

or performed in relation to an energy performance contract) conducted on the same property, if the previous audit was completed within 2 years of the time of a required PNA or energy audit, and if the previous audit meets the data requirements of the audits prescribed by this section.

(xii) While the timing of an energy audit is coordinated with a PNA, there are several instances when HUD may require a current or updated energy audit. These include but are not limited to:

(A) When requesting HUD permission to transfer excess cash from one project to another;

(B) At the direction of HUD, when HUD energy consumption data or industry benchmarks indicate that a project's energy consumption levels are excessive when compared to similar projects within the project's climatic zone;

(C) When required to substantiate an exception to the Total Development Cost Limit in reference to 24 CFR 941.306; and

(D) When the PHA is substandard under any applicable performance rating system used by HUD to assess project-level performance both in terms of operations and financial condition.

(xiii) The energy auditor shall be experienced in the performance of residential building energy audits and shall hold a current, valid certification from a state energy audit certifying agency for the state where the property is located or a nationally recognized energy audit certification provider, or hold other certification acceptable to HUD or expressed in HUD guidance.

(15) *Green measures.* (i) Green measures are products, systems or processes that do not necessarily conserve energy, but result in other environmental benefits. These include, for example: use of low volatility or nonvolatile organic compound cabinets, flooring, paints, or sealants; physical changes required to effectively implement integrated pest management; and hazardous waste or construction debris removal processes.

(ii) An energy audit shall identify green measures if the PHA directs the energy auditor to include them in the energy audit, but they are not required to be included. Where an energy audit includes green measures, it shall identify the projected cost of the green measure, and where a standard building component is available, it shall identify the projected cost for the standard component and the incremental cost of the green measure.

Dated: October 21, 2011.

**Sandra B. Henriquez,**

*Assistant Secretary for Public and Indian Housing.*

[FR Doc. 2011-29640 Filed 11-16-11; 8:45 am]

**BILLING CODE 4210-67-P**

## DEPARTMENT OF THE TREASURY

### Office of the Secretary

#### 31 CFR Part 1

#### RIN 1505-AC37

#### Privacy Act; Implementation

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

**ACTION:** Proposed rule.

**SUMMARY:** In accordance with the requirements of the Privacy Act of 1974, as amended, the Department of the Treasury (Treasury) amends this part to partially exempt a new Internal Revenue Service (IRS) system of records entitled "Treasury/IRS 37.111—Preparer Tax Identification Number Records" from certain provisions of the Privacy Act.

**DATES:** Comments must be received no later than December 19, 2011.

**ADDRESSES:** Please submit comments to David R. Williams, Director, Return Preparer Office, 1111 Constitution Ave. NW., Washington, DC 20224. Phone: (202) 927-6428 (not a toll-free number). 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 (not a toll-free number). You may also submit comments through the Federal rulemaking portal at <http://www.regulations.gov> (follow the instructions for submitting comments).

**FOR FURTHER INFORMATION CONTACT:**

David R. Williams, Director, Return Preparer Office, 1111 Constitution Ave. NW., Washington, DC 20224.

**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 is investigatory material compiled for law enforcement purposes. Treasury is hereby giving notice of a proposed rule to exempt "Treasury/IRS 37.111—Preparer Tax Identification Number Records" from certain provisions of the Privacy Act of 1974, pursuant to 5 U.S.C. 552a(k)(2). The proposed exemption pursuant to 5 U.S.C. 552a(k)(2) is from provisions (c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(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). These provisions of the Privacy Act provide 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 subject of an investigation on notice that an investigation exists and that such person is the subject of that investigation.

(ii) Such release would provide the subject of an investigation 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 subject of an investigation would provide the subject with significant information concerning the nature of the investigation and could result in the alteration or destruction of documentary evidence, the improper influencing of witnesses, and other activities that could impede or compromise the investigation.

(iii) Release to the individual of the disclosure accounting would alert the individual as to which agencies were investigating the subject and 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)–(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:

(i) The existence of records pertaining to such individual,

(ii) Requirements for identifying an individual who requested access to records,

(iii) The agency procedures relating to access to and amendment of records,

(iv) The content of the information contained in such records, and

(v) The civil remedies available to the individual in the event of an adverse determination 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 that notifying an individual (at the individual's request) of the existence of an investigative file pertaining to such

individual or to granting access to an investigative file pertaining to such individual could:

- (i) Interfere with investigative and enforcement proceedings,
- (ii) Deprive codefendants of a right to a fair trial or an impartial adjudication,
- (iii) Constitute an unwarranted invasion of the personal privacy of others,
- (iv) Disclose the identity of confidential sources and reveal confidential information supplied by such sources,
- (v) 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 are as follows:

(i) The IRS will limit the system to those records that are needed for compliance with the provisions of Title 26, 31 U.S.C. 330, and regulations applicable to paid tax return preparers. 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.

(5) 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 an exemption from this provision has been claimed, 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.

Treasury will publish the notice of the proposed new system of records separately in the **Federal Register**.

Pursuant to 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. Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601–612, do not apply.

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.

**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 37.111 .....	Preparer Tax Identification Number Records.
* * * * *	

Dated: October 24, 2011.

**Melissa Hartman,**

*Deputy Assistant Secretary for Privacy, Transparency, and Records.*

[FR Doc. 2011–29384 Filed 11–16–11; 8:45 am]

**BILLING CODE 4830–01–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 158 and 161**

[EPA–HQ–OPP–2010–0427; FRL–8886–1]

RIN 2070–AJ26

**Prions; Proposed Amendment To Clarify Product Performance Data for Products With Prion-Related Claims and Availability of Draft Test Guidelines**

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

**ACTION:** Supplemental proposed rule.

**SUMMARY:** As a supplement to the proposed rule to declare a prion (*i.e.*, proteinaceous infectious particle) a “pest” under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and to amend its regulations to expressly include prion within the regulatory definition of pest, EPA is now proposing to amend its product performance data requirements to clarify that efficacy data are required for all products with prion-related claims. The existing product performance data requirements already require efficacy data to be submitted when the “pesticide product bears a claim to control pest microorganisms that pose a threat to human health and whose presence cannot readily be observed by the user including, but not limited to, microorganisms infectious to man in any area of the inanimate environment. \* \* \*” Since this general requirement applies to products with prion-related claims, EPA is proposing to amend the regulation to specifically identify that efficacy data are required for products with prion-related claims. In addition, EPA is announcing the availability for public review and comment of draft test guidelines concerning the generation of product performance data for prion-related products.

**DATES:** Comments must be received on or before January 17, 2012.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2010–0427, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S.