DATES: Written comments by September 11, 1989.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, identified with the docket number found in brackets in the heading of this document. Copies of the environmental impact analysis report, the finding of no significant impact, the objections, the references cited in initial notice, and any comments received are available for public examination at the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Woodrow M. Knight, Center for Veterinary Medicine (HFV-226), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3390.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 11, 1989 (54 FR 29019). FDA's Center for Veterinary Medicine (CVM) published a notice providing an opportunity for interested parties to comment on its tentative responses to certain environmentally based objections to the agency's rule of April 6, 1987 (52 FR 10887), raising the level of selenium permitted to be added to animal feed. A comment period of 30 days was provided to August 10, 1989.

A request has been received for an extension of the comment period for an additional 30 days to permit completion of certain relevant studies, and consultation with scientific experts on the subject. Good cause having been shown, CVM is extending the comment period as requested. (The 30th day falling on a Saturday, the comment period will conclude on September 11, 1989.)

Interested persons may, on or before September 11, 1989, submit to the Dockets Management Branch (address above) written comments regarding the agency's tentative responses. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document.

Dated: August 10, 1989.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 89-19184 Filed 8-11-89; 10:53 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1301 and 1305

Registration of Manufacturers, Distributors and Dispensers of Controlled Substances and Order Forms

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Final rule.

SUMMARY: This final rule amends DEA regulations concerning the storage of potent animal immobilizing agents to include a recently controlled substance subject to this classification.

EFFECTIVE DATE: August 16, 1989.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, DC 20537. Telephone: (202) 307-7183.

SUPPLEMENTARY INFORMATION: On April 21, 1989, a notice of proposed rulemaking was published in the **Federal Register** (54 FR 16130-16131) amending 21 CFR parts 1301 and 1305 to include the recently controlled substance carfentanil in the class of extremely potent narcotic substances approved for use as an immobilizing agent in veterinary medicine. Carfentanil is said to be several thousand times as potent as morphine. Because of the potency and potential hazard this drug poses to humans, DEA proposed that the additional security and recordkeeping requirements currently required for etorphine hydrochloride and diprenorphine also apply to carfentanil. The proposed rule provided the opportunity for interested parties to submit comments or objections on these proposed amendments on or before May 21, 1989. No comments or objections were received.

The Deputy Assistant Administrator of the Office of Diversion Control hereby certifies that these matters will have no significant negative impact upon small businesses within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This rule is not a major rule for purposes of Executive Order (E.O.) 12291 of February 17, 1981. Pursuant to sections 3(e)(3) and 3(e)(2)(C) of E.O. 12291, this rule has been submitted for review to the Office of Management and Budget. This action has been analyzed in accordance with the principals and criteria contained in E.O. 12612, and it has been determined that the rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Pursuant to the authority vested in the Attorney General by 21 U.S.C. 821 and 871(b), delegated to the Administrator of the Drug Enforcement Administration, and redelegated to the Deputy Assistant Administrator of the Office of Diversion Control by 28 CFR 0.1000 and 0.104, the Deputy Assistant Administrator hereby amends 21 CFR part 1301 and 21 CFR part 1305 as follows:

List of Subjects

21 CFR Part 1301

Administrative practice and procedure, Drug Enforcement Administration, drug traffic control, security measures.

21 CFR Part 1305

Drug Enforcement Administration, drug traffic control, reporting requirements.

PART 1301—REGISTRATION OF MANUFACTURERS, DISTRIBUTORS AND DISPENSERS OF CONTROLLED SUBSTANCES

1. The authority citation for part 1301 continues to read as follows:

Authority: 21 U.S.C. 821, 822, 823, 824, 871(b), 875, 877.

§ 1301.74 [Amended]

2. 21 CFR 1301.74(g) is amended by inserting the word "carfentanil", before the words "etorphine hydrochloride".

§ 1301.75 [Amended]

3. 21 CFR 1301.75(d) is amended by inserting the word "carfentanil", at the beginning of the sentence.

PART 1305—ORDER FORMS

1. The authority citation for part 1305 continues to read as follows:

Authority: 21 U.S.C. 821, 828, 871(b).

§ 1305.06 [Amended]

2. 21 CFR 1305.06 (b) is amended by inserting the word "carfentanil" before the words "etorphine hydrochloride".

§ 1305.13 [Amended]

3. 21 CFR 1305.13 (d) is amended by inserting the word "carfentanil" before the words "etorphine hydrochloride".

§ 1305.16 [Amended]

4. 21 CFR 1305.16 (a) is amended by inserting the word "carfentanil" before the words "etorphine hydrochloride".

5. 21 CFR 1305.16 (b)(1) is amended by inserting the word "carfentanil" before the words "etorphine hydrochloride".

Dated: July 26, 1989.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 89-19134 Filed 8-15-89; 8:45 am]

BILLING CODE 4410-09-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1627

Congressional Action Concerning the Commission's Final Rule Allowing for Non-EEOC Supervised Waivers Under the Age Discrimination in Employment Act (ADEA)

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice of congressional action regarding final rule on ADEA waivers.

SUMMARY: On July 30, 1987 the Equal Employment Opportunity Commission voted to approve a final rule creating a legislative regulation and administrative exemption allowing for non-EEOC supervised waivers of private rights under the Age Discrimination in Employment Act (under section 9 of the ADEA and 29 CFR 1627.15). This final rule was published in the **Federal Register** of Thursday, August 27, 1987 (52 FR 32293).

On October 1, 1988 the President signed Public Law 100-459 (appropriations for fiscal year 1989) which includes the following language:

Provided, That the final rule regarding unsupervised waivers under the Age Discrimination in Employment Act, issued by the Commission on August 27, 1987 (29 CFR 1627.16(c)(1)-(3), shall not have effect during fiscal year 1989; Provided further, That none of the funds may be obligated or expended by the Commission to give effect to any policy or practice pertaining to unsupervised waivers under the Age Discrimination in Employment Act, except that this proviso shall not preclude the Commission from investigating or processing claims of age discrimination, and pursuing appropriate relief in Federal court, regardless of whether an unsupervised waiver of rights has been sought or signed.

EFFECTIVE DATE: October 1, 1988.

FOR FURTHER INFORMATION CONTACT: John K. Light, Attorney-Advisor, ADEA Division, Coordination and Guidance Services, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street, NW., Washington, DC 20507, (202) 663-4690.

Signed this 10th day of August 1989, at Washington, DC.

For the Commission.

Clarence Thomas,

Chairman, Equal Employment Opportunity Commission.

[FR Doc. 89-19139 Filed 8-15-89; 8:45 am]

BILLING CODE 6570-06-M

DEPARTMENT OF THE TREASURY

31 CFR Part 103

Amendment to the Bank Secrecy Act Regulations Relating to Geographic Reporting of Certain Domestic Currency Transactions

AGENCY: Departmental Offices, Treasury.

ACTION: Final rule.

SUMMARY: Section 6185(c) of Title VI of the Anti-Drug Abuse Act of 1988, Pub. L. 100-690, November 18, 1988, permits the Secretary of the Treasury to issue an order to require financial institutions or groups of financial institutions in certain geographic locations to report currency transactions in amounts less than $10,000 for a limited period of time. This Final Rule establishes the procedures that Treasury would follow in issuing such an order.

DATE: This final rule is effective September 15, 1989.

ADDRESS: Amy G. Rudnick, Director, Office of Financial Enforcement, Office of the Assistant Secretary (Enforcement), Department of the Treasury, Room 4320, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Kathleen A. Scott, Attorney Advisor, Office of the Assistant General Counsel (Enforcement), (202) 566-9947.

SUPPLEMENTARY INFORMATION: Section 6185(c) of title VI of the Anti-Drug Abuse Act of 1988 added a new section 5326 to the Bank Secrecy Act, 31 U.S.C. 5311-5326.

Section 5326. Records of Certain Domestic Coin and Currency Transactions

(a) *In general.* If the Secretary of the Treasury finds, upon the Secretary's own initiative or at the request of an appropriate Federal or State law enforcement official, that reasonable grounds exist for concluding that additional recordkeeping and reporting requirements are necessary to carry out the purposes of this subtitle and prevent evasions thereof, the Secretary may issue an order requiring any domestic financial institution or group of domestic financial institutions in a geographic area—

(1) To obtain such information as the Secretary may describe in such order concerning—

(A) Any transaction in which such financial institution is involved for the payment, receipt, or transfer of United States coins or currency (or such other monetary instruments as the Secretary may describe in such order) the total amounts or denominations of which are equal to or greater than an amount which the Secretary may prescribe; and

(B) Any other person participating in such transaction;

(2) To maintain a record of such information for such period of time as the Secretary may require; and

(3) To file a report with respect to any transaction described in paragraph (1)(A) in the manner and to the extent specified in the order.

(b) *Maximum effective period for order.*—No order issued under subsection (a) shall be effective for more than 60 days unless renewed pursuant to the requirements of subsection (a).

The practical effect of this amendment is to permit the Secretary to lower the currency transaction reporting threshold of § 103.22(a) for some or all types of currency transactions, for some or all types of customers, for a financial institution or a group of financial institutions in a specified geographic area of the United States for a limited period of time. This reporting requirement would be in addition to the present requirement in 31 U.S.C. 5313 and 31 CFR 103.22(a) that requires financial institutions to report currency transactions over $10,000. The reason that Congress amended the Bank Secrecy Act to permit the lowering of the current currency reporting threshold was because of its concern with schemes involving the structuring of currency transactions below $10,000 to avoid the Bank Secrecy Act reporting requirements in certain areas of the country. *See* H. Rep. No. 100-716, 100th Cong., 2d Sess. 8.

Notice of Proposed Rulemaking

On March 24, 1989, Treasury published a Notice of Proposed Rulemaking in which it proposed procedures and limitations to govern the issuance of an order under section 5326(a). 54 FR 12238. Under the proposed rule, prior to selecting an area of the country for targeted reporting, Treasury would be required to make a determination that there may exist a significant level of drug money laundering or other illegal activity being conducted in that geographic area at levels below the current $10,000 currency reporting threshold. Treasury then would identify the affected financial institution or institutions in the geographic area that would receive the targeting order. In the preamble to the proposed regulation, Treasury stated that, at least initially, geographic areas subject to the enhanced reporting

requirement could be as small as a few city blocks or as large as a major metropolitan area.

Under the proposed regulation, each financial institution in a targeted area would receive an order requiring it to keep a record of specified currency transactions at or above a specified monetary limit for a certain period of time (not to exceed 60 days), with respect to all or certain types of cutomers, and to file a report as prescribed by Treasury on those transactions and the individuals involved in those transactions beginning on a date designated in the order. The proposed regulation further provided that the order would set forth all the information required to be reported, instructions on how and where to file the reports (not necessarily the Detroit Computing Center), and the length of time that the records generated in response to an order issued under section 5326 were to be retained. Treasury notes that there may be variations in the orders received by the targeted financial institutions within a specific geographic area.

Treasury stated that it would be as specific as possible in delineating what would be expected of a financial institution served with a section 5326 geographic targeting order and that it would consider the amount of time necessary to implement the order. In addition, Treasury stated that it would make every effort to work with the targeted financial institutions to ensure maximum compliance with the targeting order at a minimum burden to the financial institutions. For this reason, Treasury said that the name of a Treasury contact would be provided for assistance if needed.

In the proposed rule, Treasury emphasized that in complying with a geographic targeting order, financial institutions would not be required to purchase additional computer hardware or software. However, Treasury encouraged, but indicated that it would not require, financial institutions, when feasible, to adjust any existing computerized aggregation systems that they had in place in order to capture the information specified in the order. Treasury also stated that it did not expect financial institutions with manual aggregation systems to have any problems adjusting their manual systems in order to capture the data required to be reported. Treasury emphasized, however, that if a financial institution had knowledge through other means, *e.g.*, the personal knowledge of a bank employee, that there were aggregated transactions falling within the limits described in the order, the financial institution would be required to report those aggregated transactions, regardless of whether the existing system at the financial institution was able to identify the aggregated transactions. Finally, Treasury said that it would make every effort to work with financial institutions filing magnetically who received a section 5326 order so as not to disrupt the magnetic media filing process.

Treasury stated that geographic targeting orders would not be published in the **Federal Register**, but would be issued only to the affected financial institutions. Treasury made clear that issuance of a section 5326 order to a financial institution would not exempt that institution from its duty to report all over-$10,000 currency transactions.

In the preamble, Treasury explained that the Right to Financial Privacy Act, 12 U.S.C. Chapter 35, would not apply to geographic targeting orders because that information is required to be reported by law. 12 U.S.C. 3413. Therefore, targeted financial institutions would not be required to notify customers of their temporarily enhanced reporting requirements. In order to ensure proper use of the order, Treasury stated that it would normally request targeted financial institutions not to notify the public of the enhanced reporting requirement limit.

Treasury further proposed that in order to comply with a section 5326 order, financial institutions generally would be required to use IRS Form 4789, the Currency Transaction Report ("CTR"), which currently is used by financial institutions to report currency transactions over $10,000. In addition, Treasury explained that, in general, unless otherwise specified in the order, all the provisions of 31 CFR Part 103 relating to the reporting of currency transactions in excess of $10,000 would apply to reports filed on transactions falling within the scope of a section 5326 order, and that, unless otherwise noted in the order, existing exemptions granted by a targeted bank under 31 CFR 103.22(B) prior to the time it received the order could continue to be utilized in complying with a section 5326 order. However, Treasury emphasized that no new exemptions could be granted to businesses that have regular and frequent currency transactions in amounts either above or below $10,000, without the approval of Treasury. Finally, while the legislation gives Treasury the authority to include other monetary instrument transaction reporting in such an order, Treasury indicated that it anticipated that, as a general rule, it would use section 5326 orders to require reporting on currency transactions only.

Discussion of Comments

Thirty-three comments were received on the above-described Notice of Proposed Rulemaking. These comments have been considered carefully in drafting the final rule. A discussion of the major comments follows.

Systems Issues

Most commenters stated that they would not be able to use their computer systems if only one branch of a financial institution were targeted for the lower reporting requirement. As a result, they explained that they would be forced to adopt a temporary manual system for processing the reports, which possibly could lessen the accuracy of reports and pose additional problems for the financial institution. Many also sought guidance in handling aggregated transactions conducted by or on behalf of the same person when the transactions took place at branches both in and outside of the targeted area.

After carefully considering these issues, Treasury has decided that it will require reporting of currency transactions at or below $10,000 only for those transactions that occur at the branch of the financial institution that is targeted. Thus, only those transactions occurring at the targeted branch should be aggregated for purposes of complying with a geographic targeting order. If a financial institution aggregates transactions among its branches, it should report transactions in currency conducted by or on behalf of the same person that exceed $10,000 in the normal manner, *i.e.*, on a CTR to the Detroit Computing Center. Only aggregated transactions resulting solely from the targeted branch which exceed the lowered reporting threshold should be sent or made available in accordance with the order. The order may also specify that photocopies of forms filed with the Detroit Computing Center also be sent to the address specified in the order or otherwise be made available as instructed in the order.

Financial institutions may, but are not required to, change their computer systems to accommodate a lower reporting threshold at a targeted branch. If a financial institution's computer system cannot accommodate the lowering of the currency transaction reporting threshold over $10,000 for one or more of its branches, the financial institution will be required to use a manual system for completing the reports.

Procedural Issues

The comments raised numerous procedural issues. Many commenters requested that Treasury set forth in the final rule the minimum amount of time that financial institutions will be given to implement a geographic targeting order. Commenters estimated that they needed between 10 to 90 days advance notice of the imposition of an enhanced reporting requirement. After reviewing these comments and considering the different circumstances in which a targeting order may be issued, Treasury has concluded that it would be detrimental to define in advance, and without reference to particular facts, how much time should be given to implement an order. Treasury, however, will give as much time as feasible to implement a section 5326 order, and will work with each financial institution to ensure maximum compliance with an order.

Several commenters recommended that Treasury establish a dollar limit below which it would not target currency transactions. The specific recommendations asked for limits of between $3,000 and $5,000. After considering the comments, Treasury has decided that in order to be able to respond to changing law enforcement needs, it cannot set a dollar amount below which Treasury will not target currency transactions for special reporting. Treasury, however, notes that before granting a request for a targeting order and establishing reporting limits, it will consider the law enforcement need for the information.

A few commenters suggested that Treasury specifically provide in the regulations exactly who in the financial institution will be served with a geographic targeting order. Various suggestions were made as to who would be served, including the Chief Executive Officer ("CEO"), the manager of the targeted branch, or the Bank Secrecy Act compliance officer. Because Treasury believes that these suggestions have merit, it has amended the proposal to specify that the CEO of a targeted financial institution be served with a geographic targeting order. Treasury has selected the CEO as the person to be served because it believes that by serving the CEO, senior officials at the targeted financial institution will be informed of the issuance of the order.

Ordinarily, Treasury will serve a targeting order by sending it by certified or registered mail, return receipt requested. In addition, in order to ensure that the order has been received and is being implemented, in most cases, Treasury will contact the institution a few days after it has been sent.

Other issues that were raised by the comments concerned the actual filing of the reports: where to file, what type of report to file, and the time deadlines for filing. With respect to the place of filing, the final regulation provides that the order will indicate the specific place the reports are to be sent or will indicate that the reports are to be made available for pick up by designated individuals. If a financial institution that files CTR's by magnetic media is targeted, and the financial institution would like to report transactions for the targeted branch of the financial institution on magnetic tape, Treasury will work with the financial institution to determine where and how to file the reports.

As for the format of the report, Treasury has decided generally to require financial institutions to use the CTR form to file the information on transactions targeted below $10,000. Treasury made this decision because financial institutions are familiar with the CTR form and their employees know how to complete these forms. The regulation, however, provides Treasury with the ability to order targeted financial institutions to use a different format if the circumstances necessitate it. A geographic targeting order will specify the format in which the reports will be required to be filed.

Finally, with respect to the time required to file these reports, Treasury has decided that it will specify in each section 5326 order when the reports must be filed. Generally, however, Treasury anticipates that in most instances it will require the filing of these reports soon after the date of the transaction and no more than 15 days from the date of the transaction, as is required now for filing CTR's.

A few comments asked about the types of transactions in currency that would be targeted. One commenter requested that Treasury not differentiate among different types of transactions (*e.g.*, targeting only purchases of money orders and cashier's checks), while another asked that cash withdrawals not be included in targeting orders. Because each order will depend on the specific facts and circumstances surrounding the request for the targeting order, Treasury is not able to delineate in advance the types of transactions to be included in the order. In many cases, not all types of transactions in currency may be included in the order; in other cases, all types of currency transactions may be targeted. In some cases, only the currency transactions of certain types of customers may be targeted.

One commenter noted that any revisions to the original order should be made in writing. Treasury agrees with that comment and accordingly has included in the final regulation a provision that revisions to a geographic targeting order will not be effective until made in writing. This will ensure that a formal record is kept of all changes made to the original targeting order. It is anticipated that, in some cases, Treasury and the financial institution initially will discuss any revisions to the order, and that these revsions will be reduced to writing by Treasury later.

Several commenters requested that the regulation provide a limit on the number of times a section 5326 order may be renewed. Because there may be instances where an extended targeted period may be necessary, Treasury has decided not to put a limit on the number of times an order may be renewed. However, Treasury notes that in order to renew an order it must make a determination that there may be a significant level of drug money laundering or other illegal activity may be occurring in that area at levels below $10,000, keeping in mind Congress' admonition that these orders be of "limited duration."

Finally, many banks asked to be permitted to continue utilizing existing exemptions at the targeted branches of the banks and to be able to add new unilateral exemptions at exemption limits below $10,000. In the Notice of Proposed Rulemaking, Treasury had stated that banks would be able to continue to use their existing exemptions, unless otherwise indicated in the order, and that banks could not add new exemptions either above or below $10,000 unless approved by Treasury. Because Treasury wants to closely scrutinize currency transactions taking place at targeted financial institutions, it is standing by this position and is incorporating it into the final rule. Thus, unless otherwise noted in an order, during the course of a targeted reporting period, a targeted bank may not grant new exemptions, either above or below $10,000, but it may continue to use the exemptions it already has in place.

Customer Relations Issues

In the Notice of Proposed Rulemaking, Treasury indicated that generally it would request the targeted financial institution not to disclose the existence and specifics of an order to persons not employed at the financial institution. Many commenters had questions about such a requirement, including what potential penalties were applicable if

the financial institution made a disclosure, what specific guidelines to follow in handling customer inquiries, and whether therefore financial institutions could raise a good faith defense if information were disclosed. Treasury has considered these issues carefully. Treasury realizes that financial institutions may have difficulties with customers who will not be satisfied with a response that the information is required by Federal regulation, and that they will continue to press the financial institution as to why the information is required. Treasury has balanced this against the real probability that information disclosed by the financial institution, either upon request or voluntarily by an employee of the financial institution, could interfere with the ability of law enforcement to obtain useful information on drug money laundering and other illegal activities occurring in the targeted area. Treasury fears that once criminals learn of the enhanced reporting requirements and where they are applicable, criminals merely will move on to another non-targeted branch.

In light of these concerns, Treasury has decided to retain its initial proposal that the specifics of a geographic targeting order not be disclosed outside the targeted institution. Thus, an order issued under section 5326 will request that the existence of the order not be disclosed to anyone outside the financial institution. Treasury recommends that financial institutions tell customers who ask why the information is required only that they are required to fill out the report pursuant to a Federal regulation. Treasury further recommends that the financial institution notify Treasury in the event of any disclosure of the existence or specifics of an order to persons outside the targeted branch. Finally, Treasury recommends that if the customer's conduct raises the suspicions of the financial institution, that the financial institution report that activity to the Treasury contact person listed in the order.

Miscellaneous Issues

Several miscellaneous issues were raised in the comments. One nonbank financial institution with branches nation-wide requested that a financial institution be subject to no more than one section 5326 order at a time. While Treasury cannot guarantee that a financial institution will have to comply with only one order at a time, it does anticipate that initially targeting orders generally will be issued consecutively, and not concurrently, in order to assess their success.

Several commenters recommended that the regulation specify the maximum amount of time that the reports generated in response to a section 5326 order must be retained. Treasury agrees with these comments and, accordingly, the final rule provides that the maximum retention period for the reports and records of reports generated by a targeting order will be no more than five years, the current maximum retention period in the Bank Secrecy Act regulations.

Some commenters wanted to know what they should do if they observe suspicious activity at a targeted branch and whether the activity should be reported to the local office of the Internal Revenue Service Criminal Investigation Division pursuant to Bank Secrecy Act Administrative Ruling 88-1. If suspicious activity occurs at a targeted branch, Treasury would prefer the financial institution to report the activity to the Treasury employee named in the geographic targeting order as the contact person. As stated above, once an area has been targeted for enhanced reporting, Treasury will closely scrutinize all activity occurring in the targeted area, including reports of suspicious activity.

Finally, several commenters asked what the potential penalties were for failing to comply with a geographic targeting order. The penalties in 31 U.S.C. 5321 and 5322 that are applicable to failures to comply with the Bank Secrecy Act and its implementing regulations will be applicable to failures to comply with a section 5326 order. Civil penalties may be imposed up to the greater of the amount invoved in the transaction, if any, (not to exceed $100,000) or $25,000. Any person who willfully violates these provisions also would be subject to criminal penalties of not more than $250,000 or imprisonment of not more than 5 years, or both.

Conclusion

After careful consideration of the comments received in response to the Notice of Proposed Rulemaking, Treasury is adopting the regulation as proposed, with the changes noted above.

Executive Order 12291

This Final Rule is not a major rule for purposes of Executive Order 12291. It is not anticipated to have an annual effect on the economy of $100 million or more. It will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It will not have any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. A Regulatory Impact Analysis therefore is not required.

Regulatory Flexibility Act

It is hereby certified under section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, that this Final Rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The estimated average burden associated with the collections of information contained in this Final Rule is a reporting burden of 100 hours per respondent (250 estimated annual responses per respondent times .40 hour estimated time per response) and a recordkeeping burden of 20 hours per recordkeeper. Comments concerning the accuracy of this burden should be directed to the Office of Financial Enforcement at the address noted above or to the Office of Management and Budget, Paperwork Reduction Project (1505-0063), Washington, DC 20503.

Drafting Information

The principal author of this document is the Office of the Assistant General Counsel (Enforcement). However, personnel from other offices participated in its development.

List of Subjects in 31 CFR Part 103

Authority delegations (Government agencies), Banks and banking, Currency, Foreign banking, Investigations, Law enforcement, Reporting and recordkeeping requirements, Taxes.

Amendment

For the reasons set forth below in the preamble, 31 CFR Part 103 is amended as set forth below:

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

1. The authority citation for Part 103 continues to read as follows:

Authority: Pub. L. 91-508, Title I, 84 Stat. 1114 (12 U.S.C. 1730d, 1829b and 1951-1959); and the Currency and Foreign Transactions Reporting Act, Pub. L. 91-508, Title II, 84 Stat. 1118, as amended (31 U.S.C. 5311-5326).

2. Part 103 is amended by redesignating §§ 103.26 and 103.27 as §§ 103.27 and 103.28 respectively, and by adding a new § 103.26 to read as follows:

§ 103.26 Reports of certain domestic coin and currency transactions.

(a) If the Secretary of the Treasury finds, upon the Secretary's own initiative or at the request of an appropriate Federal or State law enforcement official, that reasonable grounds exist for concluding that additional recordkeeping and/or reporting requirements are necessary to carry out the purposes of this Part and to prevent persons from evading the reporting/recordkeeping requirements of this Part, the Secretary may issue an order requiring any domestic financial institution or group of domestic financial institutions in a geographic area and any other person participating in the type of transaction to file a report in the manner and to the extent specified in such order. The order shall contain such information as the Secretary may describe concerning any transaction in which such financial institution is involved for the payment, receipt, or transfer of United States coins or currency (or such other monetary instruments as the Secretary may describe in such order) the total amounts or denominations of which are equal to or greater than an amount which the Secretary may prescribe.

(b) An order issued under paragraph (a) of this section shall be directed to the Chief Executive Officer of the financial institution and shall designate one or more of the following categories of information to be reported: Each deposit, withdrawal, exchange of currency or other payment or transfer, by, through or to such financial institution specified in the order, which involves all or any class of transactions in currency and/or monetary instruments equal to or exceeding an amount to be specified in the order.

(c) In issuing an order under paragraph (a) of this section, the Secretary will prescribe:

(1) The dollar amount of transactions subject to the reporting requirement in the order;

(2) The type of transaction or transactions subject to or exempt from a reporting requirement in the order;

(3) The appropriate form for reporting the transactions required in the order;

(4) The address to which reports required in the order are to be sent or from which they will be picked up;

(5) The starting and ending dates by which such transactions specified in the order are to be reported;

(6) The name of a Treasury official to be contacted for any additional information or questions;

(7) The amount of time the reports and records of reports generated in response to the order will have to be retained by the financial institution; and

(8) Any other information deemed necessary to carry out the purposes of the order.

(d)(1) No order issued pursuant to paragraph (a) of this section shall prescribe a reporting period of more than 60 days unless renewed pursuant to the requirements of paragraph (a).

(2) Any revisions to an order issued under this section will not be effective until made in writing by the Secretary.

(3) Unless otherwise specified in the order, a bank receiving an order under this section may continue to use the exemptions granted under section 103.22 of this Part prior to the receipt of the order, but may not grant additional exemptions.

(4) For purposes of this section, the term "geographic area" means any area in one or more States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Trust Territory of the Pacific Islands, the territories and possessions of the United States, and/or political subdivision or subdivisions thereof, as specified in an order issued pursuant to paragraph (a) of this section.

(Approved by the Office of Management and Budget under control number 1505-0063)

3. It is proposed to amend § 103.33 to add at the end a new paragraph (d) to read as follows:

§ 103.33 Records to be made and retained by financial institutions.

* * * * *

(d) A record of such information for such period of time as the Secretary may require in an order issued under § 103.26(a), not to exceed five years.

* * * * *

4. It is proposed to amend § 103.38 by adding in paragraph (d), after the first sentence, a new sentence to read as follows:

§ 103.38 Nature of records and retention period.

* * * * *

(d) * * * Records or reports required to be kept pursuant to an order issued under § 103.26 of this part shall be retained for the period of time specified in such order, not to exceed five years.* * *

* * * * *

Dated: August 8, 1989.

Salvatore R. Martoche,

Assistant Secretary (Enforcement).

[FR Doc. 89-19199 Filed 8-15-89; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 09-89-04]

Special Local Regulations: Fresh Water Kilo Trials, Buffalo Outer Harbor, Buffalo, NY

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special Local Regulations are being adopted for the Fresh Water Kilo Trials. This event will be held on the Buffalo Outer Harbor on 9 September 1989 from 11:00 a.m. e.d.s.t. to 3:00 p.m. e.d.s.t. The regulations are needed to provide for the safety of life and property on navigable waters during the event.

EFFECTIVE DATES: These regulations become effective and terminate on 9 September 1989.

FOR FURTHER INFORMATION CONTACT: Corey A. Bennett, Marine Science Technician First Class, U.S. Coast Guard, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522-4420.

SUPPLEMENTARY INFORMATION: On 16 May 1989, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** for these regulations (54 FR 21074). Interested persons were requested to submit comments and no comments were received.

This event has not been held in the past, but is being held in conjunction with an event that has been conducted in the past and no objections were received from either cargo or passenger vessel operators during the public comment period.

Drafting Information

The drafters of this regulation are Corey A. Bennett, Marine Science Technician First Class, U.S. Coast Guard, project officer, Office of Search and Rescue and M. Eric Reeves, Lieutenant Commander, U.S. Coast Guard, project attorney, Ninth Coast Guard District Legal Office.

Economic Assessment and Certification

This regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unecessary. This event will draw a large number of