This rule does not impose any additional reporting or recordkeeping requirements on either small or large onion handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

In addition, as noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the South Texas onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. All Committee meetings are public meetings and all entities, both large and small, are able to express their views.

This action also affirms information contained in the interim final rule concerning Executive Orders 12866 and 12988, the Paperwork Reduction Act (44 U.S.C. Chapter 35), and the E-Gov Act (44 U.S.C. 101).

Comments on the interim final rule were required to be received on or before June 23, 2009. No comments were received. Therefore, for the reasons given in the interim final rule, we are adopting the interim final rule as a final rule, without change.

To view the interim final rule, go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=AMS-FV-09-0012.*

After consideration of all relevant material presented, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (74 FR 18621; April 24, 2009) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

PART 959—[AMENDED]

■ Accordingly, the interim final rule amending 7 CFR part 959 which was published at 74 FR 18621 on April 24, 2009, is adopted as a final rule without change.

Dated: September 9, 2009.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. E9–22115 Filed 9–14–09; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 329

RIN 3064–AD46

Interest on Deposits

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is amending its regulations to eliminate restrictions on certain kinds of transfers from savings deposits for state chartered banks that are not members of the Federal Reserve System and insured branches of foreign banks. The Board of Governors of the Federal Reserve System (the FRB) has already amended its regulations to eliminate these restrictions for member banks. Because this change is ministerial, the FDIC has determined for good cause that public notice and comment is unnecessary and impracticable under the Administrative Procedure Act (the APA) and is implementing this change by means of a final rule without notice and comment.

DATES: This rule is effective on September 15, 2009.

FOR FURTHER INFORMATION CONTACT: Mark Mellon, Counsel, Legal Division, (202) 898–3884 or Samuel Frumkin, Senior Policy Analyst (Compliance), Compliance Policy Section, Division of Supervision and Consumer Protection, (202) 898–6602, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Background

A. FRB Amendments to Regulation D

On May 20, 2009, the FRB announced the approval of final amendments to 12 CFR part 204, Reserve Requirements of Depository Institutions (Regulation D). Among other changes, the amendments will eliminate restrictions on certain types of transfers that consumers can make from savings deposits. See 74 FR 25629 (May 29, 2009). The changes were effective 30 days from the date of publication in the **Federal Register**, that is, July 2, 2009.

Prior to the FRB amendments, Regulation D limited the number of ''convenient'' transfers and withdrawals from savings deposits to not more than six per month. Within this overall limit of six, not more than three transfers or withdrawals could be made by check, debit card, or similar order made by the depositor and payable to third parties (the three transfer sublimit). Under the FRB final amendments, the permissible monthly number of transfers or withdrawals from savings deposits by check, debit card, or similar order payable to third parties has been increased from three to six. In other words, while the FRB has decided to retain the overall six-transfer limit for savings deposits, it has eliminated the three-transfer sublimit within the overall limit that applied to transfers or withdrawals from savings deposits by check, debit card, or similar order payable to third parties. The FRB decided to eliminate the three transfer sublimit because distinctions between such transfers and other types of pre-authorized or automatic transfers subject to the six-per-month limit were no longer logical in light of technological advances. See 74 FR 25631.

B. FDIC Responsibilities Under Section 18(g) of the Federal Deposit Insurance (FDI) Act

Section 18(g) of the FDI Act (12 U.S.C. 1828(g)) provides that the Board of Directors of the FDIC shall by regulation prohibit the payment of interest or dividends on demand deposits in insured nonmember banks and in insured branches of foreign banks. Accordingly, the FDIC promulgated regulations prohibiting the payment of interest or dividends on demand deposits at 12 CFR part 329. See 51 FR 10808 (Mar. 31, 1986). Section 18(g) of the FDI Act also provides that the FDIC shall make such exceptions to this prohibition as are prescribed with respect to demand deposits in member banks by section 19 of the Federal Reserve Act, as amended, or by regulation of the FRB.

Generally, member banks, state nonmember banks and insured branches of foreign banks are subject to the statutory prohibition and exceptions to that prohibition, although under different statutes and regulations. From time to time the FRB issues or authorizes a new exception to the prohibition applicable to member banks, and the FDIC later issues or authorizes a similar exception affecting state nonmember banks and insured branches of foreign banks, as is the case in this particular rulemaking. Note, however, that under section 329.3 of part 329, state nonmember banks and insured branches of foreign banks are already subject to the same exceptions to the prohibition that member banks are subject to, regardless of whether the FDIC has issued or authorized the specific exception. See 63 FR 8341 (Feb. 19, 1998).

C. Amendments to Sections 329.1(b)(3) and 329.102 of Part 329

Therefore, in accord with the FRB amendments to Regulation D, the FDIC is amending the part 329 definition of ''demand deposit'' to eliminate the three transfer sublimit. This will be done by eliminating the first proviso of subsection 329.1(b)(3). A minor change is also made to the interpretive rule set forth in section 329.102 to make it conform to section 329.1(b)(3) as amended by this rule.

II. Exemption From Public Notice and Comment

The FDIC is required by law to promulgate the same exception to the prohibition against the payment of interest on demand deposits that has been prescribed with respect to demand deposits in member banks by the FRB by regulation. Given this statutory requirement, the FDIC has no discretion in this matter, but must instead eliminate the three transfer sublimit for state nonmember banks and insured branches of foreign banks in the same way that the FRB has done for member banks. Moreover, under section 329.3 of FDIC Rules and Regulations, state nonmember banks and insured branches of foreign banks are already covered by the FRB elimination of the three transfer sublimit when that regulatory change becomes effective on July 2, 2009. As a result, amending part 329 to eliminate reference to the three transfer sublimit would essentially only be an official recognition by the FDIC of an already established requirement.

For these reasons, the FDIC has thus determined for good cause that public notice and comment is unnecessary and impracticable under the APA (5 U.S.C. 553(b)(3)(B)), and that the rule should be published in the **Federal Register** as a final rule.

III. Effective Date

For the same reasons that the FDIC has determined that public notice and comment is unnecessary and impractical for good cause, the FDIC also finds that it has good cause to adopt an effective date that would be less than 30 days after the date of publication in the **Federal Register** pursuant to the APA (5 U.S.C. 553(d)). The amendment to Part 329 will be effective as of the date of its publication in the **Federal Register**.

IV. Regulatory Flexibility Act

An initial regulatory flexibility analysis under the Regulatory Flexibility Act (RFA) (5 U.S.C. 603) is required only when an agency must publish a general notice of proposed rulemaking. As already noted, the FDIC has determined that publication of a notice of proposed rulemaking is not necessary for this final rule. Accordingly, the RFA does not require an initial regulatory flexibility analysis. Nevertheless, the FDIC has considered the likely impact of the rule on small entities and believes that the rule will not have a significant impact on a substantial number of small entities.

V. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (Pub. L. 104–121, 110 Stat. 857) provides generally for agencies to report rules to Congress and for Congress to review such rules. The reporting requirement is triggered in instances where the FDIC issues a final rule as defined by the APA (5 U.S.C. 551 *et seq.*). Because the FDIC is issuing a final rule as defined by the APA, the FDIC will file the reports required by the SBREFA.

VI. The Treasury and General Government Appropriations Act, 1999 Assessment of Federal Regulations and Policies on Families

The FDIC has determined that this final rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277, 112 Stat. 2681 (1998)).

VII. Paperwork Reduction Act

No collection of information pursuant to section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) is contained in this rule. Consequently, no information has been submitted to the Office of Management and Budget for review.

VIII. Riegle Community Development and Regulatory Improvement Act

The final rule does not impose any new reporting or disclosure requirements on insured depository institutions under the Riegle Community Development and Regulatory Improvement Act.

IX. Plain Language

Section 722 of the Gramm-Leach-Bliley Act, Public Law 106–102, 113 Stat. 1338, 1471 (Nov. 12, 1999), requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The final rule makes part 329 plainer by eliminating unnecessary language.

X. Authority for the Regulation

This regulation is authorized by the FDIC's general rulemaking authority. Specifically, 12 U.S.C. 1819(a)(Tenth) provides the FDIC with general authority to issue such rules and regulations as it deems necessary to carry out the statutory mandates of the FDI Act and other laws that the FDIC is charged with administering or enforcing. Moreover, as previously noted, section 18(g) of the FDI Act provides that the FDIC shall make such exceptions to the statutory prohibition against the payment of interest on demand deposits as are prescribed with respect to demand deposits in member banks by section 19 of the Federal Reserve Act, as amended, or by regulation of the FRB (12 U.S.C. 1828(g)).

List of Subjects in 12 CFR Part 329

Banks, Banking, Interest rates.

■ For the reasons set out in the preamble, the Board of Directors of the FDIC hereby amends part 329 of title 12 of the Code of Federal Regulations as follows:

PART 329—INTEREST ON DEPOSITS

■ 1. The authority for part 329 continues to read as follows:

Authority: 12 U.S.C. 1819, 1828(g), 1832(a).

■ 2. Section 329.1 is amended by revising paragraph (b)(3) to read as follows:

§ 329.1 Definitions.

* * * * *

(b)* * *

(3) Any other deposit from which, under the terms of the deposit contract, the depositor is authorized to make, during any month or statement cycle of at least four weeks, more than six transfers by means of a preauthorized or automatic transfer or telephonic (including data transmission) agreement, order or instruction, which transfers are made to another account of the depositor at the same bank, to the bank itself, or to a third party, *provided* that no deposit specified in this paragraph (3) will be deemed to be a demand deposit if the entire beneficial interest of the deposit is held by a depositor identified in paragraph (2) of section 2(a) of Public Law 93–100 (12 U.S.C. 1832(a)(2)).[1]

* * * * *

[1] Paragraph (1) of 12 U.S.C. 1832(a) authorizes banks to let certain depositors make withdrawals from interest-bearing deposits by negotiable or

Continued

■ 3. Section 329.102 is amended by revising the introductory text to read as follows:

§ 329.102 Deposits described in § 329.1(b)(3).

This interpretive rule explains the proviso of § 329.1(b)(3).

* * * * *

Dated this 9th day of September 2009.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E9–22070 Filed 9–14–09; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 301

[Docket Nos. EF08–2011–000 and RM08–20–000; Order No. 726; 128 FERC ¶61,222]

Sales of Electric Power to the Bonneville Power Administration; Revisions to Average System Cost Methodology

Issued September 4, 2009.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission grants final approval to the revised methodology for determining the average system cost (ASC) used by Bonneville Power Administration in its Residential Exchange Program.

DATES: *Effective Date:* This final rule is effective October 15, 2009.

FOR FURTHER INFORMATION CONTACT:

Peter Radway (Technical Information), Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, Phone: 202–502–8782, e-mail: *peter.radway@ferc.gov.*

Julia A. Lake (Legal Information), Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, Phone: 202–502–8370, e-mail: *julia.lake@ferc.gov.*

SUPPLEMENTARY INFORMATION:

Before Commissioners: Jon Wellinghoff, Chairman; Suedeen G. Kelly, Marc Spitzer and Philip D. Moeller.

Order No. 726

Final Rule

Issued September 4, 2009

1. The Federal Energy Regulatory Commission grants final approval of the Bonneville Power Administration's (Bonneville) new methodology for determining the average system cost (ASC) of a utility's resources under section 5(c) of the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act).[1]

I. Background

2. Section 5(c) of the Northwest Power Act provides for a Residential Exchange Program, which is designed to make the benefits of Bonneville's relatively low preference power rates available to residential customers of investor-owned utilities in the Pacific Northwest. Although the Residential Exchange Program is available to any Pacific Northwest utility, the primary beneficiaries of the exchange are investor-owned utilities. Under the Residential Exchange Program, a utility may sell power to Bonneville at the average system cost of that utility's resources.[2] Bonneville then sells the same amount of power back to the utility at Bonneville's priority firm exchange rate.[3] The power exchange is generally viewed as a paper transaction.[4] In almost all instances, Bonneville makes a payment to the utility for the difference between the utility's average system cost and Bonneville's priority firm exchange rate, multiplied by the utility's residential and small farm load.

3. The Northwest Power Act does not define what constitutes the average system cost of a utility's resources. Instead, the Northwest Power Act grants Bonneville's Administrator the authority to establish a methodology for determining and exchanging utility's average system cost through a stakeholder process in consultation with the Northwest Power Planning Council, Bonneville's customers, and appropriate State regulatory bodies in the region.[5] The Northwest Power Act, however, directs the Administrator to exclude the following three types of costs from the average system cost: (1) The cost of additional resources in an amount sufficient to serve any new large single load of the utility; (2) the cost of additional resources in an amount sufficient to meet any additional load outside the region occurring after December 5, 1980; and (3) any cost of any generating facility which is terminated prior to initial operation.[6] Outside these explicit exclusions, the Northwest Power Act is silent on the costs that may be included or excluded in the average system cost. Bonneville's Administrator decides what costs should be considered when calculating the average system cost, and what process should be used to make that determination.

4. The Commission's role in this exchange program is two-fold. First, under section 5(c)(7) of the Northwest Power Act, while Bonneville develops a methodology for determining a utility's ASC (after consulting with various affected groups), the Commission must ''review and approve'' the methodology. Neither the statute nor its legislative history explains the nature of this review.[7]

5. The Commission's second role in the exchange program arises from its Federal Power Act (FPA)[8] responsibility to review the wholesale sales rates of individual public utilities, essentially investor-owned utilities; the Commission reviews the rates for such sales from the investor-owned utilities to Bonneville based on the ASC methodology. The Commission's existing rules (18 CFR 35.30 and 35.31) provide that the Commission will accept under the FPA any sale to Bonneville that is based on application of an approved ASC methodology.[9]

6. On July 14, 2008, Bonneville filed a proposed revised ASC methodology to replace the then-current ASC methodology approved by the Commission on a final basis in 1984, and codified in part 301 of the Commission's regulations (July 2008

transferable instruments for the purpose of making transfers to third parties—i.e., to hold deposits commonly called NOW accounts.

Paragraph (2) of 12 U.S.C. 1832(a) provides: ''Paragraph (1) shall apply only with respect to deposits or accounts which consist solely of funds in which the entire beneficial interest is held by one or more individuals or by an organization which is operated primarily for religious, philanthropic, charitable, educational, political, or other similar purposes and which is not operated for profit, and with respect to deposits of public funds by an officer, employee, or agent of the United States, any State, county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States, or any political subdivision thereof.''

[1] 16 U.S.C. 839c(c).

[2] 16 U.S.C. 839c(c)(1).

[3] This rate is generally a lower rate.

[4] *See CP Nat'l Corp.* v. *BPA,* 928 F.2d 905, 907 (9th Cir. 1991) (*quoting Public Utility Commissioner of Oregon* v. *BPA,* 583 F. Supp. 752, 754 (D.Or. 1984)).

[5] 16 U.S.C. 839c(c)(7).

[6] 16 U.S.C. 839c(c)(7)(A)–(C).

[7] *Methodology for Sales of Electric Power to Bonneville Power Administration,* Order No. 400, FERC Stats. & Regs. ¶ 30,601, at 31,161–62 (1984), *reh'g denied,* Order No. 400–A, 30 FERC ¶ 61,108 (1985).

[8] 16 U.S.C. 824, 824d, 824e.

[9] Order No. 400, FERC Stats. & Regs. ¶ 30,601 at 31,161–62.