

**DEPARTMENT OF THE TREASURY****31 CFR Part 1****Privacy Act; Proposed Implementation**

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Proposed rule.

**SUMMARY:** In accordance with the requirements of the Privacy Act of 1974, as amended, the Department of the Treasury gives notice of a proposed amendment to this part to exempt a new Internal Revenue Service (IRS) system of records entitled "IRS 42.002, Excise Tax Compliance Programs" from certain provisions of the Privacy Act.

**DATES:** Comments must be received no later than December 11, 2006. You may also submit comments through the Federal rulemaking portal at <http://www.regulations.gov> (follow the instructions for submitting comments).

**ADDRESSES:** Please submit comments to the Office of Governmental Liaison and Disclosure, 1111 Constitution Avenue, NW., Washington, DC 20224. Comments will be made available for inspection at the IRS Freedom of Information Reading Room (Room 1621), at the above address. The telephone number for the Reading Room is (202) 622-5164.

**FOR FURTHER INFORMATION CONTACT:** Telephonic inquiries should be directed to David Silverman, Tax Law Specialist, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224. Telephone: (202) 283-7382.

**SUPPLEMENTARY INFORMATION:** Under 5 U.S.C. 552a(k)(2), the head of an agency may promulgate rules to exempt a system of records from certain provisions of 5 U.S.C. 552a if the system contains investigatory material compiled for law enforcement purposes. The IRS is hereby giving notice of a proposed rule to exempt Treasury/IRS 42.002—Excise Tax Compliance Records from certain provisions of the Privacy Act of 1974, pursuant to 5 U.S.C. 552a(k)(2).

The proposed exemption is from provisions 552a(c)(3), (d) (1), (2), (3) and (4), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f) because the system contains investigatory material compiled for law enforcement purposes. The following are the reasons why this system of records maintained by the IRS is exempt pursuant to 5 U.S.C. 552a(k)(2) of the Privacy Act of 1974.

(1) 5 U.S.C. 552a(c)(3). This provision of the Privacy Act provides for the release of the disclosure accounting required by 5 U.S.C. 552a(c)(1) and (2) to the individual named in the record at his/her request. The reasons for

exempting this system of records from the foregoing provisions are:

(i) The release of disclosure accounting would put the tax exempt or government entity subject to investigation, or individuals connected with those entities, on notice that an investigation exists and that such person is the subject of that investigation.

(ii) Such release would provide the tax exempt or government entity subject to investigation, or individuals connected with those entities, with an accurate accounting of the date, nature, and purpose of each disclosure and the name and address of the person or agency to which disclosure was made. The release of such information to the individual covered by the system would provide the individual or entity subject to investigation with significant information concerning the nature of the investigation and could result in the altering or destruction of documentary evidence, the improper influencing of witnesses, and other activities that could impede or compromise the investigation. In the case of a delinquent account, such release might enable the subject of the investigation to dissipate assets before levy.

(iii) Release to the individual of the disclosure accounting would alert the individual as to which agencies were investigating the tax exempt or government entity subject to investigation, would provide information concerning the scope of the investigation, and could aid the individual in impeding or compromising investigations by those agencies. (2) 5 U.S.C. 552a(d)(1), (2), (3) and (4), (e)(4)(G), (e)(4)(H), and (f). These provisions of the Privacy Act relate to an individual's right to be notified of: The existence of records pertaining to such individual; requirements for identifying an individual who requested access to records; the agency procedures relating to access to records; the content of the information contained in such records; and the civil remedies available to the individual in the event of adverse determinations by an agency concerning access to or amendment of information contained in record systems.

The reasons for exempting this system of records from the foregoing provisions are as follows: Notifying an individual (at the individual's request) of the existence of an investigative file pertaining to such individual or granting access to an investigative file pertaining to such individual could: Interfere with investigative and enforcement proceedings; deprive co-defendants of a right to a fair trial or an

impartial adjudication; constitute an unwarranted invasion of the personal privacy of others; disclose the identity of confidential sources and reveal confidential information supplied by such sources; or disclose investigative techniques and procedures.

(3) 5 U.S.C. 552a(e)(1). This provision of the Privacy Act requires each agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The reasons for exempting this system of records from the foregoing provision are as follows:

(i) The IRS will limit the system to those records that are needed for compliance with the provisions of Title 26. However, an exemption from the foregoing is needed because, particularly in the early stages of an investigation, it is not possible to determine the relevance or necessity of specific information.

