

## Chemical Weapons Convention Regulations

### PAPERWORK REDUCTION ACT ANALYSIS

#### Supporting Statement for Chemical Weapons Convention Declaration and Report Handbook and Forms & Chemical Weapons Convention Regulations (CWCR)

OMB Control No. 0694-0091

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**Approved: February 19, 2010**

**Expiration: February 28, 2013**

#### **A. Justification**

##### **1. Explain the circumstances that make the collection of information necessary.**

The **Chemical Weapons Convention** (referred to herein as CWC or Convention) is a multilateral arms control and non-proliferation treaty that seeks to achieve an international ban on chemical weapons (CW). The CWC prohibits, inter alia, the use, development, production, acquisition, stockpiling, retention, and direct or indirect transfer of chemical weapons. Furthermore, each State Party to the Convention is required to make initial and annual declarations on certain facilities which produce, process, consume, transfer, or import/export toxic chemicals and their precursors as specified in three lists or schedules of chemicals contained in the Convention's Annex on Chemicals. In addition to traditional CW agents, the Schedules include chemicals that have both large-scale commercial uses and CW applications (referred to as "dual-use chemicals"). Information is also required on facilities which produce a broad class of chemicals referred to as "Unscheduled Discrete Organic Chemicals," or "UDOCs." Finally, information is also required from facilities subject to inspection by the Organization for the Prohibition of Chemical Weapons (OPCW). This information is in addition to information provided in initial and annual declarations.

The Convention was signed by the United States in Paris on January 13, 1993, and submitted to the United States Senate on November 23, 1993, for its advice and consent to ratification. The U.S. Senate provided its advice and consent to ratification on April 24, 1997. The United States deposited its instrument of ratification with the United Nations on April 25, 1997. The Convention entered into force on April 29, 1997. To date, the CWC has been signed by 190 countries and ratified by 188.

The United States is under obligation by this international treaty to: (1) report data on certain chemical activities by U.S. companies; (2) impose certain trade controls; and (3) permit the inspection of certain U.S. facilities by international inspection teams from the OPCW. Therefore, on October 21, 1998, the United States enacted the **Chemical Weapons Convention**

**Implementation Act of 1998 (P.L.105-277, 22 U.S.C. 6701 et. seq.)** (the "Act" or CWCIA), which, inter alia:

- authorizes the promulgation of regulations to require declarations by U.S. chemical and related industries;
- sets forth procedures for international inspection of U.S. commercial facilities;
- directs the establishment of a "National Authority" to serve as the liaison between the U.S. and the international organization, the OPCW; and
- prohibits all persons within the United States, as well as all U.S. nationals outside the United States, from engaging in activities prohibited under the Convention.

**Executive Order 13128** authorizes the Commerce Department to issue regulations necessary to implement the Act and U.S. obligations under Article VI and related provisions of the Convention.

On December 30, 1999, the Department of Commerce published its **Chemical Weapons Convention Regulations (CWCR)** implementing the CWCIA in accordance with the Executive Order as an interim rule (**15 CFR Parts 710 Through 721**). Subsequently, on April 26, 2006, The Department of Commerce published the CWCR as a final rule.

The implementation of the Convention's requirements necessitates development of a working relationship between the U.S. Government and private industry which is unprecedented in terms of the degree of industry-government cooperation. The Bureau of Industry and Security (BIS) of the Department of Commerce, is the principal liaison between the U.S. Government and the chemical industry. BIS is responsible for receiving industry declarations and submitting them to the Department of State, which is the U.S. National Authority (USNA) for CWC implementation and coordinates and facilitates administrative and logistical matters related to CWC implementation. The USNA forwards declarations received from the Departments of Commerce and Defense, as well as from other U.S. agencies, to the OPCW, located in The Hague.

**2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.**

Declarations and reports: The Convention requires States Parties to submit initial and annual declarations for activities involving Schedule 1 chemicals and annual declarations for activities involving Schedule 2 and Schedule 3 chemicals and UDOCs above specified threshold quantities. The associated Declaration and Report Handbook and the forms are available from the following internet URL:

**[http://www.cwc.gov/assets/pdf/declarations\\_handbook\\_handbook\\_complete.pdf](http://www.cwc.gov/assets/pdf/declarations_handbook_handbook_complete.pdf)**

The frequency of declarations for a given facility is dependent upon the activity, chemical and

amounts involved in the previous calendar year for Schedule 1, Schedule 2, and Schedule 3 chemicals and UDOCs, and anticipated activity, chemical and amounts projected to occur in the next calendar year for Schedule 1, Schedule 2 and Schedule 3 chemicals. The frequency of this collection, as implemented in the CWCR, is the minimum required under the Convention.

Schedule 1: The CWC requires initial declarations for facilities that produced in excess of specified aggregate quantities of Schedule 1 chemicals in 1996. Those initial declarations previously submitted by facilities remain valid until rescinded. New Schedule 1 production facilities must submit an initial declaration 200 calendar days in advance of commencing production of Schedule 1 chemicals in excess of specified aggregate quantities. Annual declarations are required from facilities that produced Schedule 1 chemicals in excess of specified quantities in the previous calendar year, are anticipated to do so in the next calendar year, or exported or imported any amount of Schedule 1 chemicals in the previous calendar year.

Schedule 2: The Convention requires plant sites to review production, processing and consumption data from the three previous calendar years to determine whether there is a declaration requirement on past activities. Declarations are required annually for those plant sites that exceeded the applicable declaration threshold (i.e., for production, processing and consumption) during any of the three previous calendar years. Plant sites and plants also declare certain additional information, including, for example, domestic transfers and storage activities. Finally, plant sites declare imports and exports of Schedule 2 chemicals in excess of specified threshold quantities. Annual declarations are required from plant sites that had one or more plants that produced, processed or consumed Schedule 2 chemicals in excess of specified quantities in any of the three previous calendar years. Note that for annual declarations on past activities, plant sites must review data from the three previous calendar years, but report data from only the previous calendar year. A zero "0" is indicated on a chemical declaration form for which any plant/plant site activity was below the applicable threshold quantity in the previous year, but was above the threshold in the two previous calendar years. This provides an opportunity for the OPCW to observe production, processing and consumption trends. Annual declarations are also required from plant sites that anticipate producing, processing or consuming Schedule 2 chemicals in the next calendar year in excess of specified quantities, and "additionally planned activities" declarations are required to report changes in anticipated activities under specified circumstances. Finally, annual reports are required from plant sites and trading companies for exports and imports of Schedule 2 chemicals that occurred during the previous calendar year in excess of specified quantities.

Schedule 3: The Convention requires plant sites that had one or more plants that produced a Schedule 3 chemical in excess of specified quantities (i.e., 30 metric tons) during the previous calendar year to submit an annual declaration on past activities, as well as an annual declaration on anticipated activities for such production anticipated for the next calendar year. Declarations on "additionally planned activities" are required to report changes in anticipated activities under specified circumstances. Finally, annual reports are required from plant sites and trading companies for exports and imports of Schedule 3 chemicals in excess of specified quantities that

occurred during the previous calendar year in excess of specified quantities.

UDOCs: Although the majority of declarations are submitted by plant sites that produced UDOCs and/or UDOCs containing phosphorous, sulfur, or fluorine (PSF chemicals), the declaration requirements for such production involve the fewest forms. The CWC only requires declarations from plant sites that produced UDOCs and/or PSF chemicals in excess of specified quantities during the previous calendar year. BIS implemented a “No Changes” Certification Form to replace the annual declaration on past activities to reduce the reporting burden on facilities whose activities have not changed from the previous year. Additionally BIS implemented an option for declared/inspectable facilities to submit a “Change In Inspection Status” Form (CIISF) to declare that the facility does not anticipate producing more than 200 metric tons aggregate of UDOCS (including any amount of PSF-chemicals) during the current calendar year so that such facilities may be excluded from inspection by the OPCW during the first 90 days of the next calendar year.

BIS officials review the information collected from the data declarations and reports for completeness and accuracy. The data is compiled into a report for transmittal to the USNA and subsequent presentation to the OPCW. Certain of these facilities are subject to inspection by the OPCW.

Inspections: Each State Party to the CWC, including the United States, has agreed to allow inspections of certain declared facilities by inspectors employed by the OPCW to ensure that their activities are consistent with obligations under the Convention. The Department of Commerce is responsible for leading, hosting and escorting inspections of all facilities in the United States, except Department of Defense and Department of Energy facilities and other U.S. Government facilities that notify the USNA of their decision to be excluded from the CWCR. U.S. Government facilities are those owned by or leased to the U.S. Government, including facilities that are contractor-operated. Only facilities that produced or anticipate producing in excess of specified quantities of Schedule 1 and Schedule 3 chemicals, or UDOCs, or produced, processed or consumed, or anticipate producing, processing, or consuming, in excess of specified quantities of Schedule 2 chemicals, are subject to routine inspection. The primary purpose of routine inspections is to verify the accuracy of previously submitted declarations. The OPCW conducts approximately 22-25 inspections of U.S. commercial facilities declared under the Convention per year.

During the initial inspection of a declared facility, inspectors from the OPCW Technical Secretariat and the United States’ Host Team, led by the Department of Commerce, collection formation for possible future negotiation of a draft facility agreement. While facility representatives act as "de facto" Host Team members during inspection activities, the Act imposes certain requirements on federal employees that legally cannot be performed by facility representatives (e.g., obtaining administrative warrants, negotiating facility agreements, and representing the United States' interests as a State Party). Therefore, the term "Host Team" in the CWCR refers to the U.S. Government team that accompanies inspectors from the OPCW at facilities subject to inspection,

and does not include civilian site representatives. The Department of Commerce participates in the negotiation of, and approves, all final facility agreements with the OPCW. Prior to the development of a facility agreement for Schedule 1 and Schedule 2 facilities subject to inspection, the Department of Commerce notifies the owner, operator, occupant, or agent in charge of the facility, and if the owner, operator, occupant or agent in charge so requests, the notified person participates in preparations with Department of Commerce representatives for the negotiation of such an agreement. In July 2004, the Executive Council recommended that the Technical Secretariat “consider carefully the need for each Schedule 2 facility agreement in a consistent and nondiscriminatory manner, based on the information available through its verification activities (declaration and inspection) . . . should give due consideration to the opinion of the State Party involved.” Accordingly, to date only two facility agreements have been requested and approved for U.S. facilities.

Model facility agreements implement the general provisions of the Convention pertaining to inspections, including health and safety procedures, confidentiality of information, media and public relations, information about the plant site, inspection equipment, pre-inspection activities, conduct of the inspection (including access to and inspection of areas, buildings and structures, access to and inspection of records and documentation, arrangements for interviews of facility personnel, photographs, and sampling), and logistical arrangements for the inspectors, such as communications and lodging. Attachments to the facility agreements provide site-specific information such as working hours, special safety and health procedures, as well as site-specific agreement as to documents and records to be provided, specific areas of a facility to be inspected, site diagrams, sampling, photography, and interview procedures, use of inspection equipment, procedures for protection of confidential business information, and administrative arrangements. Although facility agreements are negotiated between the U.S. Government (represented by the Department of Commerce) and the OPCW, the Department of Commerce needs certain information described above from the facility to conclude the facility agreement. This is on a case-by-case basis.

Section 716.9 of the CWCR requires any facility that has undergone an inspection to report to BIS within 90 days on its total costs related to that inspection. Although not required, such reports should identify categories of costs separately if possible, such as personnel costs (production-line, administrative, legal), costs of producing records, and costs associated with shutting down chemical production or processing during inspections.

Finally, under the CWC, declared Schedule 1 facilities are potentially subject to systematic verification through monitoring with on-site instruments. However, this monitoring will only occur on a voluntary basis or by warrant in accordance with the constitutional rights of the inspected facility. To date, the OPCW has not conducted monitoring at commercial Schedule 1 facilities.

Regarding, information quality, BIS limits the collection of information under the CWCR to that

which is minimally necessary to fulfill the United States' treaty obligation and does not distribute to the public any information collected in declarations, reports, or notifications. BIS also limits collection of proprietary information during inspections, but may collect limited information that is available in the public domain.

BIS maintains the confidentiality of the information in accordance with the CWC Implementation Act (CWCIA), the CWCR (15 CFR parts 710-729), the Export Administration Regulations (15 CFR parts 730-799) and the International Traffic in Arms Regulations (22 CFR parts 120 through 130). Certain non-proprietary data collected, such as a company name and point of contact, may be released under a Freedom of Information Act (FOIA) request. Supplement 1 to Part 718 of the CWCR lists the information that may or may not be released under a FOIA request.

The CWCR provides for specific procedures for release of information to the public only when it is determined that the release is in the national interest. These determinations must be made on a case-by-case basis. BIS must also notify the affected person of our intent to disclose its confidential business information based on the national interest determination.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.**

The Bureau of Industry and Security developed a system called Web Data Entry Software for Industry (Web-DESI). Web-DESI allows industry to submit CWC declarations and reports for Schedule 1, 2, and 3 chemicals and UDOCS securely via the Internet. Web-DESI is a voluntary tool designed to reduce the burden on industry in complying with CWC declaration and report requirements. Web-DESI is available at the following URL:

**<https://cwcweb.cwc/>**

**4. Describe efforts to identify duplication.**

The information BIS collects from the U.S. industry under the provisions of the CWCR has not been previously obtained by any U.S. Government agency. Thus, no significant or material duplication of information exists.

A Defense Nuclear Agency (DNA) report (Domestic Reporting Requirement for Chemical Industry - DNA-TR-92-66) stated that existing state and federal government reporting requirements fail to provide the full and detailed information on the chemical industry needed to satisfy the annual data reporting requirements of the CWC and the international treaty community.

The same conclusion was also drawn by the Office of Technology Assessment (OTA) in its report (The Chemical Weapons Convention: Effects on the U.S. Chemical Industry (OTA-BP-ISC-106)) which stated "the information currently envisioned as necessary for CWC verification differs both

quantitatively and qualitatively from that collected for internal management or for domestic regulatory purposes." Some major discrepancies between the reporting requirements mandated by the CWC and by U.S. domestic environmental regulations are: chemicals relevant to the CWC are not all covered by the environmental regulations; environmental regulations are applicable only to chemical manufacturers, not to processors or consumers, which are covered under the CWC; and the reporting deadlines under the CWC are shorter than those required by the Environmental Protection Agency. For these reasons the U.S. Government cannot "piggyback" on existing reporting requirements to meet its CWC declaration obligations.

**5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burdens.**

Prior to implementation of the CWC, BIS conducted a "field test" on declaration and report forms with industry. At that time, industry identified several key points, which have minimized the collection burden. For example, the declaration handbook was revised to add clearer definitions, "overviews," and "flow charts" in data declaration instructions. Also, a telephone "hot-line" was established for assisting industry to complete the forms and/or to determine whether a chemical was subject to declaration. A facsimile line was also dedicated for these activities.

The CWCR was updated to remove one-time declaration and reporting requirements (e.g., Declaration on Chemical Weapons Production and initial declarations for Schedules 2 and 3 chemicals and UDOCs). The WebDESI software application, described in question 3 above, has also considerably reduced the burden on industry by making it easier to complete CWC forms and file electronically over the internet.

Finally, BIS has an excellent working relationship with the chemical industry and routinely interfaces with industry through outreach seminars, conferences, and industry meetings. BIS also conducts site-assistance visits at plant sites to prepare them for a possible inspection.

**6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.**

The Convention requires States Parties to submit initial and annual declarations for all public and private facilities and/or trading companies which produce, process, consume, store, domestically transfer, or import/export CW-related chemicals. If the requested collections are made less frequently or not at all, the United States will not be able to meet its reporting obligations, and would then be in a position of technical non-compliance with the Convention. The Conference of States Parties, at the recommendation of the Executive Council, could suspend the United States' rights and privileges under the Convention (CWC, art. XII, para. 2). For example, the United States could become subject to trade restrictions and sanctions from our allies and trading partners (CWC, Verification Annex, pt. VI, para. 1 (Schedule 1); pt. VII, para. 31 (Schedule 2); pt. VIII, para. 26 (Schedule 3)). These barriers to free trade would effectively shut the U.S. industry out of international trade in chemicals which is vital to U.S. interests both economically and militarily.

The economic burden and impediment thereby imposed on the U.S. industry would be much greater than that imposed by the collections.

**7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.**

There are no special circumstances that will result in the collection of information in a manner inconsistent with the guidelines of 5 CFR 1320.6. Declarations will be submitted on 8½ x 11" paper or via Web-DESI. Some will contain proprietary information, which will be protected by the Department of Commerce as confidential business information (CBI), under the CWC Implementation Act (the Act, secs. 103(g), 304(e)(2), 404).

**8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

The Department of Commerce published a request for public comments on the renewal of this paperwork collection package in the Federal Register on September 10, 2009, p. 46565. No comments were received.

**9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.**

There will be no payment or gifts to respondents, other than remuneration of contractors or grantees.

**10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.**

The "Confidentiality Annex" of the Chemical Weapons Convention protects confidential business information (CBI) by mandating that the OPCW require only the minimum amount of information and data necessary to carry out its responsibilities. The OPCW established a regime for restricting access to information provided by States Parties, evaluated all data received for CBI content, and ensured that CBI is not released without the proper safeguards and access controls. As part of this information security, all OPCW employees with access to CBI must obtain security clearances, effective procedures have been established for dealing with breaches in security, and States Parties may take additional measures they deem necessary to protect CBI during inspections.

Section 404 of the Act also addresses the protection of proprietary and confidential business

information. CBI, as defined in the Act, is exempt from disclosure under the Freedom of Information Act (FOIA). CBI may only be disclosed to the Technical Secretariat and, in certain cases, to other States Parties, to Congressional committees with appropriate jurisdiction, and/or to law enforcement agencies for the enforcement of the Act or other law. The USNA must notify the submitter if it intends to release information exempted from disclosure. Penalties are provided in the Act for the unlawful disclosure of confidential information collected under the Act by any individual, including a government official or OPCW inspector.

Finally, Commerce's CWC Information Management System (IMS), which collects, processes, and stores CWC-related data is a closely restricted, firewall-protected segment of the TCD-Net V-LAN within Department of Commerce's information technology (IT) infrastructure. This ensures electronic isolation of all collected data and promotes information security.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.**

There are no questions of a sensitive nature.

**12. Provide an estimate in hours of the burden of the collection of information.**

The total public burden for this collection is **16,047 hours** (3,930 hours for declarations/reports/amendments/notifications/compliance reviews and 12,117 hours for inspections). This estimate is based on the actual number of declarations/reports/amendments/notifications submitted for Reporting Years (RYs) 2008/2009/2010 activity as described in the below chart and actual inspections conducted during Fiscal Year (FY) 2009. Note: the number of inspections of chemical facilities conducted by the OPCW in the United States significantly increased since the last renewal of this information collection package (i.e., from 11 inspections to 21 inspections) due to changes in the process for selecting plant sites for inspection, which was agreed to by States Parties. In the future, BIS expects to receive approximately 22-25 inspections per year.

The burden hours on U.S. industry for CWC declarations, reports, notifications, and compliance obligations are 3,930 total hours, which is based upon the actual number of declarations, reports and advanced notifications (745) submitted for RYs 2008/2009/2010 activities, as described in the below chart, plus an estimated number of compliance reviews (50), for a total of 795, multiplied by the estimated number of hours to complete each type of declaration/report/activity. The number of hours to complete each declaration/report/activity is estimated based upon a field test of BIS's forms with nine different companies done prior to implementation of the program.

The estimated annual cost to all respondents is \$741,949. The cost per hour for the respondents was derived from the cost per hour of the salaries and overhead of the Federal employees working on this project. Thus, the estimated total annual cost burden to all respondents or recordkeepers is:

$$16,047 \text{ hours} \times \$38.53/\text{hour (GS-13 Step 1)} \times 1.2 \text{ (20\% Overhead)} = \$741,949$$

BIS anticipates the annual cost and hour burdens for industry will remain relatively constant in the future unless there is a significant change in industry's activities, the OPCW inspection rate of facilities in the U.S., or an addition of new regulatory requirements for the program.

### **BURDEN HOUR CHART FOR DECLARATIONS AND REPORTS**

The information in this chart is based upon the actual number of declarations and reports and amendments thereto, Schedule 1 advance notifications, and compliance reviews received by Commerce's Bureau of Industry and Security (BIS) from U.S. chemical facilities and trading companies during Calendar Year (CY) 2009. Certain facilities may have submitted multiple declarations or reports under different chemical regimes. BIS has not included any declaration or report received and determined not required under the CWCR and which was returned without action (RWA'd).

CHEMICAL REGIME	BURDEN HOURS	ACTUAL NUMBER OF DECLARATIONS, REPORTS, & AMENDMENTS RECEIVED* & ESTIMATED NUMBER OF REQUESTS FOR COMPLIANCE INFORMATION	TOTAL BURDEN HOURS
SCHEDULE 1	10.6@	1	11
SCHEDULE 2	11.9 @	44	524
SCHEDULE 3	2.5 +	129	323
UDOC	5.3 +	441	2337
UDOC "No Changes"	5.1 #	116	592
UDOC "Change In Inspection Status"	5.1&	11	56
SCHEDULE 1 EXPORT/IMPORT ADVANCE NOTIFICATIONS	0.17 x 3 ^	3	1.5
Compliance Review Requests	1.7 ~	50 (est)	85
<b>TOTAL</b>		795	3,930 (3,929.5)

\* These numbers include Annual Declarations on Past Activities (ADPA), Combined Declarations and Reports, UDOC “No Changes” Certification Forms, and Annual Reports on Exports and Imports for Reporting Year (RY) 2008; Change in Inspection Status Forms for RYs 2009, and Annual Declarations on Annual Anticipated Activities for RY 2010, and any amendments thereto, as required by the Chemical Weapons Convention Regulations (CWCR) (15 CFR Parts 710-722).

@ These estimates are based on the average time required to complete each page of the UDOC annual declaration on past activities forms in our field test times the total number of pages in the Schedule 1 and 2 declarations. For example, for Schedule 1, this would be as follows: (5.3 hours/4 UDOC pages – 1.325 hours per page) x 8 Schedule 1 pages = 10.6 hours.

+ These estimates were derived from our field test. The sample size for Schedule 3 was two respondents. The sample size for UDOCs was four respondents.

# This estimate was obtained by comparing the difference in the amount of time to “type” a No Changes Authorization Form (one page) versus a complete ADPA (three pages). The amount of time to collect the support documentation to prepare a UDOC declaration remains unchanged. Accordingly, only 0.2 hours (typing time) were subtracted from the amount of time to collect the information and prepare the complete ADPA (5.3 - 0.2 = 5.1 hours).

