establish controlled airspace at Dry Creek Airport, Cypress, TX.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014 and effective September 15, 2014, is amended as follows:

Paragraph 6005 Class E Airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASW TX E5 Cypress, TX [New]

Dry Creek Airport, TX
(Lat. 29°59′11″ N., long. 95°41′08″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Dry Creek Airport.

Issued in Fort Worth, TX, on October 4, 2014.

Robert W. Beck,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–24450 Filed 10–14–14; 8:45 am]

BILLING CODE 4901–14–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–136676–13]

RIN 1545–BM01

Removal of the 36-Month Non-Payment Testing Period Rule

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations that will remove a rule that a deemed discharge of indebtedness for which a Form 1099–C, ''Cancellation of Debt,'' must be filed occurs at the expiration of a 36-month non-payment testing period. The Department of the Treasury and the IRS are concerned that the rule creates confusion for taxpayers and does not increase tax compliance by debtors or provide the IRS with valuable third-party information that may be used to ensure taxpayer compliance. The proposed regulations will affect certain financial institutions and governmental entities.

DATES: Comments and requests for a public hearing must be received by January 13, 2015.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–136676–13), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8:00 a.m. and 4:00 p.m. to CC:PA:LPD:PR (REG–136676–13), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224. Alternatively, taxpayers may submit comments electronically via the Federal eRulemaking Portal at *www.regulations.gov* (IRS REG–136676–13).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Hollie Marx, (202) 317–6844; concerning the submission of comments and requests for a public hearing, Oluwafunmilayo Taylor, (202) 317–6901 (not toll-free calls).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed regulations to amend certain Income Tax Regulations (26 CFR Part 1) issued under section 6050P of the Internal Revenue Code (Code), which provide that the 36-month non-payment testing period is an identifiable event triggering an information reporting obligation for discharge of indebtedness by certain entities. The proposed regulations would remove the 36-month non-payment testing period as an identifiable event.

Statutory Provisions

Section 61(a)(12) provides that income from discharge of indebtedness is includible in gross income. Section 6050P was added to the Code by section 13252 of the Omnibus Budget Reconciliation Act of 1993, Public Law 103–66 (107 Stat. 312, 531–532 (1993)). Section 6050P was enacted in part ''to encourage taxpayer compliance with respect to discharged indebtedness'' and to ''enhance the ability of the IRS to enforce the discharge of indebtedness rules.'' H.R. Rep. No. 103–111, at 758 (1993). As originally enacted, section 6050P generally required applicable financial entities (generally financial institutions, credit unions, and Federal executive agencies) that discharge (in whole or in part) indebtedness of $600 or more during a calendar year to file information returns with the IRS and to furnish information statements to the persons whose debt is discharged. In addition to other information prescribed by regulations, an applicable financial entity is required to include on the information return the debtor's name, taxpayer identification number, the date of the discharge, and the amount discharged. *See* 26 U.S.C. 6050P(a) (1994).

The Debt Collection Improvement Act of 1996 (1996 Act), Public Law 104–134 (110 Stat. 1321, 1321–368 through 1321–369 (1996)) was enacted on April 26, 1996. Section 31001(m)(2)(B)(i) and (ii) of the 1996 Act amended section 6050P to expand the reporting requirement to cover ''applicable entities,'' which includes any executive, judicial, or legislative agency, not just federal executive agencies, and any previously covered applicable financial entity. Effective for discharges of indebtedness occurring after December 31, 1999, section 533(a) of the Ticket to Work and Work Incentives Improvement Act of 1999 (1999 Act), Public Law 106–170 (113 Stat. 1860, 1931 (1999)), added subparagraph (c)(2)(D) to section 6050P, to further expand entities covered by the reporting requirements to include any organization the ''significant trade or business of which is the lending of money.''

On April 4, 2000, the IRS released Notice 2000–22 (2000–1 CB 902) to provide penalty relief to organizations that were newly made subject to section 6050P by the 1999 Act (organizations

with a significant trade or business of lending money and agencies other than Federal executive agencies). The relief applied to penalties for failure to file information returns or furnish payee statements for discharges of indebtedness occurring before January 1, 2001. On December 26, 2000, the IRS released Notice 2001–8 (2001–1 CB 374) to extend the penalty relief for organizations described in Notice 2000–22 for discharges of indebtedness that occurred prior to the first calendar year beginning at least two months after the date that appropriate guidance is issued.

Regulatory History

On December 27, 1993, temporary regulations under section 6050P relating to the reporting of discharge of indebtedness were published in the **Federal Register** (TD 8506) (58 FR 68301). The temporary regulations provided that an applicable financial entity must report a discharge of indebtedness upon the occurrence of an identifiable event that, considering all the facts and circumstances, indicated the debt would never have to be repaid. The temporary regulations provided a non-exhaustive list of three identifiable events that would give rise to the reporting requirement under section 6050P: (1) A discharge of indebtedness under title 11 of the United States Code (Bankruptcy Code); (2) an agreement between the applicable financial entity and the debtor to discharge the indebtedness, provided that the last event to effectuate the agreement has occurred; and (3) a cancellation or extinguishment of the indebtedness by operation of law. These regulations were effective for discharges of indebtedness occurring after December 31, 1993.

A concurrently published notice of proposed rulemaking (IA–63–93) (58 FR 68337) proposed to adopt those and other rules in the temporary regulations. Written comments were received in response to the notice of proposed rulemaking, and testimony was given at a public hearing held on March 30, 1994. In response to the comments and testimony, the IRS provided, in Notice 94–73 (1994–2 CB 553), interim relief from penalties for failure to comply with certain of the reporting requirements of the temporary regulations for discharges of indebtedness occurring before the later of January 1, 1995, or the effective date of final regulations under section 6050P.

On January 4, 1996, prior to the amendments made by the 1996 Act, final regulations relating to the information reporting requirements of applicable financial entities for discharges of indebtedness were published in the **Federal Register** (TD 8654) (61 FR 262) (1996 final regulations). The final regulations were generally effective for discharges of indebtedness occurring after December 21, 1996, although applicable financial entities at their discretion could apply the final regulations to any discharge of indebtedness occurring on or after January 1, 1996, and before December 22, 1996. Further, the preamble to these regulations provided that the temporary regulations and the interim relief provided in Notice 94–73 remained in effect until December 21, 1996. Finally, the 36-month non-payment testing period identifiable event would not occur prior to December 31, 1997. *See* § 1.6050P–1(b)(2)(iv)(C) of the 1996 final regulations.

In response to objections by commenters, the 1996 final regulations did not adopt the facts and circumstances test to determine whether a discharge of indebtedness had occurred and information reporting was required. Instead, the 1996 final regulations provided that a debt is deemed to be discharged for information reporting purposes only upon the occurrence of an identifiable event specified in an exhaustive list under § 1.6050P–1(b)(2), whether or not an actual discharge has occurred on or before the date of the identifiable event. *See* § 1.6050P–1(a)(1).

Section 1.6050P–1(b)(2) of the 1996 final regulations listed eight identifiable events that trigger information reporting obligations on the part of an applicable financial entity: (1) A discharge of indebtedness under the Bankruptcy Code; (2) a cancellation or extinguishment of an indebtedness that renders the debt unenforceable in a receivership, foreclosure, or similar proceeding in a federal or state court, as described in section 368(a)(3)(A)(ii) (other than a discharge under the Bankruptcy Code); (3) a cancellation or extinguishment of an indebtedness upon the expiration of the statute of limitations for collection (but only if, and only when, the debtor's statute of limitations affirmative defense has been upheld in a final judgment or decision in a judicial proceeding, and the period for appealing it has expired) or upon the expiration of a statutory period for filing a claim or commencing a deficiency judgment proceeding; (4) a cancellation or extinguishment of an indebtedness pursuant to an election of foreclosure remedies by a creditor that statutorily extinguishes or bars the creditor's right to pursue collection of the indebtedness; (5) a cancellation or extinguishment of an indebtedness that renders a debt unenforceable pursuant to a probate or similar proceeding; (6) a discharge of indebtedness pursuant to an agreement between an applicable entity and a debtor to discharge indebtedness at less than full consideration; (7) a discharge of indebtedness pursuant to a decision by the creditor, or the application of a defined policy of the creditor, to discontinue collection activity and discharge debt; (8) the expiration of a 36-month non-payment testing period.