(ii) Relevance and necessity are questions of judgment and timing. What appears relevant and necessary when first received may subsequently be determined to be irrelevant or unnecessary. It is only after the information is evaluated that the relevance and necessity of such information can be established with certainty.

(4) 5 U.S.C. 552a(e)(4)(I). This provision of the Privacy Act requires the publication of the categories of sources of records in each system of records. The reasons for exempting this system of records from this provision are as follows:

(i) Revealing categories of sources of information could disclose investigative techniques and procedures.

(ii) Revealing categories of sources of information could cause sources who supply information to investigators to refrain from giving such information because of fear of reprisal, or fear of breach of promises of anonymity and confidentiality.

A proposed notice to establish the Privacy Act system of records entitled "IRS 42.002, Excise Tax Compliance Records" will be published separately in the **Federal Register**.

As required by Executive Order 12866, it has been determined that this proposed rule is not a significant regulatory action, and therefore, does not require a regulatory impact analysis.

The regulation will not have a substantial direct effect on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various

levels of government. Therefore, it is determined that this proposed rule does not have federalism implications under Executive Order 13132.

Pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, it is hereby certified that these regulations will not significantly affect a substantial number of small entities. The proposed rule imposes no duties or obligations on small entities.

In accordance with the provisions of the Paperwork Reduction Act of 1995, the Department of the Treasury has

determined that this proposed rule would not impose new recordkeeping, application, reporting, or other types of information collection requirements.

**List of Subjects in 31 CFR Part 1**

Privacy.

Part 1, subpart C of title 31 of the Code of Federal Regulations is amended as follows:

**PART 1—[AMENDED]**

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

**Authority:** 5 U.S.C. 301 and 31 U.S.C. 321. Subpart A also issued under 5 U.S.C. 552 as amended. Subpart C also issued under 5 U.S.C. 552a.

2. Section 1.36 paragraph (g)(1)(viii) is amended by adding the following text to the table in numerical order.

**§ 1.36 Systems exempt in whole or in part from provisions of 5 U.S.C. 552a and this part.**

*	*	*	*	*
(g)	*	*	*	*
(1)	*	*	*	*
(viii)	*	*	*	*

Number	Name of system
IRS 42.002	Excise Tax Compliance Records.

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Dated: September 27, 2006.  
**Sandra L. Pack,**  
*Assistant Secretary for Management and Chief Financial Officer.*  
 [FR Doc. E6–18853 Filed 11–8–06; 8:45 am]  
**BILLING CODE 4830–01–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R09–OAR–2006–0829, FRL–8235–1]

**Revisions to the California State Implementation Plan, Lake County Air Quality Management District, Monterey Bay Unified Air Pollution Control District, San Joaquin Valley Unified Air Pollution Control District, and Ventura County Air Pollution Control District**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the Lake County Air Quality Management District (LCAQMD), Monterey Bay Unified Air Pollution Control District (MBUAPCD), San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD), and Ventura County Air Pollution Control District (VCAPCD) portions of the California State Implementation Plan (SIP). Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), we are proposing to approve local rules that address particulate matter (PM–10) emissions from open burning, general area sources, cotton gins,

incinerators, and fuel burning equipment.

**DATES:** Any comments on this proposal must arrive by December 11, 2006.

**ADDRESSES:** Submit comments, identified by docket number EPA–R09–OAR–2006–0829, by one of the following methods:

1. Federal eRulemaking Portal: [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.
2. E-mail: [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).
3. Mail or deliver: Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

**Instructions:** All comments will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through [www.regulations.gov](http://www.regulations.gov) or e-mail. [www.regulations.gov](http://www.regulations.gov) is an “anonymous access” system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

**Docket:** The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy

at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section. **FOR FURTHER INFORMATION CONTACT:** Al Petersen, EPA Region IX, (415) 947–4118, [petersen.alfred@epa.gov](mailto:petersen.alfred@epa.gov).

**SUPPLEMENTARY INFORMATION:** This proposal addresses the following local rules: LCAQMD Chapter VIII Section 1002 and Chapter VIII Table 8, MBUAPCD Rule 403, SJVUAPCD Rule 4240, and VCAPCD Rules 57 and 57.1. In the Rules and Regulations section of this **Federal Register**, we are approving these into the SIP in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is