& The estimated burden hours for completing the “Change In Inspection Status” Form is estimated to be the same as the UDOC “No Changes” Certification Form because the amount of time to collect information and prepare the declaration would be the same (see item denoted # above). This number includes information received from facilities regarding a change to their status during CY 2009 whether the facility produced UDOCs below the inspection threshold, stopped production of UDOCs, or shutdown/closed (regardless if the facility completed the Form).

^ This estimate is based on the estimated time required to complete the notification per respondent (10 minutes) times the estimated number of responses per respondent (3) times the actual number of plant sites or trading companies (3). (This includes one notification submitted that was determined to not be required under the EAR/CWCR.)

~ This estimate is based upon an estimated 50 requests to industry for typical compliance related information during a calendar year (50 x 1.7 = 85 hours). This number is estimated because BIS does not currently have an electronic tool in place that tracks requests made to industry to provide information for compliance verification (e.g., aggregate national data).

**Inspections** - The total burden hours related to inspections that occurred during Fiscal Year (FY) 2009 is 12,117 hours (577<sup>1</sup> hours per inspection x 21 facilities inspected). Certain of this data are based on information from facilities as required by Part 716 CWCR and which was subsequently reported to the U.S. Congress in annual reporting under Section 309 of the CWC Implementation Act. The data is based on the average of the actual total burden hours reported by industry for FY 2009 inspections, involving Schedule 2, Schedule 3, and UDOC facilities, including the average time for preparing a report of inspection related costs. Further, based upon U.S. industry data reported, the average cost to each respondent including preparation, on-site activities, and inspection reports, is \$9,743. Preparation includes, but is not limited to, preparing records, reviewing declarations previously submitted, providing information to be included in a draft facility agreement, identifying confidential business information, and developing a pre-inspection briefing for inspectors about the facility.

### BURDEN HOUR CHART FOR INSPECTIONS

	INSPECTION, INCLUDING FINAL REPORT	TOTAL FOR 21 INSPECTIONS CONDUCTED DURING FY 2009
Burden hours	577	12,117 hours
Cost	\$9,743	\$204,599

Regarding Schedule 1 inspections, BIS estimates that an increased burden on industry as a result of on-site monitoring of activities at Schedule 1 facilities with instruments will be negligible because BIS anticipates that the OPCW will rarely use such a verification method at Schedule 1 facilities subject to the CWCR. If such monitoring does take place, the information collected would be confined to the type of information authorized to be collected during an inspection. The OPCW will be responsible for justifying, acquiring, installing, and maintaining any such equipment at a facility. To date, the OPCW has not used this methodology to verify compliance with the treaty.

In addition to the \$204,599 in direct costs resulting from CWC reporting and verification obligations, businesses and other entities, particularly small ones, potentially could suffer additional indirect, non-quantifiable, costs due to their involvement with inspections when they could be

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<sup>1</sup>The average burden hours used for reporting for each is based upon the average of total burden hours from a mock inspection conducted at a Schedule 1 and a Schedule 2 facility prior to implementation of the CWCR, including the average time required to prepare a report of the inspection related cost.

engaging in profitable activities. This direct cost is based on information reported by facilities as required by Part 716 CWCR and which was subsequently reported to the U.S. Congress in annual reporting under Section 309 of the CWC Implementation Act.

BIS makes every effort to work with facility officials to minimize these costs. Inspections are managed to limit costs (both direct and indirect) borne by private facilities and to protect their proprietary and confidential business information.

**13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).**

This collection involves a recordkeeping requirement. The largest companies are anticipated to file fewer than 100 pages of forms or letters per year. Although the quantity of actual records required to support these forms and letters vary from company to company, most if not all of these records are already being saved in some form by each company for other purposes (environmental protection, occupational health and safety, Securities and Exchange Commission, etc.). Such records, while useful for other purposes, are not normally in a format useful for declarations, and therefore cannot be substituted for declarations. A worst case assumption assumes a ten-fold excess of underlying records for each submitted form or letter (i.e., 1,000 pages for the largest of companies). Given a five-year storage requirement, as specified in the CWCR (15 CFR Part 721.2(b)), this amounts to a total permanent storage of 5,500 pages of documents to be contained in a filing cabinet occupying 1.5 square feet of office space. Estimates of office space costs in the Washington, DC area range from approximately \$30/sq.ft. to \$40/sq.ft. with an average value of \$35/sq.ft./year. Applying this worst case assumption to the 795 declarations and reports received for RY 2008 results in an estimated recordkeeping cost for this collection of \$41,737.50 (1.5 sq.ft. x \$35/sq.ft. x 795 declarations/reports). It must be emphasized that this is a worst case assumption only. Most respondents file far less than the anticipated 100 pages per largest of companies and hence will have much lower record keeping expenses. It is noted that most chemical facilities/companies currently maintain electronic records (SAP system); however the estimated annual burden costs reported in past years is maintained for this renewal.

**14. Provide estimates of annualized cost to the Federal government.**

The estimated annualized cost to the Department of Commerce for declarations and reports is \$922,934. The major portion of this estimate is the cost for personnel to receive, process, validate, and archive the data and to implement the reporting requirements. The chart below provides a breakout of the annualized estimate cost of the collection. The annual cost is based on the annual salaries of the 6 full-time Federal employees, and 2 full-time employees that will provide contractual support. Also, included is the annual cost for equipment and printing needs.

<u>Number of Personnel</u>	<u>Cost</u>
6 full-time federal employees (6 x 2080 hrs/yr x \$38.53/hr (GS-13 Step 1} x 1.2 {Overhead}}	\$480,854

2 full-time contractual support	\$412,089
Equipment	\$ 25,000
Printing Cost	\$ 5,000
<b>Total Cost</b>	<b>\$922,934</b>

Other U.S. Government agencies incur costs for data declarations under the CWC (e.g., Department of Defense for chemical weapons destruction); however, Commerce does not have knowledge of the actual costs being incurred by these agencies.

The estimated annualized cost to the government to host inspections in the United States is \$506,490 (\$24,118 average per inspection x 21 inspections), as reported to Congress in the annual Section 309 reporting as required by the CWC Implementation Act (for FY 2009). The estimated annualized cost includes salaries for the host team, travel and per diem expenses, equipment for the host team (e.g., laptops) and testing inspection equipment used by international inspectors. The actual cost for an inspection will vary depending upon the type of facility to be inspected. For example, an inspection of a Schedule 1 facility may last 5 days, whereas an inspection of a UDOC facility will last 2 days.

**15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.**

The program adjustments in question 13 are based on the *actual* number of declarations, reports, amendments, and notifications that industry submitted for RYs 2008/2009/2010 as described in the above chart in question 12 (861 - 795 = 66 reduction) and on the cost for both declarations/reports and inspections. In past collections only the cost for declarations was reported, therefore the increase in the cost for the collection is significant (i.e., from \$129,834 to \$741,949, which is a \$612,115 increase). The burden hours and costs in this collection routinely fluctuate in the number of facilities with reporting obligations from year to year for numerous reasons, including the shut down of a facility, the facility no longer produces or the facility is producing below the applicable threshold quantity of CWC related chemicals. Additionally, the U.S. chemical industry undergoes numerous mergers and acquisitions during the course of a year.

The program adjustment in question 14 is negligible taking into consideration an annual 5% increase of contractor rates under BIS's contract; however it should be noted that there was a significant decrease in the number of contractor support staff (from 6 full time and 2 part-time contractors to 2 full time contractors).

**16. For collections whose results will be published, outline the plans for tabulation and publication.**

There are no plans to publish this collection.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.**

BIS is not requesting an exception from printing the expiration date on forms for this collection. Since BIS has revised the CWC declaration and report forms several times in the past, we have learned it is useful to reference the date of the forms when speaking to U.S. industry about the forms.

**18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.**

Not applicable.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

Not applicable.