The first seven identifiable events are specific occurrences that typically result from an actual discharge of indebtedness. The eighth identifiable event, the expiration of a 36-month non-payment testing period, may not result from an actual discharge of indebtedness. The 36-month non-payment testing period was added to the final regulations in 1996 as an additional identifiable event in response to concerns of creditors that the facts and circumstances approach taken in the temporary and proposed regulations was unclear regarding the effect of continuing collection activity. Creditors proposed (among other things) that the final regulations require reporting after a fixed time period during which there had been no collection efforts.

Section 1.6050P–1(b)(2)(iv) of the 1996 regulations sets forth the 36-month non-payment testing period rule (the 36-month rule). Under that rule, a rebuttable presumption arises that an identifiable event has occurred if a creditor does not receive a payment within a 36-month testing period. The creditor may rebut the presumption if the creditor engaged in significant bona fide collection activity at any time within the 12-month period ending at the close of the calendar year or if the facts and circumstances existing as of January 31 of the calendar year following the expiration of the non-payment testing period indicate that the indebtedness has not been discharged. A creditor's decision not to rebut the presumption that an identifiable event has occurred pursuant to the 36-month rule is not an indication that it has discharged the debt. Concluding that the debts have, in fact, been discharged, some taxpayers may include in income the amounts reported on Forms 1099–C even though creditors may continue to attempt to collect the debt after issuing a Form 1099–C as required by the 36-month rule. *See* § 1.6050P–1(a)(1) and (b)(iv).

On October 25, 2004, final regulations reflecting the amendments to section 6050P(c) were published in the **Federal Register** (TD 9160) (69 FR 62181). These regulations describe circumstances in which an organization has a significant trade or business of lending money and

provide three safe harbors under which organizations will not be considered to have a significant trade or business of lending money.

On November 10, 2008, final and temporary regulations were published in the **Federal Register** (TD 9430) (73 FR 66539) (2008 regulations) to amend the regulations under section 6050P to exempt from the 36-month rule entities that were not within the scope of section 6050P as originally enacted (organizations with a significant trade or business of lending money and agencies other than Federal executive agencies). The changes made by the 2008 regulations reduced the burden on these entities and protected debtors from receiving information returns that reported discharges of indebtedness from these entities before a discharge had occurred. The 2008 regulations also added § 1.6050P–1(b)(2)(v), which provided that, for organizations with a significant trade or business of lending money and agencies other than federal executive agencies that were required to file information returns pursuant to the 36-month rule in a tax year prior to 2008 and failed to file them, the date of discharge would be the first identifiable event, if any, described in § 1.6050P–1(b)(2)(i)(A) through (G) that occurs after 2007. On September 17, 2009, final regulations were published in the **Federal Register** (TD 9461) (74 FR 47728–01) adopting the 2008 regulations without change.

Notice 2012–65

Even after the amendments to the regulations in 2008 and 2009, concerns continued to arise about the 36-month rule, and taxpayers remained confused regarding whether the receipt of a Form 1099–C represents cancellation of debt that must be included in gross income. To address those concerns, in Notice 2012–65 (2012–52 IRB 773 (Dec. 27, 2012)), the Treasury Department and the IRS requested comments from the public regarding whether to remove or modify the 36-month rule as an identifiable event for purposes of information reporting under section 6050P. Ten comments were received, all recommending removal or revision of the 36-month rule. Several commenters generally expressed concerns that the expiration of a 36-month non-payment testing period does not necessarily coincide with an actual discharge of the indebtedness, leading to confusion on the part of the debtor and, in some instances, uncertainty on the part of the creditor regarding whether it may lawfully continue to pursue the debt. Additionally, commenters noted that the IRS's ability to collect tax on discharge of indebtedness income may be undermined if the actual discharge occurs in a different year than the year of information reporting.

