(d); 146.11(a)(7), (8), and (9); and § 146.7(a). Exemptions from these particular subsections of the Privacy Act are justified for the following reasons:

(1) From subsection (c)(3) (Accounting of Certain Disclosures),

because release of the accounting of certain disclosures could alert the subject of an investigation to the existence and extent of that investigation and reveal the investigative interests of the Commission and the recipient entity. Release of such information to the subject of an investigation could reasonably be anticipated to impede and interfere with the Commission's efforts to identify and investigate unlawful activities.

(2) From subsection (d)(1), (2), (3), and (4) (Access and Amendment), because individual access to these records could alert the subject of an investigation to the existence and extent of that investigation and reveal the investigative interests of the Commission and others. Providing a subject with access to these records could impair the effectiveness of the Commission's investigations and could significantly impede the investigation by providing the opportunity for the subject to destroy documentary evidence, improperly influence witnesses and confidential sources, fabricate testimony, and engage in other activities that could compromise the investigation. In addition, providing an individual with access to these records may reveal the identity of a source who furnished information under an express promise that their identity would remain confidential. Allowing the subject of the investigation to amend records in this system of records could likewise interfere with ongoing law enforcement proceedings and impose an impossible administrative burden by requiring law enforcement investigations to be continuously reinvestigated.

(3) From subsection (e)(1) (Relevancy and Necessity of Information), because in the course of investigations into potential violations of law, the significance of certain information may not be clear or the information may not be strictly relevant or necessary to a specific investigation; but, effective law enforcement requires the retention of all information that may aid in establishing patterns of unlawful activity and providing investigative leads.

(4) From subsection (e)(4)(G), (H), and (I) (Agency Requirements) and (f) (Agency Rules), because the Commission is not required to establish requirements, rules, or procedures related to access and amendment of records in a system of records that is exempt from the individual access and amendment provisions in subsection (d) of the Privacy Act.

(e) *CFTC-32, Office of the Inspector General Investigative Files.* The system

of records identified as CFTC–32 Office of the Inspector General Investigative Files contains records relevant to criminal and civil investigations conducted by the Office of the Inspector General, including records about individuals being investigated for fraudulent and abusive activities. Pursuant to 5 U.S.C. 552a(j)(2) and subject to the requirements and limitations set forth therein, the Commission is exempting this system of records from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3) and (4); (d)(1), (2), (3), and (4); (e)(1), (2), (3), (4)(G)–(I), (5), and (8); (f); and (g), and from the following corresponding sections of this part: 146.3; 146.4; 146.5; 146.6(b), (d), and (e); 146.7(a), (c), and (d); 146.8; 146.9; 146.10; and 146.11(a)(7), (8), and (9). In addition, pursuant to 5 U.S.C. 552a(k)(2) and subject to the requirements and limitations set forth therein, the Commission is exempting this system of records from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d)(1), (2), (3), and (4); (e)(1); (e)(4)(G), (H), and (I); and (f), and from the following corresponding sections of this part: 146.3; 146.5; 146.6(d); 146.11(a)(7), (8), and (9); and 146.7(a). Exemptions from these particular subsections of the Privacy Act are justified for the following reasons:

(1) From subsection (c)(3) (Accounting of Certain Disclosures), because release of the accounting of certain disclosures could alert the subject of an investigation to the existence and extent of that investigation and reveal the investigative interests of the Commission and the recipient entity. Release of such information to the subject of an investigation could reasonably be anticipated to impede and interfere with the Commission's efforts to identify and investigate unlawful activities.

(2) From subsection (c)(4) (Notice of Correction), because this system is exempt from the access and amendment provisions of subsection (d), as noted in paragraph (e)(3) of this section.

(3) From subsection (d)(1), (2), (3), and (4) (Access and Amendment), because individual access to these records could alert the subject of an investigation to the existence and extent of that investigation and reveal the investigative interests of the Commission and others. Providing a subject with access to these records could impair the effectiveness of the Commission's investigations and could significantly impede the investigation by providing the opportunity for the subject to destroy documentary

evidence, improperly influence witnesses and confidential sources, fabricate testimony, and engage in other activities that could compromise the investigation. In addition, providing an individual with access to these records may reveal the identity of a source who furnished information under an express promise that their identity would remain confidential. Allowing the subject of the investigation to amend records in this system of records could likewise interfere with ongoing law enforcement proceedings and impose an impossible administrative burden by requiring law enforcement investigations to be continuously reinvestigated.

(4) From subsection (e)(1) (Relevancy and Necessity of Information) and (5) (Accuracy, Timeliness, Relevance, and Completeness), because in the course of investigations into potential violations of law, the significance of certain information may not be clear or the information may not be strictly relevant or necessary to a specific investigation; but, effective law enforcement requires the retention of all information that may aid in establishing patterns of unlawful activity and providing investigative leads.

(5) From subsection (e)(2) (Collect from Individual), because in a law enforcement investigation the requirement that information be collected to the greatest extent possible from the subject individual would present a serious impediment to law enforcement, in that the subject of the investigation would be informed of the existence of the investigation and would therefore be able to avoid detection, apprehension, or legal obligations or duties.

(6) From subsection (e)(3) (Privacy Act Statement), because to comply with the requirements of this subsection during the course of an investigation could impede the information gathering process and hamper the investigation.

(7) From subsection (e)(4)(G), (H), and (I) (Agency Requirements) and (f) (Agency Rules), because the Commission is not required to establish requirements, rules, or procedures related to access and amendment of records in a system of records that is exempt from the individual access and amendment provisions in subsection (d) of the Privacy Act.

(8) From subsection (e)(8) (Serve Notice), because the application of this provision could prematurely reveal an ongoing criminal investigation to the subject of the investigation, present a serious impediment to law enforcement by interfering with the ability to issue subpoenas or otherwise gather

information, and reveal investigative techniques, procedures, or evidence.

(9) From subsection (g) (Civil Remedies), because this system of records is exempt from the individual access and amendment provisions in subsection (d) of the Privacy Act for the reasons noted in paragraph (e)(3) of this section; therefore, the Commission is not subject to civil action for failure to adhere to those requirements.

(f) *CFTC–44 Personnel Clearance System*. The system of records identified as CFTC–44 Personnel Clearance System contains records related to the background investigations and security clearances of individuals who have been or are being considered for access to Commission facilities, information technology systems, and classified or confidential information. These records may include statements from individuals who have provided information in the course of a background investigation and have requested that their identity remain confidential. Pursuant to 5 U.S.C. 552a(k)(2) and (k)(5) and subject to the requirements and limitations set forth therein, the Commission is exempting this system of records from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d)(1), (2), (3), and (4); (e)(1); (e)(4)(G), (H), and (I); and (f), and from the following corresponding sections of this part: 146.3; 146.5; 146.6(d); 146.11(a)(7), (8), and (9); and 146.7(a). Exemptions from these particular subsections of the Privacy Act are justified for the following reasons:

(1) From subsections (c)(3) (Accounting of Certain Disclosures), because release of the accounting of certain disclosures could alert the subject of an investigation to the extent of that investigation and reveal investigative interests of the Commission and the recipient entity that were previously unknown to the individual. Release of such information to the subject of an investigation could reasonably be anticipated to impede and interfere with the Commission's efforts to adequately assess an individual when making a decision about the individual's access to Commission facilities, information technology systems, and classified and confidential information.

(2) From subsection (d)(1), (2), (3), and (4) (Access and Amendment), because the records contained in this system may be related to ongoing investigations, and individual access to these records could alert the subject of an investigation to the extent of that investigation and reveal investigative interests of the Commission and others that were previously unknown to the

individual. Providing a subject with access to these records could impair the effectiveness of the Commission's investigations and could significantly impede the investigation by providing the opportunity for the subject to destroy documentary evidence, improperly influence witnesses and confidential sources, fabricate testimony, and engage in other activities that could compromise the investigation. In addition, providing an individual with access to these records may reveal the identity of a source who furnished information under an express promise that their identity would remain confidential. Amendment of the records in this system of records would interfere with ongoing law enforcement proceedings and impose an impossible administrative burden by requiring law enforcement investigations to be continuously reinvestigated.

(3) From subsection (e)(1) (Relevancy and Necessity of Information), because in the course of conducting and adjudicating background investigations, the significance of certain information may not be clear or the information may not be strictly relevant or necessary to a specific investigation; but, effective investigations require the retention of all information that may aid in the investigation and provide investigative leads.

(4) From subsection (e)(4)(G), (H), and (I) (Agency Requirements) and (f) (Agency Rules), because the Commission is not required to establish requirements, rules, or procedures related to access and amendment of records in a system of records that is exempt from the individual access and amendment provisions in subsection (d) of the Privacy Act.

(g) *CFTC-49 Whistleblower Records*. The system of records identified as CFTC-49 Whistleblower Records contains records related to whistleblower tips, complaints and referrals, records related to investigations and inquiries into whistleblower complaints, and records related to the whistleblower award claim and determination process. Pursuant to 5 U.S.C. 552a(k)(2) and subject to the requirements and limitations set forth therein, the Commission is exempting this system of records from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d)(1), (2), (3), and (4); (e)(1); (e)(4)(G), (H), and (I); and (f), and from the following corresponding sections of this part: 146.3; 146.5; 146.6(d); 146.11(a)(7), (8), and (9); and 146.7(a). Exemptions from these particular subsections of the Privacy Act are justified for the following reasons:

(1) From subsection (c)(3) (Accounting of Certain Disclosures), because release of the accounting of certain disclosures could alert the subject of an investigation to the existence and extent of that investigation and reveal the investigative interests of the Commission and the recipient entity. Release of such information to the subject of an investigation could reasonably be anticipated to impede and interfere with the Commission's efforts to identify and investigate unlawful activities.

(2) From subsection (d)(1), (2), (3), and (4) (Access and Amendment), because individual access to these records could alert the subject of an investigation to the existence and extent of that investigation and reveal the investigative interests of the Commission and others. Providing a subject with access to these records could impair the effectiveness of the Commission's investigations and could significantly impede the investigation by providing the opportunity for the subject to destroy documentary evidence, improperly influence witnesses and confidential sources, fabricate testimony, and engage in other activities that could compromise the investigation. Allowing the subject of the investigation to amend records in this system of records could likewise interfere with ongoing law enforcement proceedings and impose an impossible administrative burden by requiring law enforcement investigations to be continuously reinvestigated.

(3) From subsection (e)(1) (Relevancy and Necessity of Information), because in the course of investigations, the significance of certain information may not be clear or the information may not be strictly relevant or necessary to a specific investigation; but, effective investigations require the retention of all information that may aid in the investigation or aid in establishing patterns of activity and provide investigative leads.

(4) From subsection (e)(4)(G), (H), and (I) (Agency Requirements) and (f) (Agency Rules), because the Commission is not required to establish requirements, rules, or procedures related to access and amendment of records in a system of records that is exempt from the individual access and amendment provisions in subsection (d) of the Privacy Act.

**§ 146.13 [Removed]**

- 3. Remove § 146.13.

Issued in Washington, DC, on January 24, 2024, by the Commission.

**Christopher Kirkpatrick,**  
*Secretary of the Commission.*

**Note:** The following appendix will not appear in the Code of Federal Regulations.

**Appendix to Privacy Act Regulations—  
Commission Voting Summary**

On this matter, Chairman Behnam and Commissioners Johnson, Goldsmith Romero, Mersinger, and Pham voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2024-01684 Filed 2-1-24; 8:45 am]

**BILLING CODE 6351-01-P**

**DEPARTMENT OF HEALTH AND  
HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Part 117**

[Docket No. FDA-2016-D-2343]

**Hazard Analysis and Risk-Based  
Preventive Controls for Human Food;  
Draft Guidance for Industry;  
Availability**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notification of availability.

**SUMMARY:** The Food and Drug Administration (FDA, we, or the Agency) is announcing the availability of a revised draft Introduction, and a revised draft Appendix 1, within a multichapter guidance for industry entitled "Hazard Analysis and Risk-Based Preventive Controls for Human Food." This multichapter draft guidance, when finalized, will explain our current thinking on how to comply with the requirements for hazard analysis and risk-based preventive controls under our rule entitled "Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food." We revised the draft Introduction and draft Appendix 1: Known or Reasonably Foreseeable Hazards ("Potential Hazards") to address comments submitted on drafts that we made available in 2016. This draft guidance is not final nor is it in effect at this time.

**DATES:** Submit either electronic or written comments on the draft guidance by June 3, 2024 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

**ADDRESSES:** You may submit comments on any guidance at any time as follows: