

fixture rebate or retrofit components. For self-supplied users, the program shall include water efficient technologies such as recycling, reuse, xeriscaping, drip or micro irrigation, or other innovative technology approved by the Commission.

(3) A program to monitor and control ground water infiltration to the receiving sewer system. The program must quantify ground water infiltration to the system and document reductions in infiltration. The program should include such measures as leakage surveys of sewer mains, metering of sewer flows in mains and interceptors, analysis of sewer system flows to quantify infiltration, and remedial measures such as repair of leaks and joints, main lining, and main replacement.

(4) An artificial recharge or spray irrigation program that demonstrates a return of at least 60 percent of the total new or expanded annual withdrawal to the same ground water basin and aquifer system from which it is withdrawn. The program shall not impair ground water quality.

(l) The durations of all existing dockets and protected area permits may be extended by the Commission for an additional five years if the docket or permit holder successfully implements either option (k)(1) or (k)(2) of this section. If the docket or permit holder successfully implements both options, the docket or permit may be extended for an additional ten years. The Executive Director shall notify all docket and permit holders potentially affected by this resolution of their right to file an application to determine their eligibility for extension.

(m) It is the policy of the Commission to prevent, to the extent reasonably possible, net annual ground water withdrawals from exceeding the maximum withdrawal limit. An application for a proposed new or expanded ground water withdrawal that would result in net annual ground water withdrawals exceeding the maximum withdrawal limit established in paragraph (i)(3) of this section shall set forth the applicant's proposal for complying with the Commission's policy, with such supporting documentation as may be required by the Executive Director. Notification of the application shall be given to all affected existing water users who may also submit comments or recommendations for consideration by the Commission on the pending application. In taking action upon the application, the Commission shall give consideration to the submissions from the applicant and affected water users.

If the Commission determines that it is in the public interest to do so, it may reduce the total of proposed and existing ground water withdrawals within a subbasin to a level at or below the withdrawal limit. Unless otherwise determined by the Commission, docket and permit holders shall share equitably in such reductions.

Dated: May 2, 1997.

**Susan M. Weisman,**  
*Secretary.*

[FR Doc. 97-12069 Filed 5-8-97; 8:45 am]

BILLING CODE 6360-01-P

## DEPARTMENT OF THE TREASURY

### Fiscal Service

#### 31 CFR Part 207

RIN 1510-AA59

#### Electronic Benefits Transfer; Selection and Designation of Financial Institutions as Financial Agents

**AGENCY:** Financial Management Service, Fiscal Service, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Department of the Treasury, Financial Management Service (Service), proposes to adopt a new regulation dealing with the Direct Federal electronic benefits transfer (EBT) program. The Direct Federal EBT program provides access to Federal program benefit payments through electronic funds transfer (EFT) to individuals who do not have an account at a financial institution. The proposed Part 207 describes how the Service will implement EBT through the selection and designation of financial institutions as Financial Agents of the Treasury, and specifies the duties of such Financial Agents.

**DATES:** Comments must be received no later than July 8, 1997.

**ADDRESSES:** Comments may be mailed to the Director, Card Technology Division, Financial Management Service, U.S. Department of the Treasury, Room 526, Liberty Center, 401 14th Street, S.W., Washington, D.C. 20227. A copy of the proposed rule is available at the Service's home page at: <http://www.fms.treas.gov>. Comments on the proposed rule will be available for inspection in a reading room in the Department of the Treasury.

**FOR FURTHER INFORMATION CONTACT:** John P. Galligan, Director, Card Technology Division, (202) 874-6550, or Anne Wallace, Senior Attorney (202) 874-6681.

## SUPPLEMENTARY INFORMATION:

### Background

The Department of the Treasury's Financial Management Service (Service) is the Federal Government's financial manager. Its mission includes providing leadership and assistance to Federal agencies in cash management, payment policy and financial systems, and collecting and disbursing public money. The Service issues over 850 million payments each year, totaling in excess of \$1 trillion.

The Service disburses payments under a variety of Federal programs, including Social Security Old Age, Survivors, and Disability Insurance, Supplemental Security Income, Black Lung, Railroad Retirement Board Retirement and Annuity, Department of Veterans Affairs Compensation and Pension, Civil Service Retirement and Disability, and Office of Personnel Management wage and salary payments. These payments are referred to as Direct Federal payments.

The Service disburses public monies in one of two ways: Treasury check and EFT. Slightly more than half of the 850 million payments made annually, representing payments to more than 30 million individuals, are made by Direct Deposit. Direct Deposit is a safe, reliable, and economical EFT payment mechanism in which funds are sent through the automated clearing house (ACH) into an account established by the recipient at a financial institution.

To utilize Direct Deposit under Treasury's regulations, a Direct Federal payment recipient must have an account with a financial institution and must designate that account as the location to which payments are to be sent by means of Direct Deposit. 31 CFR 210.4(a). However, an estimated 20-30 million Americans, including 10 million recipients of the Direct Federal payments mentioned above, do not have a bank account. These individuals are referred to as "unbanked recipients" in this proposal. Without an account at a financial institution, these recipients cannot receive their Direct Federal benefits via Direct Deposit. In order to afford unbanked recipients with a safe, reliable, and economical means of accessing their benefits, Treasury, together with other agencies in the Executive Branch, has been developing EBT for Direct Federal payments.

EBT is any delivery system which disburses government benefits through EFT and replaces paper benefit distribution with EFT and electronic access in the form of a plastic card. EBT may utilize a debit card or a stored value card, usable at point of sale (POS)

terminals and automated teller machines (ATMs). A debit card is a plastic card with a magnetic stripe that permits access to an account at a financial institution. A stored value card is a plastic card in which a computer chip is embedded. The computer chip retains a record of the card's value.

A majority of the States have implemented or are developing EBT systems. The benefits distributed in State EBT programs include those which are partly or fully funded by the Federal Government and administered by the State, such as Aid to Families with Dependent Children (AFDC), Food Stamps, and Women, Infants, and Children, and those that are fully funded and administered by the State, such as general assistance and unemployment compensation. For example, a number of States have replaced paper Food Stamp coupons with plastic cards that Food Stamp recipients use when purchasing food at participating certified grocery stores.

Treasury also has tested EBT in the delivery of Direct Federal payments. In 1989, Treasury designated the First National Bank of Maryland as its Financial Agent in the SecureCard pilot in Baltimore, Maryland. This one-year pilot was conducted with approximately 300 Supplemental Security Income recipients. In 1992, Treasury designated Citibank, N.A. as its Financial Agent in the Direct Payment Card pilot in Texas. The Direct Payment Card is an EBT program which provides unbanked recipients with access to Direct Federal payments. At the present time, there are approximately 21,000 active users of the Direct Payment Card throughout the State of Texas. In January, 1996, Treasury designated Citibank F.S.B. as its Financial Agent for EBT in the Southern Alliance of States (SAS). The SAS includes the states of Alabama, Arkansas, Florida, Georgia, Kentucky, Missouri, North Carolina and Tennessee.

In his National Performance Review Report, "On An Implementation Plan For Nationwide EBT," Vice President Gore encouraged Federal agencies, in partnership with State and local governments, to develop a nationwide integrated EBT system utilizing the commercial infrastructure and combined access to Direct Federal payments and State-administered benefits for an individual recipient on a single card.

Recent legislation has provided additional urgency to the development of an electronic delivery system for the unbanked. Chapter 10 of Pub. L. 104-134, which was signed by the President on April 25, 1996, is the Debt Collection

Improvement Act (DCIA). Section 31001(x) of the DCIA amends 31 U.S.C. 3332 to require Federal agencies to convert Federal payments, other than payments under the Internal Revenue Code, from checks to EFT in two phases. Phase one affects newly-eligible recipients of Federal payments. During phase one, which began on July 26, 1996, a recipient of a Federal payment who becomes eligible to receive the payment on or after July 26, 1996, must receive it by EFT unless the recipient certifies in writing that the recipient does not have an account at a financial institution or authorized payment agent. Phase two involves the conversion from checks to EFT of all Federal payments, except payments under the Internal Revenue Code. The DCIA provides that, subject to the Secretary's authority to grant waivers, after January 1, 1999, all Federal payments must be made by EFT.

Section 3332(i) authorizes Treasury to issue regulations to implement the mandatory EFT requirements. On July 26, 1996, the Service issued an interim rule to implement the provisions of the DCIA that took effect on that date and to seek public comment on issues relating to implementation of the requirements that take effect in January 1999. 61 FR 39254. The Service also described the steps it intends to take to implement the DCIA. The Service noted that it plans to engage in extensive educational and marketing efforts to promote Direct Deposit and Direct Deposit Too. Direct Deposit Too is a collaborative marketing initiative between the Federal Government and the financial services industry under which the Federal Government will encourage the financial industry to offer simple, low-cost, electronically-accessible accounts and will help market such accounts. 61 FR 39254-5.

Treasury hopes that many unbanked recipients of Direct Federal payments will become "banked" as a result of public and private sector educational and marketing efforts. However, it is likely that a certain percentage of Direct Federal recipients will remain unbanked by the January 1999 deadline. Therefore, by that time, Treasury must have in place payment systems, such as EBT, which will permit the electronic delivery of funds to the unbanked. Treasury believes that, by establishing a legal framework, the adoption of Part 207 will facilitate implementation of the Direct Federal EBT program.

#### Part 207

The Service has adopted regulations dealing with Direct Deposit which are codified at 31 CFR Part 210. Although Direct Deposit and EBT are similar in

that both involve the movement of funds by EFT through the ACH, there are significant distinctions between them. For this reason, the Service believes it is desirable to adopt a regulation that deals specifically with EBT.

There are three principal distinctions between Direct Deposit and EBT. First, Direct Deposit is an EFT system for recipients who already have an account at a financial institution; EBT is an EFT system for unbanked recipients of Direct Federal benefit payments. In the Direct Federal EBT program, a financial institution designated by Treasury as its Financial Agent for EBT establishes an account in the name of the recipient for the purpose of receiving and providing adequate access to Direct Federal payments by EFT. The establishment of this account can be viewed as changing the recipient's status from "unbanked" to "banked." However, it is important to note that, in EBT, all of the attributes of the account are determined by Treasury, none by the recipient, and the recipient has no ability to change the attributes of the account.

The second distinction relates to the nature of the disbursement process and the relationship between Treasury and the financial institution that receives the funds. Both Direct Deposit and EBT involve the disbursement of public funds. In Direct Deposit, Treasury disburses public funds by originating an ACH credit to the financial institution that holds the recipient's account. By definition, however, EBT is a payment system for the unbanked. Therefore, the mere origination of an ACH credit will not accomplish the program objective of placing funds representing the benefit payment into the hands of the recipient. Thus, in EBT, disbursement is a multi-step process that includes, in addition to the origination of an ACH credit, the establishment of an account for the unbanked recipient by Treasury's Financial Agent and the provision of access to that account by the Financial Agent.

As discussed below, under Federal law, the authority to disburse public money is limited to specific persons and entities. Financial institutions that have been designated by the Secretary as financial agents of the Government are among the entities authorized by Federal law to carry out the disbursement function. The designation of a financial institution as a financial agent creates a principal-agent relationship between Treasury and the financial agent. As in any agency relationship, as agents of the United States, financial agents act upon the instructions of the principal, the

Treasury, and answer only to the principal. Under proposed Part 207, the Financial Agent acts as agent of the United States, not as agent of the unbanked recipient, in establishing the account and providing services. For example, under proposed § 207.3(a)(1), the Financial Agent opens an account for the unbanked recipient at Treasury's direction and may close the account only at Treasury's direction. The Financial Agent for EBT is accountable only to Treasury, and Treasury will hold the Financial Agent responsible for the performance of these duties.

In contrast, under Treasury's Direct Deposit regulations, a financial institution does not become a financial agent by virtue of its receipt of a payment by Direct Deposit. 31 CFR 210.7(g). This is because, in Direct Deposit, the financial institution is selected by and acts as agent of its depositor, the recipient, and not as an agent of the Government. The depositor has complete freedom to choose the financial institution at which the account will be maintained and to change institutions at will.

The third distinction between Direct Deposit and EBT relates to the discretion possessed by the financial institution in providing access to the recipient's funds. In Direct Deposit, the recipient's financial institution provides access to funds in the recipient's account in accordance with the deposit contract between the financial institution and its depositor. Treasury is not a party to the deposit contract. Thus, the financial institution provides its depositor with whatever means of access, including checks, as agreed to by the parties. And, of course, Treasury has no responsibility for the nature or quality of services provided.

In the Direct Federal EBT program, the Financial Agent provides unbanked recipients with access to their benefit payments in the manner and on the terms specified in Part 207 and the agreement between Treasury and the Financial Agent. Specifically, under proposed § 207.3(a)(4), the Financial Agent is required to issue to each unbanked recipient a debit card bearing the Treasury's registered service mark for EBT, the Benefit Security Card®. The service mark identifies the debit card, and the cardholder-recipient, with the Direct Federal EBT program. The recipient is able to use this card at ATMs and POS terminals on terms and conditions specified by Treasury. No checks are issued to the recipient.

The statutory basis for the designation of financial institutions as financial agents and the relationship between Treasury, the Financial Agent for EBT,

and the unbanked recipient are discussed in more detail below.

### Section-by-Section Analysis

#### Section 207.1—Scope

Proposed § 207.1 provides that Part 207 governs Direct Federal EBT. The Direct Federal EBT program differs in several important respects from Direct Deposit, which is subject to regulations found at 31 CFR Part 210. The Service believes it is desirable to adopt a regulation that reflects the unique character of Direct Federal EBT.

#### Section 207.2—Definitions

The Service is the registered owner of the Benefit Security Card® mark; the Patent and Trademark Office issued Registration number 1,946,344 to the Service on January 9, 1996. Treasury intends to use the Benefit Security Card® mark to identify the Direct Federal EBT program. Proposed § 207.3(a)(4) directs the Financial Agent for EBT to use this service mark on all EBT cards.

The Service proposes to define the term "Direct Federal electronic benefits transfer (EBT)" as a program for providing the unbanked with electronic access to their Direct Federal benefit payments through the disbursement by a financial institution acting as Financial Agent of the United States. The proposed definition makes it clear that EBT is for the unbanked, unlike Direct Deposit where a recipient must have a preexisting account relationship with a financial institution. The proposed definition also makes clear that EBT involves the disbursement of public funds. See the discussion below of the proposed definition of "disburse."

The Service proposes to define the term "Direct Federal payment" as including payments under any Federally funded entitlement, pension, annuity, wage or salary program not administered by a State government. This category includes Social Security Old Age, Survivors, and Disability Insurance, Supplemental Security Income, Black Lung, Railroad Retirement Board Retirement and Annuity, Department of Veterans Affairs Compensation and Pension, Civil Service Retirement and Disability, and Office of Personnel Management wage and salary payments.

Proposed § 207.2 defines the term "disburse" in the context of EBT as the performance of a series of functions by a financial institution that has been designated as a Financial Agent of the United States. These functions are: The establishment of an account in the name

of an unbanked recipient; the maintenance of the account; the crediting of Direct Federal payments to the account; and the provision of access to the account on terms specified by the Service.

Two elements of this definition are significant: the multiple functions which, taken together, comprise the act of disbursement; and the identity of the party performing disbursement. First, it should be noted that the broad definition of "disburse" in proposed § 207.2 reflects the Service's determination that all these functions must be performed in order to accomplish Treasury's goal of providing unbanked recipients with electronic access to their benefit payments. By contrast, the term "disburse" is used in a narrower sense in 31 CFR Part 206, where the Service's regulation deals with the management of Federal agency receipts and collections. There, "disburse" is defined in 31 CFR 206.2 as the initiation of an electronic funds transfer because, in the context of agency cash management where all the parties have accounts at financial institutions, the only function that needs to be performed in order to deliver public money by EFT to the intended recipient is the initiation of an electronic funds transfer.

Federal law authorizes the Secretary of the Treasury to disburse public money for the executive branch and specifies the individuals and entities to whom the Secretary can delegate the performance of this task. Section 3321 of Title 31 provides, in relevant part:

(a) Except as provided in this section or another law, only officers and employees of the Department of the Treasury designated by the Secretary of the Treasury as disbursing officials may disburse public money available for expenditure by an executive agency.

(b) For economy and efficiency, the Secretary may delegate the authority to disburse public money to officers and employees of other executive agencies.

Thus, the authority to disburse public funds is limited to designated officers and employees of Treasury, designated officers and employees of another executive agency under a delegation of authority from Treasury, or other entities to the extent they are authorized under some other specific statutory provision. One such provision is 31 U.S.C. 3327, which provides, in pertinent part:

When the Secretary decides it is convenient to a public creditor and in the public interest, the Secretary may designate a depository to issue a check or other draft on public money held by the depository to pay an obligation of the Government.

Other Federal laws specifically authorize "depositories" of public money, that is, banks or other financial institutions, to disburse public money as "financial agents" of the Government. For example, 12 U.S.C. 90 authorizes the Secretary of the Treasury to designate national banks as financial agents. That section provides, in relevant part:

All national banking associations, designated for that purpose by the Secretary \* \* \* shall be depositories of public money, under such regulations as may be prescribed by the Secretary; and they may also be employed as financial agents of the Government; and they shall perform all such reasonable duties, as depositories of public money and financial agents \* \* \* as may be required from time to time.

Federal law also authorizes the Secretary to designate other types of financial institutions as financial agents. See, 12 U.S.C. 265, 266, 391, 1452(d), 1767, 1789a, 2013, 2122, and 31 U.S.C. 3122 and 3303.

Recent legislation clarified the Secretary's authority to use financial institutions designated as financial agents for EBT. Section 665, Omnibus Consolidated Appropriations Act, 1997, Pub. L. 104-208, amends 12 U.S.C. 90 by adding the following sentence to the end of that provision:

Notwithstanding the Federal Property and Administrative Services Act of 1949, as amended, the Secretary may select [national banking] associations as financial agents in accordance with any process the Secretary deems appropriate and their reasonable duties may include the provision of [EBT] services (including State-administered benefits with the consent of the States), as defined by the Secretary.

Corresponding amendments were made to the ten other provisions of Federal law that authorize the designation of financial institutions as financial agents.

Relying upon this authority, the Service proposes to use financial institutions designated as financial agents of the Government to perform the disbursement of public funds that is central to the Direct Federal EBT program. The Service wishes to emphasize that proposed definition would not preclude a financial agent from working with one or more non-financial institutions in providing Direct Federal EBT services.

The proposed definition of "eligible financial institution" lists the eleven provisions in Federal law discussed above that authorize the designation of financial institutions as financial agents of the Government.

The Service proposes to define the term "Financial Agent" as a financial

institution that has been designated as a Financial Agent of the United States for EBT.

Proposed § 207.2 defines "recipient" as a natural person entitled to receive a Direct Federal payment.

The proposed definition of the "Service" provides that the Financial Management Service is a bureau of the Department of the Treasury. The Service is responsible for implementation of the Direct Federal EBT program.

The Service proposes to define "State EBT program" as a program established under State or local law or administered by a State or local agency to provide electronic access to benefits. A number of States distribute cash benefits, such as AFDC and unemployment compensation, through the ACH. Proposed § 207.3(a)(3) authorizes the Financial Agent for EBT to credit such payments to the account established pursuant to § 207.3(a)(1). Obviously, non-cash benefits, such as Food Stamps, could not be added to the deposit account established by the Financial Agent.

The Service's proposed definition of "State EBT program" is based on language used by the Board of Governors of the Federal Reserve System in a recently proposed amendment to Regulation E, 12 CFR Part 205. 62 FR 3242.

The Board's proposed amendment implements legislation which exempted from the Electronic Funds Transfer Act "needs-tested" EBT programs, such as AFDC, established or administered under State or local law. However, the Service's proposed definition is not limited to needs-tested programs. Therefore, under this proposal, the Financial Agent could credit to the account established under § 207.3(a)(1) needs-tested cash payments, such as AFDC, or cash payments which are not needs-tested, such as unemployment compensation.

The proposed definition of "unbanked recipient" describes the class of persons eligible to participate in the Direct Federal EBT program as comprising those recipients who do not have an account at a financial institution. This definition reflects the distinction between Direct Deposit and the Direct Federal EBT program. The Service's Direct Deposit regulation provides that, in order to receive a benefit payment by Direct Deposit, the recipient "shall designate the desired financial institution and account identification at that financial institution." 31 CFR 210.4(a). Obviously, a recipient who does not have an account at a financial institution cannot satisfy this

requirement. The Direct Federal EBT program is designed to meet the needs of such recipients.

#### *Section 207.3—Duties of the Financial Agent*

Proposed § 207.3(a) describes the duties of a Financial Agent for EBT. The proposal contemplates the performance by the Financial Agent of a broad range of duties; as noted above, non-financial institutions can partner with the Financial Agent. In addition, it should be noted that Treasury possesses the inherent authority to perform, as principal, many of the duties described in this section. The regulation should not be interpreted as precluding Treasury from performing certain functions directly, should it determine that doing so is in the best interests of the Government.

Proposed § 207.3(a)(1) requires the Financial Agent to establish an account in the name of each unbanked recipient. The operational or accounting convention used by the Financial Agent is irrelevant; the account may be a master or subaccount, provided the deposit account records of the Financial Agent make clear the unbanked recipient's ownership rights in the account. In addition, the proposal provides that, since the Financial Agent acts as agent of Treasury in establishing the account, the account may be closed only at the direction of the Service.

Proposed § 207.3(a)(2) provides that the Financial Agent must comply with Regulation E, 12 CFR Part 205. The Financial Agent would be required to comply with Regulation E regardless of the requirement imposed by § 207.3(a)(2); the Service includes this requirement in Part 207 merely to emphasize that unbanked recipients participating in the Direct Federal EBT program will receive full Regulation E protection.

Proposed § 207.3(a)(3) requires the Financial Agent to credit to the account established pursuant to § 207.3(a)(1) Direct Federal payments received through the ACH. In addition, as discussed above, the Service is proposing to permit the Financial Agent to credit cash payments made to the recipient under a State EBT program to such account. No other deposits, whether over the counter or by EFT, may be made to the account.

Proposed § 207.3(a)(4) would require the Financial Agent to issue to each unbanked recipient a debit card bearing the Service's registered service mark, Benefit Security Card®. The recipient may use this card to access his or her account at ATMs and POS terminals.

Under proposed § 207.3(a)(5), the Financial Agent is required to provide service to cardholders on such terms and conditions as the Service specifies. The customer service duties of the Financial Agent will be described in detail in the Invitation for Expression of Interest (IEI) or in the Financial Agency Agreement between the Service and the Financial Agent.

Proposed § 207.3(a)(6) is a catch-all provision that would require the Financial Agent to perform any duties not specifically enumerated in this Part which the Service determines are necessary or appropriate in connection with the Direct Federal EBT program.

Proposed § 207.3(b) provides that, in carrying out its duties, the Financial Agent acts as agent of the United States and not as agent of the unbanked recipient.

### Rulemaking Analysis

Treasury has determined that this proposed regulation is not a significant regulatory action as defined in Executive Order 12866. It is hereby certified that this rule will not have a significant economic impact on a substantial number of small business entities. The proposed rule does not require any actions on the part of small entities. Accordingly, a Regulatory Flexibility Act analysis is not required.

### List of Subjects in 31 CFR Part 207

Automated clearing house, Banks, Banking, Electronic funds transfer, Federal Reserve System, Financial institutions, Government payments.

For the reasons set out in the preamble, the Service proposes to add Part 207 to title 31, chap. II, as follows:

### PART 207—ELECTRONIC BENEFITS TRANSFER; DESIGNATION OF FINANCIAL INSTITUTIONS AS FINANCIAL AGENTS

Sec.

207.1 Scope.

207.2 Definitions.

207.3 Duties of the financial agent.

**Authority:** 12 U.S.C. 90, 265, 266, 391, 1452(d), 1767, 1789a, 2013, 2122; 31 U.S.C. 321, 3122, 3303, 3321, 3327, 3332, 3335 and 3336.

#### § 207.1 Scope.

This part governs Direct Federal electronic benefits transfer (EBT), which involves the disbursement by electronic funds transfer of Direct Federal payments to unbanked recipients through the selection and designation of financial institutions as Financial Agents of the United States, and describes the duties of such Financial Agents.

#### § 207.2 Definitions.

For purposes of this part:

*Benefit Security Card®* means the Service's registered service mark for Direct Federal EBT.

*Direct Federal electronic benefits transfer (EBT)* means a program for providing electronic access to Direct Federal payments to unbanked recipients through disbursement by a financial institution acting as Financial Agent of the United States.

*Direct Federal payment* means a payment under any entitlement, pension, annuity, or wage or salary program.

*Disburse* means, in the context of Direct Federal EBT, the performance of the following duties by a Financial Agent acting as agent of the United States: the establishment at a financial institution of an account in the name of an unbanked recipient; the maintenance of such account; the receiving of Direct Federal payments through the ACH and crediting of Direct Federal payments to the account; and the provision of access to such account on the terms specified by the Service and in accordance with this part.

*Eligible financial institution* means an institution eligible for designation as a Depository and Financial Agent under any one of the following provisions of Federal law: 12 U.S.C. 90, 265, 266, 391, 1452(d), 1767, 1789a, 2013, 2122; and 31 U.S.C. 3122 and 3303.

*Financial agent* means an eligible financial institution that has been designated as a Depository and Financial Agent of the United States for EBT pursuant to this part.

*Recipient* means a natural person entitled to receive a Direct Federal payment.

*Service* means the Financial Management Service, a bureau of the United States Treasury.

*State EBT program* means a program established under State or local law or administered by a State or local agency for providing electronic access to needs-tested or other benefits.

*Unbanked recipient* means a recipient who does not have an account at a financial institution.

#### § 207.3 Duties of the financial agent.

(a) The financial agent shall:

(1) Establish an account in the name of each unbanked recipient. Such account must be eligible for Federal deposit insurance and may be closed only at the direction of the Service.

(2) Comply with Regulation E, 12 CFR part 205.

(3) Credit to such account Direct Federal payments received through the automated clearing house. The

Financial Agent also may credit to the account payments under a State EBT program.

(4) Issue to each unbanked recipient a debit card bearing the Benefit Security Card® service mark which will permit the recipient to access the account established pursuant to paragraph (a)(1) of this section at automated teller machines and point of sale terminals.

(5) Provide service to Benefit Security Card® holders on such terms as the Service specifies; and,

(6) Perform such other duties as the Service may specify.

(b) In performing the duties described in subsection (a), the financial agent shall act solely as the agent of the United States, not as agent of the unbanked recipient, and shall be accountable only to the Treasury.

**Russell D. Morris,**

*Commissioner.*

[FR Doc. 97-11928 Filed 5-8-97; 8:45 am]

BILLING CODE 4810-35-P

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 167

[CGD 97-004]

RIN 2115-AF42

#### Traffic Separation Scheme in the Approaches to Delaware Bay

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to amend the traffic separation scheme (TSS) in the approaches to Delaware Bay by shifting the Eastern approach lanes southward; establishing a two-way route for use by tug and tow traffic; and reconfiguring the precautionary area to exclude shoal areas too shallow for deep draft vessels. Navigation safety, economic, and environmental considerations necessitate action to separate large inbound vessels from tug and barge traffic transiting easterly and northerly along traditional New Jersey coastal routes. The proposed reconfiguration will reduce frequent near misses and the probability of an incident which could result in a major chemical or petroleum oil spill.

**DATES:** Comments must be received on or before August 7, 1997.

**ADDRESSES:** Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA/3406) (CGD 97-004), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, or may be delivered to