Explanation of Provisions

The Treasury Department and the IRS agree that information reporting under section 6050P should generally coincide with the actual discharge of a debt. Because reporting under the 36-month rule may not reflect a discharge of indebtedness, a debtor may conclude that the debtor has taxable income even though the creditor has not discharged the debt and continues to pursue collection. Issuing a Form 1099–C before a debt has been discharged may also cause the IRS to initiate compliance actions even though a discharge has not occurred. Additionally, § 1.6050P–1(e)(9) provides that no additional reporting is required if a subsequent identifiable event occurs. Therefore, in cases in which the Form 1099–C is issued because of the 36-month rule but before the debt is discharged, the IRS does not subsequently receive third-party reporting when the debt is discharged. The IRS's ability to enforce collection of tax for discharge of indebtedness income may, thus, be diminished when the information reporting does not reflect an actual cancellation of indebtedness. After considering the public comments and the effects on tax administration, the Treasury Department and the IRS propose to remove the 36-month rule.

In addition to the comments recommending removal of the 36-month rule, commenters made other suggestions to change this rule, which were not adopted. One commenter suggested that the rule should be revised to require information reporting after 24 months of non-payment, without regard to the creditor's collection efforts. The commenter suggested that most debts are not collectible after 24 months of non-payment and that requiring information reporting after 24 months would allow the IRS time to assess. This commenter also suggested that the Form 1099–C should be revised to clarify that the issuance of a Form 1099–C does not mean that the debt is discharged, and that creditors should be required to issue corrected Forms 1099–C if they receive payments after the first Form 1099–C is issued.

The revisions proposed by the commenter do not alleviate the problems to debtors, creditors, and the IRS caused by the 36-month rule. There is no indication that merely shortening the time before a Form 1099–C is required to be issued more closely comports with the actual discharge of indebtedness. For example, even if the debt has actually been discharged, the amount reported on the Form 1099–C may not be the same as the amount that the taxpayer is required to report as income because, for instance, the taxpayer may be entitled to claim an exclusion or an exemption. In addition, the Instructions for Debtor on Form 1099–C already explain that the issuance of a Form 1099–C does not necessarily mean that the debtor must include the cancellation of debt in gross income. As a result, such revisions would fail to address the fact that issuance of a Form 1099–C pursuant to the 36-month rule does not necessarily coincide with a discharge of indebtedness. Also, the commenter's suggestion that creditors be required to issue a corrected Form 1099–C if they later receive a payment from the debtor would not reduce the debtor's confusion about what receipt of a Form 1099–C issued pursuant to the 36-month rule means. The issuance of a corrected Form 1099–C after the debtor has already reported discharge of indebtedness income with respect to the discharge that is reported on the corrected Form 1099–C could require the debtor to file amended returns to report the reduced amount of cancellation indebtedness and the debtor may be entitled to a refund. Issuance of a corrected Form 1099–C would increase, not decrease, the debtor's confusion regarding how to proceed.

One commenter suggested that the rule should be retained because it eliminates the possibility of a ''permanent deferral'' of information reporting of a discharged debt. This commenter noted two recent Tax Court cases, *Kleber* v. *Commissioner,* T.C. Memo. 2011–233, and *Stewart* v. *Commissioner,* T.C. Sum. Op. 2012–46, in which the court used the 36-month rule to determine the year in which a debt was discharged. In both cases, the court determined that the statute of limitations for assessment had expired before a Form 1099–C was issued. The commenter stated that confusion could result if the 36-month rule is eliminated for information reporting purposes, but the court continues to use it to determine whether there has been an actual discharge. The commenter viewed this as a reason to retain the rule in a modified form. The commenter suggested that the Treasury Department and the IRS modify the 36-month rule and § 1.6050P–1(b)(2)(i)(G) by: (1) Treating a creditor's decision to discontinue collection activities as an

identifiable event, whether or not that decision coincides with an actual discharge; (2) placing a 36-month time limit on a creditor's defined policy for discharging a debt under § 1.6050P–1(b)(2)(i)(G); (3) prohibiting creditors from issuing Forms 1099–C while collection activities are ongoing or while the creditor is considering selling the debt; and (4) requiring creditors to issue corrected Forms 1099–C if they engage in subsequent collection activities or receive a payment on the debt.

Because the revisions suggested by this commenter would not require information reporting only upon an actual discharge of indebtedness, the revisions would not eliminate the problems associated with issuance of Forms 1099–C under the 36-month rule. Adopting these changes could increase, not decrease, confusion, because they would modify another identifiable event, § 1.6050P–1(b)(2)(i)(G), to require that a debtor's policy for discharging debt incorporate a 36-month discharge rule. Additionally, as explained in this preamble, requiring creditors to issue corrected Forms 1099–C would neither improve tax compliance nor reduce debtors' confusion. Eliminating the 36-month rule for information reporting purposes, moreover, is likely to lead courts to cease using it as an identifiable event for purposes of determining when an actual discharge occurs, thereby eliminating the issue of the IRS being precluded from assessing tax on discharge of indebtedness before the information return has been issued.

Effective Date

Sections 1.6050P–1(b)(2)(i)(H), 1.6050P–1(b)(2)(iv), and 1.6050P–1(b)(2)(v) would be removed on the date these regulations are published as final regulations in the **Federal Register**. Conforming amendments to § 1.6050P–1(h)(1) necessary as a result of the removal of the above-referenced sections would be effective on the same date.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed rules. All comments will be available at *www.regulations.gov* or upon request.

A public hearing will be scheduled if requested by any person who timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Hollie Marx of the Office of Associate Chief Counsel (Procedure and Administration).

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 1.6050P–1 is amended by:

■ a. Removing paragraphs (b)(2)(i)(H), (b)(2)(iv), and (b)(2)(v).

■ b. Revising paragraph (h).

The revision reads as follows:

§ 1.6050P–1 Information reporting for discharge of indebtedness by certain entities.

* * * * *

(h) *Effective/applicability date.* The rules in this section apply to discharges of indebtedness after December 21, 1996, except paragraphs (e)(1) and (3) of this section, which apply to discharges of indebtedness after December 31, 1994, and except paragraph (e)(5) of this section, which applies to discharges of indebtedness occurring after December 31, 2004.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2014–24392 Filed 10–14–14; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2014–0746; FRL–9917–79–Region–9]

Approval, Disapproval, and Limited Approval and Disapproval of Air Quality Implementation Plans; California; Monterey Bay Unified Air Pollution Control District; Stationary Source Permits

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing action on seven permitting rules submitted as a revision to the Monterey Bay Unified Air Pollution Control District (MBUAPCD or District) portion of the applicable state implementation plan (SIP) for the State of California. We are proposing to disapprove one rule, we are proposing a limited approval and limited disapproval of one rule, we are proposing to repeal one rule, and we are proposing to approve the remaining four permitting rules. The submitted revisions include new and amended rules governing the issuance of permits for stationary sources, including review and permitting of minor sources, and major sources and major modifications under part C of title I of the Clean Air Act (CAA). The intended effect of these proposed actions is to update the applicable SIP with current MBUAPCD permitting rules and to set the stage for remedying certain deficiencies in these rules. If finalized as proposed, the limited disapproval actions would trigger an obligation for EPA to promulgate a Federal Implementation Plan unless California submits and we approve SIP revisions that correct the deficiencies within two years of the final action.

DATES: Written comments must be received on or before November 14, 2014.

ADDRESSES: Submit comments, identified by Docket ID Number EPA–R09–OAR–2014–0746, by one of the following methods: