

Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the Air Traffic Service (ATS) route structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System.

History

The FAA published a NPRM for Docket No. FAA 2023–1464 in the **Federal Register** (88 FR 43258; July 7, 2023), proposing to revoke G–4 in the vicinity of Dillingham, AK. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. One comment was received. No response was provided as the comment was outside of the scope of the proposal.

Incorporation by Reference

Colored Federal airways are published in paragraph 6009 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023. FAA Order JO 7400.11H is publicly available as listed in the **ADDRESSES** section of this document. These amendments will be published in the next update to FAA Order JO 7400.11.

FAA Order JO 7400.11H lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This action amends 14 CFR part 71 by revoking Colored Federal Airway G–4 in its entirety, in the vicinity of Dillingham, AK.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when

promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this airspace action of revoking Colored Federal Airway G–4 in the vicinity of Dillingham, AK qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points), and paragraph 5–6.5k, which categorically excludes from further environmental review the publication of existing air traffic control procedures that do not essentially change existing tracks, create new tracks, change altitude, or change concentration of aircraft on these tracks. As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. Accordingly, the FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 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 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 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 JO 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, and effective September 15, 2023, is amended as follows:

Paragraph 6009(a) Green Federal Airways.

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G–4 [Removed]

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Issued in Washington, DC, on February 14, 2024.

Brian Eric Konie,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2024–03480 Filed 2–20–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 208

[FISCAL–2022–0003]

RIN 1530–AA27

Management of Federal Agency Disbursements

AGENCY: Bureau of the Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: On January 10, 2023, the Department of the Treasury’s (Treasury) Bureau of the Fiscal Service (Fiscal Service) issued a notice of proposed rulemaking (NPRM) to amend Fiscal Service’s Management of Federal Agency Disbursements rule, which implements a statutory mandate requiring the Federal Government to deliver non-tax payments by electronic funds transfer (EFT) unless Treasury determines that a waiver of the requirement is appropriate. Fiscal Service is now issuing this final rule (Final Rule) to adopt the amendments as proposed, with one minor change. Among other things, the Final Rule strengthens the EFT requirement by narrowing the scope of existing waivers from the EFT mandate or requiring agencies to obtain Fiscal Service’s approval to invoke certain existing part 208 waivers. The use of electronic payments has expanded significantly since the waivers from the EFT mandate were first published in 1998, and the Final Rule appropriately updates part 208’s waiver provisions, given the broad availability of safe and secure electronic payment options currently available. In doing so, the Final Rule leverages

Treasury's growing profile of electronic payment options, which are faster, less expensive, and safer than paper checks. The strengthening of the EFT requirement with these changes is also consistent with Treasury's commitment to reducing check payments.

DATES: This rule is effective March 22, 2024.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Background

In 1998, Fiscal Service issued a final rule, codified at 31 CFR part 208 (part 208), to implement the requirements of 31 U.S.C. 3332, as amended by section 31001(x)(1) of the Debt Collection Improvement Act of 1996, Public Law 104-134, 110 Stat. 1321-376. Section 3332 generally mandates that all Federal payments that the government makes, other than tax payments, be delivered by EFT unless waived by the Secretary of the Treasury. Specifically, subsection (f)(2)(A) of section 3332 provides that "[t]he Secretary of the Treasury may waive application of [the EFT mandate] to payments—(i) for individuals or classes of individuals for whom compliance poses a hardship; (ii) for classifications or types of checks; or (iii) in other circumstances as may be necessary." Subsection (f)(2)(B) states that "[t]he Secretary of the Treasury shall make determinations under subparagraph (A) based on standards developed by the Secretary." Section 3332 also authorizes the Secretary of the Treasury to "prescribe regulations that the Secretary considers necessary to carry out this section." 31 U.S.C. 3332(i)(1). The waivers authorized by section 3332 are located exclusively in part 208. Pursuant to statutory authority in 31 U.S.C. 3335, part 208 also provides that Treasury may assess a charge to an agency that fails to make a payment by EFT as prescribed by part 208.

The part 208 waivers have remained largely unchanged since the late 1990s, even as Treasury's percentage of payments made electronically has significantly increased. In 2007, 78% of the government's payments that Treasury disbursed were made electronically. By fiscal year 2023, that figure had risen to 96%. Of the over 1 billion payments that Treasury disburses each year on behalf of Federal

agencies, all but a small fraction are paid electronically.

The part 208 waivers have also remained largely unchanged despite Treasury expanding its electronic payment offerings. The additional offerings include same-day Automated Clearing House (ACH) payments, Treasury-sponsored prepaid debit cards, and the Treasury-sponsored Digital Pay program. Treasury also operates electronic payment support and education programs and platforms such as GoDirect.gov and the Direct Express Financial Education Center. None of these offerings existed when Treasury published its initial final rule on part 208 in 1998.

The use of Treasury-sponsored debit cards illustrates how much has changed since the waivers were first published. Over 3.8 million Federal benefit payees receive their payments on Direct Express debit cards, which are linked to accounts sponsored by Treasury. Similarly, over 16.5 million Economic Impact Payment (EIP) payees received payments in 2020 and 2021 on EIP Cards, which are debit cards linked to Treasury-sponsored accounts. The Direct Express program helps ensure that recipients of Federal benefits receive payments electronically even if they do not otherwise have bank accounts. The use of EIP Cards helped Treasury meet its responsibility to issue EIPs as quickly as possible. But for the issuance of debit cards, most of these payments would have been by paper check.

It is Treasury's goal to create a modern, seamless, and cost-effective Federal payment experience for the public. Expanding the use of electronic payments and reducing the number of paper checks are essential to this goal. Electronic payments are much faster, more timely, and significantly less expensive than paper checks. Electronic payments are safer than paper checks as well, with direct deposits being 16 times less likely to have post-payment issues (such as claims of missing or misdelivered payments) than paper checks. Electronic payments avoid the disproportionate burden checks can place on some payment recipients—who may have to resort to expensive check-cashing services—as well as the negative impact that check production and delivery may have on the environment.

There remains room for improvement in increasing the percentage of payments made electronically and reducing the number of paper checks produced and mailed every year. Treasury works closely with Federal agencies that make payments and has

encountered numerous examples of payments that are made by paper check that could be made electronically. These often include Federal intragovernmental payments and vendor payments, many of which take place on a recurring basis. Increasing the electronic payment rate for Treasury-disbursed payments is part of an Agency Priority Goal for Treasury, and Fiscal Service has set a federal financial management goal to deliver 99% of eligible Treasury-disbursed payments electronically by 2030.

Treasury believes that it is time to narrow the existing waivers. A narrowing of the waivers is expected to increase the percentage of payments made electronically and reduce the number of paper checks sent out each year. This narrowing is possible and appropriate because of the changes over the last 25 years.

II. Public Comments and Fiscal Service Responses

Fiscal Service received three substantive comment letters in response to the NPRM. Two comments were from Federal agencies and one was from Nacha, the ACH network's governing body. The comments sought clarification regarding the application of certain waivers and the new agency waiver request process, addressed the charges that Fiscal Service may assess under § 208.9, discussed the rule's potential effects on agency-led research activities that involve payments to research participants, and expressed general support for the NPRM.

Comments Regarding the Application of Certain Waivers and the New Agency Waiver Request Process

One agency commenter requested clarification regarding a portion of the preamble to the NPRM that addressed the amendment to § 208.4(a)(1)(ii), which provides a waiver from the EFT requirement for individuals who receive a type of payment for which Treasury does not offer delivery to a Treasury-sponsored account. The Final Rule specifies that if Treasury provides an agency with an option to begin delivering a type of payment to a Treasury-sponsored account, the agency must file a waiver request with Treasury to make payments of that type by any means other than by EFT. In response to the commenter's request for clarification, we note that if Treasury provides an agency an option to begin delivering certain payments to a Treasury-sponsored account and the agency submits a waiver request to continue to make payments other than by EFT, the agency may continue to issue check payments during the

pendency of the waiver request. The commenter also asked whether individuals who are homeless would be eligible for a class waiver, noting the potential difficulty of enrolling such individuals in direct deposit or in Direct Express. Fiscal Service would consider an agency's waiver request under § 208.4(a)(1)(ii) for a group of individuals, including individuals who are homeless.

With regard to the waiver under newly redesignated § 208.4(a)(7), which may be available when an agency does not expect to make multiple payments to the same individual or small business concern within a one-year period on a regular, recurring basis, an agency commenter asked if waivers could be applied to a class of individuals, such as in cases where an agency holds the personal funds of patients during hospital stays and then returns the funds upon patient discharge. The commenter asked if the § 208.4(a)(7) waiver could apply in such cases given that the agency would not know if a patient may be readmitted during the same year. Fiscal Service believes the waiver under § 208.4(a)(7) could be relied upon to return the personal funds of patients by means other than EFT and that the agency could apply the waiver to a class of discharged patients rather than on a case-by-case basis. Fiscal Service, however, would discourage the agency's use of the waiver for all discharged patients before first considering whether EFT, including via the U.S. Debit Card, would be an appropriate and convenient method of returning discharged patients' funds in certain circumstances. For example, the waiver could be limited to payments to patients who have been offered return of their funds by direct deposit or U.S. Debit Card and who have declined that option.

One agency commenter also commented on the new agency waiver request requirement. As the commenter noted, the NPRM stated that Fiscal Service would provide detailed information about how to file a waiver request in the Treasury Financial Manual. The commenter stated that it would be helpful to have more information regarding the agency waiver request process. As of the date of this Final Rule, Fiscal Service has updated the relevant Treasury Financial Manual chapter, which is available at <https://tfm.fiscal.treasury.gov/v1/p4/ac200/>. Subsection 2040.30c of the chapter, which may be amended from time to time, outlines the agency waiver request process and will be effective March 22, 2024.

Comment Relating to Fiscal Service's Assessment of Charges Under § 208.9

One agency commenter requested more detail regarding how charges would be assessed under § 208.9, how frequently agencies will be billed, and whether agencies would have any appeal rights. The provision of the Final Rule stating that Treasury may assess a charge to an agency pursuant to 31 U.S.C. 3335 if the agency fails to make final payment by EFT as prescribed under part 208 has been in effect since 1999. The proposed rule only clarified that if an agency fails to make payment by EFT as prescribed under part 208, Treasury will consider that payment to be not timely pursuant to 31 U.S.C. 3335, as EFT payments are processed, disbursed, and settled more quickly than paper checks.

The commenter is correct that the proposed rule did not address how Treasury would assess charges to agencies that fail to make payment by EFT pursuant to § 208.9. Fiscal Service is evaluating the appropriate method to assess charges to agencies in accordance with the Secretary's authority under 31 U.S.C. 3335, which permits the Secretary to charge an agency the cost to the General Fund of the Treasury caused by the agency's non-compliance with the requirement to provide for the timely disbursement of Federal funds. Until such time as the method of assessing non-compliance charges is established and published in the Treasury Financial Manual, Volume I, Part 4A, Chapter 2000, Fiscal Service will not charge agencies under § 208.9. Moreover, Fiscal Service anticipates that once the method of assessing non-compliance charges is established and published in the Treasury Financial Manual, § 208.9 would be relied upon to charge an agency only in unresolved cases after Fiscal Service and the agency have exhausted reasonable options to resolve the non-compliance issue.

Comments Relating to Agency Research Activities

One agency commenter expressed concerns regarding the EFT requirement's impact on agency research activities because research teams would need to submit an Institutional Review Board modification to already-approved studies to collect bank account information from participants. The commenter also observed that any requirement to collect bank account information from research participants would be detrimental to the agency's recruitment of research subjects, as it would limit the agency's recruitment to individuals who are

willing to provide bank account information. The commenter further suggested that the agency could not utilize the waiver under § 208.4(a)(7) for non-regular, non-recurring payments given that the agency might not know whether any given research participant would be paid more than once a year.

The EFT requirement is a longstanding requirement, not a new requirement under the Final Rule. Additionally, the agency would be able to comply with the EFT requirement without collecting bank information from research participants by issuing pre-paid debit cards through Fiscal Service's U.S. Debit Card program or virtual payments through Fiscal Service's Digital Pay program.

With respect to the commenter's concern that the payment waiver under § 208.4(a)(7) for non-regular and non-recurring payments would not be available to the agency to make non-EFT payments to the research participants, we note that to use the waiver, the rule requires that the agency not "expect" to make payments to the same recipient on a "regular, recurring basis" within a one-year period—not that the agency does not ultimately make more than one payment to the same recipient within a one-year period. (We note that although the preamble to the NPRM referred to the waiver under § 208.4(a)(7) as the "one-time, non-recurring payment waiver," it could be more precisely referred to as the "non-regular, non-recurring payment waiver.") Accordingly, an agency may use the waiver under § 208.4(a)(7) to pay research participants by means other than EFT when the agency does not expect to make payments to the research participants on a regular, recurring basis, notwithstanding the possibility that those research participants may be paid for participating in other agency research projects in the same year. While an agency in this type of circumstance could use the waiver under § 208.4(a)(7), we would also encourage such an agency to consider using the U.S. Debit Card program to issue pre-paid debit cards or the Digital Pay program to issue virtual payments, which, as noted above, would not require the agency to collect personal bank account information.

Comments Expressing General Support for the Proposed Rule

Nacha's comment letter expressed support for the NPRM, noting that electronic payments will continue to reduce costs and improve efficiency across the federal government. Nacha further encouraged Fiscal Service to: (1) provide for the sharing of payment

enrollment information across agencies to the extent possible, and to seek Congressional authorization to do so if necessary; (2) utilize customer-facing enrollment portals, similar to the IRS's portal for providing banking information for EIPs; and (3) use industry-available account validation tools and services to promote greater accuracy of payment information. We appreciate Nacha's support of the NPRM. We note that currently federal benefit recipients may enroll in direct deposit on *GoDirect.gov* and that Fiscal Service continues to explore options for improving the EFT enrollment process. Fiscal Service also currently leverages commercially available data sources to confirm the existence, status, and ownership of bank accounts. Use of these data sources has increased the government's payment accuracy while reducing instances of reported fraud and erroneous payments. Fiscal Service is continually evaluating ways to increase electronic payments while reducing improper and misdirected EFT.

III. Summary of Final Rule

The Final Rule amends part 208 to require agencies seeking to use certain waivers to file a request with Treasury. Under the Final Rule, agencies must submit a request to Fiscal Service to use an EFT waiver in the following circumstances:

- If Treasury provides a federal entity with an option to begin delivering a Federal payment to a Treasury-sponsored account and the federal entity still seeks to make the payment by check (see § 208.4(a)(1)(ii));
- To extend any waiver for payment to a recipient within an area designated by the President or an authorized federal entity administrator as a disaster area past the 120-day period following when the disaster is declared (see § 208.4(a)(4);
- Where a federal entity's need for goods and services is of such an unusual and compelling urgency that the government would be seriously injured unless payment is made by a method other than EFT (see § 208.4(a)(8)); or
- Where there is only one source of goods or services and the government would be seriously injured unless payment is made by a method other than EFT (see § 208.4(a)(8)).

The Final Rule also narrows the scope of an existing waiver under newly redesignated § 208.4(a)(7) that permits an agency to make payment by check if the agency does not expect to make payments to the same recipient within a one-year period on a regular, recurring basis, by limiting the waiver to payments to individuals and small

businesses. Fiscal Service is also amending § 208.4(a) by adding one new waiver for payments in a foreign currency if Treasury does not support electronic payment in that foreign currency.

The Final Rule also adds a new paragraph (c) to § 208.4 that gives Treasury the ability to nullify an agency waiver if Treasury makes the determination that the application of the waiver would lead to an agency initiating an unusually large number or proportion of payments by means other than EFT.

Fiscal Service is also revising § 208.7 to require agencies to provide, upon Treasury's request, certain employee identification number data associated with agency payments to enable Treasury to identify Federal intragovernmental check payments that should be converted to EFT.

In addition, the Final Rule amends § 208.9(b) to clarify that when an agency fails to make a payment by EFT as prescribed by part 208, Treasury will consider that payment to not be a timely payment under 31 U.S.C. 3335, as EFT payments are processed, disbursed, and settled more quickly than paper checks. The Final Rule retains the existing language in § 208.9(b) authorizing Treasury to assess a charge to an agency that fails to make a payment by EFT as prescribed under this part. As noted above, Fiscal Service is still evaluating the appropriate method to assess charges to agencies in accordance with the Secretary's authority under 31 U.S.C. 3335. Until such time as the method of assessing non-compliance charges is established and published in the Treasury Financial Manual, Volume I, Part 4A, Chapter 2000, Fiscal Service will not charge agencies under § 208.9.

IV. Section-by-Section Analysis

Sections 208.1 Through 208.3

We are not amending these sections.

Section 208.4

We are amending § 208.4 in several ways.

We are amending the waiver under paragraph (a)(1)(ii) that is available where an individual receives a type of payment for which Treasury does not offer delivery to a Treasury-sponsored account to specify that if Treasury provides an agency with an option to begin delivering a type of payment to a Treasury-sponsored account, the agency must file a waiver request with Treasury to make payments of that type other than by EFT. Filing the waiver request is sufficient to utilize the waiver pending Treasury's decision on the

request, but if Treasury ultimately rejects the request, the waiver will not be available for payments made after the decision date.

We are adding a new waiver to § 208.4 at a new paragraph (a)(3). This waiver provides that payment by EFT is not required when the payment is to be made in a foreign currency and Treasury does not support electronic payment in that foreign currency. Treasury currently supports electronic payments in 145 foreign currencies to over 200 countries and territories, but we acknowledge that Treasury payment systems do not support electronic payment in every foreign currency. The new waiver would apply in these limited circumstances.

We are amending the existing waiver under paragraph (a)(3) (renumbered under the Final Rule as paragraph (a)(4)), which waives the EFT requirement for payments to recipients in a designated disaster area within 120 days after the disaster is declared. The amendment allows an agency to extend this waiver beyond 120 days after the disaster is declared, provided that the agency files a waiver request with Treasury. Filing is sufficient to extend the waiver pending Treasury's decision on the request, but if Treasury ultimately rejects the request the waiver will not be available for payments made after the decision date. We are making this change in response to feedback from an agency regarding its disaster relief payments and the potential need to extend the waiver beyond the initial 120-day timeframe. However, agencies contemplating using this waiver should be mindful that the U.S. Debit Card is an electronic payment option that Treasury can make available to recipients in designated disaster areas, negating the need for an EFT waiver and paper checks in many instances.

We are amending the existing waiver at paragraph (a)(6) (renumbered as paragraph (a)(7) under the Final Rule), which applies when an agency does not expect to make payments to the same recipient within a one-year period on a regular, recurring basis, and remittance data explaining the purpose of the payment is not readily available from the recipient's financial institution receiving the payment by EFT. We have eliminated the language concerning the remittance data explaining the purpose of the payment. This language is archaic and no longer necessary or pertinent. Treasury disburses Federal payments to recipients' financial institution accounts with information that the financial institutions make available to recipients, allowing recipients to determine the purpose of the payments. This

information often exceeds the information available on a Treasury check.

We are also amending the existing waiver under paragraph (a)(6) (renumbered as paragraph (a)(7) under the Final Rule) to narrow its scope so that it applies only when an agency does not expect to make payments to the same recipient within a one-year period on a regular, recurring basis and that recipient is an individual or a small business concern. For the purpose of this waiver, the NPRM proposed to adopt the meaning given to the term “small business concern” in section 3 of the Small Business Act at (15 U.S.C. 632). A broad waiver that would apply when an agency does not expect to make payments to the same recipient within a one-year period on a regular, recurring basis, regardless of the identity of the recipient, is no longer necessary, given the variety of electronic payment options available to agencies and payment recipients, including vendors. Nevertheless, we are retaining this waiver for agency payments to small business concerns to aid Federal agencies in their efforts to reach the broadest and most inclusive and diverse audience for Federal agency contracting opportunities. We also are retaining this waiver for agency payments to individuals because there are limited situations in which it might still make sense for an agency to make a non-regular, non-recurring payment to an individual by paper check. In addition, we are amending the final rule to specify that for the purposes of the waiver under paragraph (a)(7), “small business concern” has the meaning given the term in section 3 of the Small Business Act and its implementing regulations.

During Treasury’s ongoing interactions with agencies regarding our efforts to increase electronic payments, we have become aware that some agencies are relying on the non-regular, non-recurring payment waiver (currently at § 208.4(a)(6)) to make the first in a series of recurring benefit payments to a recipient by paper check. Part 208 does not, as currently written, provide agencies with a waiver for the initial payment in a series of recurring payments. We understand, however, that certain benefit-paying agencies have encountered process and systems-related impediments that make it difficult for them to make the initial payment in a series of recurring benefit payments by EFT.

We are not adding a permanent waiver for this category of initial, recurring payments, but pursuant to § 208.10, Treasury reserves the right to

waive any provision of part 208 in any case or class of cases. In response to the informal feedback we have received from benefit-paying agencies regarding systems impediments to making the initial payment in a series of recurring payments by EFT, and using the discretion provided in § 208.10, we are waiving the EFT mandate for agencies making initial payments in a series of recurring payments for two years from the date of publication of this Final Rule. This will permit affected agencies to make initial payments by paper check while giving agencies the time they need to make any required system or process changes that will allow them to fully comply with the part 208 EFT mandate.

We are amending the existing waiver under paragraph (a)(7) (renumbered as paragraph (a)(8) under the Final Rule), which applies to payments where: (1) an agency’s need for goods and services is urgent or where there is only one source for goods or services and (2) the government would be significantly impacted unless payment is made by means other than EFT. We are retaining this waiver but now will require an agency to file a waiver request with Treasury to invoke it. The subject matter of this waiver is extremely fact specific, so we believe that it is appropriate for Treasury to consider waiver requests under revised paragraph (a)(8) on a case-by-case basis. Filing the waiver request is sufficient to utilize the waiver pending Treasury’s decision on the request, but if Treasury ultimately rejects the request, the waiver will not be available for payments made after the decision date.

We are amending paragraph (b), which describes the waiver request process, so that it applies to requests for waivers from agencies as well as individuals. Agencies do not submit waiver requests today, but under the Final Rule would do so in some cases, as described above. Agencies seeking waivers can find more detailed information about how to file a waiver request in the Treasury Financial Manual, Volume I, Part 4A, Chapter 2000, Section 2040.30c, which is available at <https://tfm.fiscal.treasury.gov/v1/p4/ac200/>. Agencies will be entitled to make payment by paper check during the pendency of the waiver request process so that no payments are delayed by the new waiver request requirement. Individuals seeking waivers can find more detailed information about how to file a waiver request with Treasury at *GoDirect.gov*. Treasury reserves the right to reject any waiver request it receives.

We are adding a new paragraph (c) that provides Treasury the ability to nullify an agency’s waiver if Treasury determines that the application of the waiver would lead to the agency initiating an unusually large number or proportion of payments by means other than EFT. If Treasury nullifies a waiver for a class of cases in accordance with this new paragraph (c), Treasury will require the agency in question to work with Treasury to identify and implement ways to make the payments by EFT. Among other things, this may include requiring an agency to work with Treasury to identify information to make payments by EFT by using data that Treasury maintains on previous payments to the same payment recipient.

The remaining provisions in § 208.4 are unchanged.

Sections 208.5 and 208.6

We are not amending these provisions.

Section 208.7

We are amending § 208.7 to add a requirement that an agency provide to Treasury, upon request from Treasury, the employer identification numbers (EINs) assigned to the agency that the agency has used when making or receiving Federal intragovernmental payments during the 12 months preceding the request as well as the EINs for all Federal agencies to whom the agency has made a Federal intragovernmental payment during the preceding 12 months. This agency EIN data will enable Treasury to identify Federal intragovernmental check payments that should be converted to EFT. We are adding this requirement as subparagraph (b) and designating the existing language in 208.7 as subparagraph (a).

Section 208.8

We are not amending § 208.8.

Section 208.9

We are amending § 208.9(b) to clarify that when an agency fails to make a payment by EFT as prescribed by this part 208 and no waiver under § 208.4 is applicable, Treasury will consider the payment to be untimely under 31 U.S.C. 3335, as EFT payments are processed, disbursed, and settled more quickly than checks. When an agency makes a paper check payment that falls into one of the waiver categories in § 208.4, Treasury will consider that payment to be a timely payment under 31 U.S.C. 3335 as an exceptional circumstance. The Final Rule retains the existing language in § 208.9(b) specifying that,

pursuant to 31 U.S.C. 3335, Treasury may assess a charge to an agency that fails to make a payment by EFT as prescribed by part 208. Treasury reserves the right to assess a charge to any agency that fails to make a payment by EFT after Treasury has rejected the agency's waiver request for that payment.

Sections 208.10 and 208.11.

We are not amending these provisions.

V. Procedural Analysis

Regulatory Planning and Review

The Final Rule does not meet the criteria for a "significant regulatory action" as defined in Executive Order 12866, as amended. Therefore, the regulatory review procedures contained therein do not apply.

Regulatory Flexibility Act Analysis

It is hereby certified that the Final Rule will not have a significant economic impact on a substantial number of small entities. The rule provisions being amended primarily apply to Federal agencies and individuals who receive Federal payments, and do not have any direct impact on small entities.

Unfunded Mandates Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532 (Unfunded Mandates Act), requires that the agency prepare a budgetary impact statement before promulgating any rule likely to result in a Federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires the agency to identify and consider a reasonable number of regulatory alternatives before promulgating the rule. We have determined that the Final Rule will not result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. Accordingly, we have not prepared a budgetary impact statement or specifically addressed any regulatory alternatives.

List of Subjects in 31 CFR Part 208

Banks, banking, Debit cards, Disbursements, Electronic funds transfers, Federal payments, Treasury-sponsored accounts.

For the reasons set out in the preamble, we are amending 31 CFR part 208 as follows:

PART 208—MANAGEMENT OF FEDERAL AGENCY DISBURSEMENTS

■ 1. The authority citation for part 208 continues to read as follows:

Authority: 5 U.S.C. 301; 12 U.S.C. 90, 265, 266, 1767, 1789a; 31 U.S.C. 321, 3122, 3301, 3302, 3303, 3321, 3325, 3327, 3328, 3332, 3335, 3336, 6503.

■ 2. Amend § 208.4 by:

■ a. Revising paragraph (a)(1)(ii);

■ b. Redesignating paragraphs (a)(3) through (a)(7) as paragraphs (a)(4) through (a)(8) and adding a new paragraph (a)(3);

■ c. Deleting the semicolon at the end of the second sentence of newly redesignated paragraph (a)(4) and replacing it with a period;

■ d. Revising paragraphs (a)(4), (a)(7), and (a)(8);

■ e. Revising paragraph (b); and

■ f. Adding a new paragraph (c).

The revisions and additions read as follows:

§ 208.4 Waivers.

(a) * * *

(ii) Receives a type of payment for which Treasury does not offer delivery to a Treasury-sponsored account. In such cases, those payments are not required to be made by electronic funds transfer, unless and until such payments become eligible for deposit to a Treasury-sponsored account. However, if Treasury provides an agency with an option to begin delivering a type of Federal benefit payment to a Treasury-sponsored account, the agency must file a waiver request with Treasury to make Federal benefit payments of that type by any means other than by electronic funds transfer;

* * * * *

(3) Where the payment is in a foreign currency and Treasury does not support electronic payment in that currency.

(4) Where the payment is to a recipient within an area designated by the President or an authorized agency administrator as a disaster area. This waiver is limited to payments made within 120 days after the disaster is declared. An agency must file a waiver request with Treasury (which must be approved by Treasury) to extend this waiver beyond 120 days after the disaster is declared;

* * * * *

(7) Where the agency does not expect to make multiple payments to the same recipient within a one-year period on a regular, recurring basis but only if the payments are made to an individual or a small business concern where "small business concern" has the meaning given the term in section 3 of the Small

Business Act at 15 U.S.C. 632 and its implementing regulations; and

(8) * * * An agency must file a waiver request with Treasury (which must be approved by Treasury) to utilize this waiver.

(b) An individual who requests a waiver under paragraphs (a)(1)(iv) and (v) or an agency who requests a waiver under paragraphs (a)(1)(ii), (a)(4), or (a)(8) of this section shall provide, in writing, to Treasury a certification supporting that request, in such form that Treasury may prescribe. The individual shall attest to the certification before a notary public, or otherwise file the certification in such form that Treasury may prescribe. Treasury reserves the right to reject any waiver request it receives.

(c) If application of an agency's waiver, together with any waiver request previously granted under paragraphs (a)(1)(ii), (a)(4), or (a)(8), would, in Treasury's determination, lead to the agency initiating an unusually large number or proportion of payments by means other than electronic funds transfer, Treasury reserves the right to nullify the waiver in this class of cases and require the agency to work with Treasury to identify and implement ways to make the payments by electronic funds transfer.

■ 3. Revise § 208.7 to read as follows:

§ 208.7 Agency responsibilities.

(a) An agency shall put into place procedures that allow recipients to provide the information necessary for the delivery of payments to the recipient by electronic funds transfer to an account at the recipient's financial institution or a Treasury-sponsored account.

(b) Upon request from Treasury, an agency shall provide Treasury with a list of the employer identification numbers (EINs) assigned to the agency that the agency has used to make or receive a Federal intragovernmental payment during the 12-month period preceding the request from Treasury as well as a list of the EINs for all Federal agencies to whom the agency has made a Federal intragovernmental payment during the same 12-month period.

■ 4. Amend § 208.9 by revising paragraph (b) to read as follows:

§ 208.9 Compliance.

* * * * *

(b) If an agency fails to make payment by electronic funds transfer as prescribed under this part, Treasury will consider that payment to be not timely pursuant to 31 U.S.C. 3335, as electronic funds transfer payments are processed,

disbursed, and settled more quickly than checks and, accordingly, Treasury may assess a charge to the agency pursuant to 31 U.S.C. 3335.

David Lebryk,

Fiscal Assistant Secretary.

[FR Doc. 2024-03204 Filed 2-20-24; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 700

[EPA-HQ-OPPT-2020-0493; FRL-7911-05-OCSPP]

RIN 2070-AK64

Fees for the Administration of the Toxic Substances Control Act (TSCA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing amendments to the 2018 final rule that established fees for the administration of the Toxic Substances Control Act (TSCA). Specifically, EPA is finalizing changes to the fee amounts and EPA's total costs for administering TSCA; exemptions for entities subject to the EPA-initiated risk evaluation fees; exemptions for test rule fee activities; modifications to the self-identification and reporting requirements of EPA-initiated risk evaluation and test rule fees; modifications to EPA's proposed methodology for the production-volume-based fee allocation for EPA-initiated risk evaluation fees in any scenario in which a consortium is not formed; expanded fee requirements to companies required to submit information for test orders; modifications to the fee payment obligations of processors subject to test orders and enforceable consent agreements (ECA); and extended timeframes for certain fee payments and notices.

DATES: This rule is effective on April 22, 2024.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2020-0493, is available online at <https://www.regulations.gov>. Additional instructions on visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Marc Edmonds, Existing Chemicals Risk

Management Division (7404M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 566-0758; email address: edmonds.marc@epa.gov.

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; email address: TSCA-Hotline@epa.gov.

I. Executive Summary

A. Does this action apply to me?

You may be affected by this action if you manufacture (including import), process, or distribute in commerce a chemical substance (or any combination of such activities) and are required to submit information to EPA under TSCA sections 4 or 5, or if you manufacture a chemical substance that is the subject of a risk evaluation under TSCA section 6(b). The following list of North American Industry Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include companies found in major NAICS groups:

- Chemical Manufacturers (NAICS code 325).
- Petroleum and Coal Products (NAICS code 324).
- Chemical, Petroleum and Merchant Wholesalers (NAICS code 424).

If you have any questions regarding the applicability of this action, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What is the Agency's authority for taking this action?

TSCA, 15 U.S.C. 2601 *et seq.*, as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act of 2016 (Pub. L. 114-182) (Ref. 1), provides EPA with authority to establish fees to defray, or provide payment for, a portion of the costs associated with administering TSCA sections 4, 5, and 6, as amended, as well as the costs of collecting, processing, reviewing, and providing access to and protecting from disclosure as appropriate under TSCA section 14 information on chemical substances under TSCA. EPA is required in TSCA section 26(b)(4)(F) to review and, if necessary, adjust the fees every three years after consultation with parties potentially subject to fees, to ensure that funds are sufficient to defray part of the cost of administering TSCA.

EPA is issuing this final rule under TSCA section 26(b), 15 U.S.C. 2625(b).

C. What action is the Agency taking?

After establishing fees under TSCA section 26(b), TSCA requires EPA to review and, if necessary, adjust the fees every three years, after consultation with parties potentially subject to fees. This document describes the final changes to 40 CFR part 700, subpart C as promulgated in the final rule entitled "Fees for the Administration of the Toxic Substances Control Act (TSCA)" (2018 Fee Rule) (83 FR 52694) (Ref. 2) and explains the methodology by which these changes to TSCA fees were determined.

D. Why is the Agency taking this action?

The fees collected under TSCA are intended to achieve the goals articulated by Congress by providing a sustainable source of funds for EPA to fulfill its legal obligations under TSCA sections 4, 5, and 6 and with respect to information management under TSCA section 14. Information management includes "collecting, processing, reviewing, and providing access to and protecting from disclosure as appropriate under [section 14] information on chemical substances under [TSCA]" (15 U.S.C. 2625(b)(1)). In 2021, EPA proposed changes to the TSCA fee requirements established in the 2018 Fee Rule (2021 Proposal) (Ref. 3) based upon TSCA implementation experience. In the 2021 Proposal, EPA proposed to adjust the fee amounts based on changes to program costs and inflation and to address certain issues related to implementation of the fee requirements (Ref. 3). EPA consulted and met with stakeholders that were potentially subject to fees, including several meetings with individual stakeholders and public webinars in February 2021 and December 2022. Additional information on the stakeholder engagement can be found in the 2021 Proposal, Unit III.A.1. (Ref. 3) and in Unit II.B. of this final rule.

This final rule takes into consideration comments received in response to the 2021 Proposal and a 2022 Supplemental Notice of Proposed Rulemaking (2022 Supplemental Notice) (87 FR 68647) (Ref. 4). A summary of those comments and the responses can be found in the Response to Comments (RtC) document for this rulemaking (Ref. 5). Based on the comments received, EPA experience implementing TSCA, adjustments to EPA's cost estimates, and experience implementing the 2018 Fee Rule, EPA is issuing this final rule to amend the 2018 Fee Rule.