

■ 2. Section 178.2 is amended by adding a new listing in the table in appropriate numerical order to read as follows:

19 CFR section	Description	OMB control No.
* §§ 10.244, 10.245, 10.246, 10.248, 10.254, 10.255, and 10.256.	* Claim for duty-free entry of eligible articles under the Andean Trade Promotion and Drug Eradication Act.	* 1651-0091
*	*	*

Jayson P. Ahern,

Acting Commissioner, Bureau of Customs and Border Protection.

Approved: August 2, 2006.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

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DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 208

RIN 1510-AB07

Management of Federal Agency Disbursements

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Interim final rule with request for comment.

SUMMARY: The Financial Management Service (FMS) is publishing an interim final rule amending 31 CFR part 208 (part 208) to facilitate the delivery of Federal payments to victims of disasters and emergencies. Part 208 implements the provisions of 31 U.S.C. 3332, which generally requires that Federal payments be made by electronic funds transfer (EFT). Under 31 U.S.C. 3332, the Secretary of the Treasury (Secretary) must ensure that any individual required to receive a Federal payment by EFT have access to an account at a financial institution at a reasonable cost and with certain consumer protections. This amendment implements 31 U.S.C. 3332 by providing that the Department of the Treasury may establish and administer accounts for disaster victims in order to allow for the delivery of Federal payments by EFT. We are proceeding with this amendment in the form of an interim final rule that is effective without delay.

DATES: This interim final rule is effective August 7, 2006. Comments on the interim final rule are due on or before September 6, 2006.

ADDRESSES: This rule is available on the Financial Management Service's Web site at the following address: <http://www.fms.treas.gov/eft>. You may also inspect and copy this rule at: Treasury Department Library, Freedom of Information Act (FOIA) Collection, Room 1428, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. Before visiting, you must call (202) 622-0990 for an appointment. You may submit comments on the rule by going to the Government-wide rulemaking Web site, <http://www.regulations.gov>, and following the instructions for sending your comments electronically. Alternatively, you may email your comments to FMS at 208comments@fms.treas.gov. You may also mail your comments to: Sally Phillips, Director, EFT Strategy Division, Financial Management Service, 401 14th Street, SW., Room 420, Washington, DC 20227. Comments received may be made publicly available.

FOR FURTHER INFORMATION CONTACT:

Sally Phillips, Director, EFT Strategy Division, at (202) 874-7106 or sally.phillips@fms.treas.gov; or Natalie H. Diana, Senior Counsel, at (202) 874-6680 or natalie.diana@fms.treas.gov.

SUPPLEMENTARY INFORMATION:

Background

Treasury is amending part 208 in order to facilitate the delivery of Federal benefit and assistance payments to victims of emergencies and disasters. During the aftermath of Hurricane Katrina in 2005, many individuals who had been displaced from their homes were in immediate need of financial assistance. Treasury worked with Federal agencies to develop ways to provide Hurricane Katrina evacuees with fast, convenient, and secure access to assistance and benefit payments. Mindful of the possibility that a future emergency or disaster could disrupt the delivery of Federal payments through conventional methods such as direct deposit and check, we are amending

part 208 to provide for the establishment of accounts at a financial institution for disaster or emergency victims in order to allow for the delivery by EFT of Federal payments.

Authority and Purpose

31 U.S.C. 3332 generally requires that all non-tax Federal payments be made by EFT, unless waived by the Secretary. The Secretary must ensure that individuals required to receive Federal payments electronically have access to an account at a financial institution at a reasonable cost and with the same consumer protections as other accountholders. *See* 31 U.S.C. 3332(f), (i)(2).

Part 208 implements the requirements of 31 U.S.C. 3332. Part 208 sets forth requirements for accounts to which Federal payments may be sent by EFT; provides that any individual who receives a Federal benefit, wage, salary, or retirement payment is eligible to open an Electronic Transfer Account (ETA) at a financial institution that offers such accounts; and establishes the responsibilities of Federal agencies and recipients under the regulation. Part 208 also sets forth a number of waivers to the general requirement that Federal payments be delivered by EFT. Thus, part 208 contemplates that an individual entitled to a Federal payment either has access to a bank account to which the payment can be delivered electronically, or that the individual can receive and make use of a check payment.

In the extraordinary circumstances of a disaster or emergency, however, many individuals may not have access to their bank accounts and may not be able to readily establish new bank accounts. Such individuals would have no way to receive an electronic Federal assistance or benefit payment. Moreover, as Hurricane Katrina illustrated, in disaster or emergency situations, the postal delivery of checks may be delayed or disrupted at the very time when the expeditious delivery of Federal assistance and benefit payments is

critical in assisting people in disaster situations who urgently need funds in order to pay for food, clothing and shelter. Even where Treasury checks can be expeditiously delivered to disaster victims, individuals who have been displaced from their homes may be unable to establish their identities due to lost or inaccessible documentation. As a result, financial institutions may be unwilling to cash Treasury checks for these individuals, because they cannot determine the identity of the individual or whether a Treasury check that an individual is seeking to cash has been stolen and fraudulently endorsed. Finally, check payments may raise security concerns in disaster situations, since individuals who cash checks will typically be carrying significant amounts of cash in order to make purchases.

The interim final rule gives Treasury the authority to quickly establish accounts for disaster and emergency victims, as well as the flexibility to determine what features such accounts should have in order to meet the needs of payment recipients.

Amendment of Part 208

We are amending 31 CFR part 208 by adding a new § 208.11 that provides that Treasury may establish accounts at financial institutions for victims of a disaster or emergency in order to allow for the electronic delivery of Federal payments. New § 208.11 gives the Secretary flexibility to determine what features such accounts should have in light of the particular nature of the disaster or emergency. Sections 208.4, 208.6, 208.7 and 210.5 of title 31 CFR do not apply to the establishment of accounts or issuance of payments pursuant to this section. For example, the waivers set forth in § 208.4 are not applicable in situations where Treasury is establishing accounts for the express purpose of allowing for the delivery by EFT of Federal payments to disaster victims. The requirement in §§ 208.6 and 210.5 that a Federal non-vendor electronic payment be deposited to a deposit account in the name of the recipient does not apply to accounts established pursuant to § 208.11, nor are agencies required to notify check recipients and newly-eligible payment recipients of options available to them, as is normally required under § 208.7. Further, Treasury will be able to deliver payments to accounts established

pursuant to § 208.11, notwithstanding any other instructions from the payment recipient.

Regulatory Analyses

Request for Comment. We invite comment on all aspects of the interim final rule.

Request for Comment on Plain Language. On June 1, 1998, the President issued a memorandum directing each agency in the Executive branch to write its rules in plain language. This directive is effective for all new proposed and final rulemaking documents issued on or after January 1, 1999. We invite comment on how to make this interim final rule clearer. For example, you may wish to discuss: (1) Whether we have organized the material to suit your needs; (2) whether the requirements of this interim final rule are clear; or (3) whether there is something else we could do to make this rule easier to understand.

Notice and Comment; Effective Date. We are proceeding without notice and comment on this rulemaking because of the need to be prepared to deliver Federal assistance and benefit payments during the current hurricane season, which is already underway. Obtaining prior notice and comment would delay implementation of this rule and could cause hardship to individuals who might be urgently in need of food, clothing and shelter in the event a hurricane, disaster or other emergency occurs. Accordingly, under the provisions of the Administrative Procedure Act at 5 U.S.C. 553(b)(B) and 553(d)(3), we find good cause that prior notice and comment on this rule and a 30-day delay in its effective date is impracticable and contrary to the public interest.

Although the rule will take effect without prior notice and comment, we are inviting comment and will consider the comments received.

Executive Order 12866. It has been determined that this interim final rule is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required.

Regulatory Flexibility Act. Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act do not apply.

List of Subjects in 31 CFR Part 208

Accounting, Automated Clearing House, Banks, Banking, Electronic funds

transfer, Financial institutions, Government payments.

Authority and Issuance

■ For the reasons set out in the preamble, 31 CFR part 208 is amended 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; Public Law 104–208, 110 Stat. 3009.

■ 2. Add a new § 208.11 to read as follows:

§ 208.11 Accounts for disaster victims.

Treasury may establish and administer accounts at any financial institution designated as a financial agent for disaster victims in order to allow for the delivery by electronic funds transfer of one or more Federal payments. Such accounts may be established upon terms and conditions that the Secretary considers appropriate or necessary in light of the circumstances. Treasury may deliver payments to these accounts notwithstanding any other payment instructions from the recipient and without regard to the requirements of §§ 208.4, 208.6, and 208.7 of this part and 31 CFR 210.5. For purposes of this section, “disaster victim” means an individual or entity located within an emergency area, or an individual or entity that has relocated or been displaced from an emergency area as a result of a major disaster or emergency. “Emergency area” means a geographical area in which there exists an emergency or disaster declared by the President pursuant to the National Emergencies Act (50 U.S.C. 1601 et seq.) or the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.). The maintenance of accounts and the provision of account-related services under this section shall constitute reasonable duties of a financial agent of the United States.

Dated: July 31, 2006.

Kenneth R. Papaj,
Commissioner.

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