input from persons and organizations with interests in this area.

DATES: Written comments can be submitted on or before June 20, 2001. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise Anne Marie Zerega at the address below, as soon as possible. The meetings are being held on May 10, June 12, June 14, and June 20.

ADDRESSES: All comments or requests for information should be sent to Anne Marie Zerega, Senior Analyst, Office of Planning and Analysis, Office of Science, SC–5, U.S. Department of Energy, Washington, D.C. 20585 Tel: 202–586–4477 Fax: 202–586–7719 e-mail: *Anne-Marie.Zerega@science.doe.gov*.

Four meetings are scheduled:

May 10, 2001, 10:00 a.m. to 4:00 p.m., Berkner Auditorium, Building 488, 11 Brookhaven Avenue, Brookhaven National Laboratory, Upton, New York 11973–5000, Phone: 631–344–8000

June 12, 2001, 9:00 a.m. to 3:00 p.m., Stanford Linear Accelerator Center, Stanford University, 2575 Sand Hill Road, Menlo Park, CA 94025

June 14, 2001, 10:00 a.m. to 4:00 p.m., Location: Jefferson County School Board Room, 1829 Denver West Drive, Building 27, Golden, CO 80401. The board room is on the 5th floor.

June 20, 2001, 10:00 a.m. to 4:00 p.m., Auditorium, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290, 301–903–3000

FOR FURTHER INFORMATION CONTACT: Anne Marie Zevega, (202) 586–4477.

SUPPLEMENTARY INFORMATION: Each meeting will have the same agenda:

10:00 a.m. to 11:30 a.m. (9:00 a.m. to 10:30 a.m. in California)
Presentations by DOE officials from General Counsel, the Office of Science, and the Office of Hearings and Appeals

11:30 a.m. to 4:00 p.m. (10:30 a.m. to 3:00 p.m. in California)
Question and Comments will be taken from the floor during this period. There will be a one-hour break for lunch.

4:00 p.m. (3:00 p.m. in California)
Adjourn

Advances in science, engineering, and all fields of research depend on the reliability of the research record, as do the benefits associated with them in areas such as health and national security. Sustained public trust in the research enterprise also requires confidence in the research record and in the processes involved in its ongoing development. For these reasons, and in the interest of achieving greater uniformity in Federal policies in this area, the National Science and Technology Council (NSTC) initiated the development of a Federal research misconduct policy in April 1996. The Office of Science and Technology Policy (OSTP) provided leadership and coordination, and all Federal agencies with a research mission participated. The final policy was printed in the **Federal Register** on December 6, 2000 (66 FR 76260).

This policy applies to federally-funded research and proposals submitted to Federal agencies for research funding. It thus applies to research conducted by the Federal agencies, conducted or managed for the Federal government by contractors, or supported by the Federal government and performed at research institutions, including universities and industry.

The NSTC policy establishes the scope of the Federal government's interest in the accuracy and reliability of the research record and the processes involved in its development. It consists of a definition of research misconduct and basic guidelines for the response of Federal agencies and research institutions to allegations of research misconduct.

The Federal agencies that conduct or support research are charged with implementing this policy within one year of the date of its issuance. An NSTC interagency research misconduct policy implementation group has been established to help achieve uniformity across the Federal agencies in implementation of the research misconduct policy. In some cases, this may require agencies to amend or replace extant regulations addressing research misconduct. In other cases, agencies may need to put new regulations in place or implement the policy through administrative mechanisms.

The policy addresses research misconduct. It does not supersede government or institutional policies or procedures for addressing other forms of misconduct, such as the unethical treatment of human research subjects or mistreatment of laboratory animals used in research, nor does it supersede criminal or other civil law. Agencies and institutions may address these other issues as authorized by law and as appropriate to their missions and objectives.

A copy of the OSTP policy published in the **Federal Register** may be viewed at: *www.science.doe.gov/misconduct*

Issued in Washington DC on April 4, 2001.

James Decker,

Director (Acting), Office of Science.

[FR Doc. 01–9464 Filed 4–17–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 7 and 37

[Docket No. 01–07]

RIN 1557–AB75

Debt Cancellation Contracts and Debt Suspension Agreements

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is proposing to add a new part 37 to its regulations that addresses debt cancellation contracts (DCCs) and debt suspension agreements (DSAs). The purposes of the customer protections set forth in the proposed rule are to facilitate customers' informed choice about whether to purchase DCCs and DSAs, based on an understanding of the costs, benefits, and limitations of the products and to discourage inappropriate or abusive sales practices. In addition, the proposed rule promotes safety and soundness by requiring national banks that provide these products to maintain adequate loss reserves.

DATES: Comments must be received by June 18, 2001.

ADDRESSES: Comments should be directed to Office of the Comptroller of the Currency, Public Information Room, 250 E Street, SW., Mail Stop 1–5, Washington, DC 20219, Attention: Docket No. 01–07; Fax number (202) 874–4448 or Internet address: regs.comments@occ.treas.gov. Comments may be inspected and photocopied at the OCC's Public Reference Room, 250 E Street, SW., Washington, DC. You can make an appointment to inspect the comments by calling (202) 874–5043.

FOR FURTHER INFORMATION CONTACT: Stuart Feldstein, Assistant Director, or Jean Campbell, Attorney, Legislative and Regulatory Activities Division, (202) 874–5090; or Suzette Greco, Special Counsel, Securities and Corporate Practice Division, (202) 874–5210, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Background

A debt cancellation contract (DCC) is a bank product that consists of a contract entered into by a bank providing for cancellation of all or part of the customer's obligation to repay an extension of credit from that bank upon the occurrence of a specified event. A debt suspension agreement (DSA) is a bank product that consists of a contract entered into by a bank providing for suspension of all or part of the repayment obligation under an extension of credit from that bank upon the occurrence of a specified event. Under a DCC or DSA, the customer agrees to pay an additional fee to the bank in exchange for the bank's promise to cancel or temporarily suspend payments on the debt. The fee may be paid in a single lump sum or in periodic installments.

The authority of national banks to offer DCCs and DSAs is well-recognized.[1] The OCC currently has one regulation in this area. Section 7.1013 of our rules addresses a national bank's authority to enter into DCCs. In 2000, we published an advance notice of proposed rulemaking (ANPR) requesting comment on whether additional regulations governing DCCs and DSAs were necessary or appropriate. 65 FR 4176 (January 26, 2000).

The ANPR invited comment on the following issues: (1) Whether we should issue regulations governing DCCs that, for example, establish standards for the disclosure of terms, notices, contract termination, contract charges, and dispute resolution; (2) whether we should include DSAs in any regulations covering DCCs; and (3) whether we should address other areas or issues by regulation. The ANPR also invited commenters to recommend specific provisions that would protect customers, prohibit abusive practices, and ensure the safety and soundness of national banks offering these products.

The OCC received 41 comments in response to the ANPR. Virtually all commenters agreed that any new rules should govern both DCCs and DSAs. Twenty-one commenters said that the OCC should issue customer protection regulations. State insurance regulators, consumer advocates, insurance companies and several banks generally favored regulations, some urging regulations similar to state laws that govern sales of credit life insurance. The details of various state insurance laws differ, but generally include rate regulation, requirements for the advance review and approval of insurance forms, and claims procedures.

Twenty commenters, including bank trade groups and most bank commenters, opposed new regulations. Many of these commenters said that regulations are unnecessary because there is no evidence of widespread abusive sales practices or customer complaints. These commenters also noted that banks offering DCCs are already covered by the Truth in Lending Act (TILA), 15 U.S.C. 1601 *et seq.,* and by state law. If the OCC were to provide additional standards applicable to DCCs, they urged the OCC to issue guidelines rather than regulations.

On balance, the OCC agrees with those commenters who believe that some additional regulations in this area would be beneficial. We note that the Federal Reserve Board's Regulation Z requires banks offering DCCs to make disclosures that are limited in scope and applicable only if the bank wishes to exclude the fees for the DCC from the finance charge on the underlying loan.[2] The customer protections set forth in the proposed rule have a broader purpose, however. They are designed to facilitate customers' informed choice about whether to purchase DCCs and DSAs, based on an understanding of the costs, benefits, and limitations of the product, as well as to discourage inappropriate or abusive sales practices. In addition, the proposed rule promotes safety and soundness by requiring national banks to maintain adequate reserves to cover the potential losses attributable to the DCCs and DSAs they issue.

Compliance with OCC rules on DCCs would not affect a national bank's obligation to comply with the applicable provisions of Regulation Z. Many national banks already comply with TILA rules because they wish to exclude the fees for the DCC from the finance charge. In order to avoid burdensome overlap, we have drafted the proposal to be consistent with TILA-required disclosures where possible. We invite recommendations on additional changes to the proposed rule that would further reduce any burden arising from the requirement to comply with both rules.

In addition, we request comments on all aspects of the proposed rules and on the specific issues highlighted in the section-by-section description.

Section-by-Section Description

Section 37.1 Authority, Purpose, and Scope

The OCC's rules, at 12 CFR 7.1013, recognize that national banks may provide DCCs as permissible banking products. Section 7.1013 further provides that national banks may impose an additional charge for the product and may establish the necessary loss reserves. The proposed rule removes 12 CFR 7.1013, replacing it with § 37.1, which states the authority of national banks under 12 U.S.C. 24 (Seventh) to enter into both DCCs and DSAs as authorized bank products and to charge a fee for these products. Section 37.1 omits the statement in the current rule specifically permitting the establishment of reserves, however, because the proposal, at new § 37.7, *requires* the bank to establish loss reserves or obtain from a third party insurance that is adequate to cover expected losses.

Section 37.1 sets forth the purposes of the new regulations, which are, generally, to set forth the standards that apply to a national bank's provision of DCCs and DSAs, enhance consumer protections for customers who buy DCCs or DSAs from banks, and ensure that national banks providing DCCs or DSAs do so on a safe and sound basis. Section 37.1 also clarifies that since DCCs and DSAs are banking products, they are governed by this part and not by 12 CFR part 14 (consumer protections for depository institution sales of insurance).

The regulations apply to the provision of DCCs and DSAs by national banks and Federal branches and agencies.

Section 37.2 Definitions

The proposed rule defines a DCC as a contract entered into by a bank providing for cancellation of all or part of the amount due under an extension of credit from that bank upon the occurrence of a specified event. A DSA is similarly defined as a contract entered into by a bank providing for suspension of all or part of the repayment obligation under an extension of credit from that bank upon the occurrence of a specified event.[3] The OCC invites comment on

[1] 12 CFR 7.1013 (authorizing national banks to enter into DCCs upon the death or disability of a borrower). *See First National Bank of Eastern Arkansas* v. *Taylor*, 907 F.2d 775 (8th Cir. 1990), *cert. denied,* 498 U.S. 972 (1990) (offering DCCs is permissible for national banks pursuant to 12 U.S.C. 24 (Seventh)); Interpretive Letter No. 827 (April 3, 1998) (national banks may offer DSAs pursuant to the same authority).

[2] *See* 12 CFR 226.4(d)(3) (providing, among other things, that a bank may exclude from the finance charge fees for debt cancellation coverage if the coverage is optional for the customer; the fee for the coverage is disclosed; the term of the coverage is disclosed (if the term is shorter than the terms of the loan); and the customer affirmatively requests the coverage in writing).

[3] This definition does not cover so-called ''skip-a-payment'' agreements that are a feature of a loan contract and that permit a customer to skip a certain

the definition of DCC and DSA and particularly whether other elements should be added to cover specific products.

The rule uses the term ''bank'' to include a national bank as well as a Federal branch or agency. A customer is defined as an individual who obtains a loan or other extension of credit from a bank primarily for personal, family or household purposes.

Section 37.3 Prohibited Practices

The proposed rule contains several types of customer protections that are standard when a bank provides products associated with a loan. The proposal contains an anti-tying provision that precludes a bank from extending credit or changing the terms or conditions of an extension of credit conditioned upon the purchase of a DCC or DSA from the bank.

The proposed rule also prohibits a bank from engaging in any practice that could mislead a reasonable person with respect to certain information that must be disclosed under proposed § 37.6(a).

The proposed rule also prohibits use of two types of contractual provisions that present high risks of unfair dealing with customers. First, the proposal prohibits a bank from including in a DCC or DSA any term that the bank routinely does not enforce. Inclusion of such a term misleads customers and discourages them from obtaining the debt relief for which they have paid. However, we recognize that a bank's failure to enforce contractual provisions sometimes permits the bank to work with customers who are experiencing financial difficulty so that the customer ultimately can fully repay the obligation to the bank. The proposed rule uses the word ''routinely'' so that a bank retains the discretion to make exceptions in certain situations.

Second, the proposed rule prohibits a bank from retaining a unilateral right to modify or cancel the contract. The OCC believes retaining such a right has the potential to be abusive because it could be exercised in such a way as to deny the customer the otherwise enforceable right to debt relief for which the customer has paid.

Section 37.4 Affirmative Election Required

Proposed § 37.4 requires the customer to affirmatively elect to purchase a DCC or DSA in writing in a document that is separate from the documents pertaining to the credit transaction. This provision addresses the practice of ''negative enrollment,'' where a customer may automatically purchase a DCC or DSA unless the customer opts out. Negative enrollment causes some customers to pay for a product they did not want or intend to buy. The proposed rule is consistent with Regulation Z, which requires that a customer sign or initial an affirmative written request for debt cancellation coverage if fees for such coverage are to be excluded from the finance charge. *See* 12 CFR 226.4(d)(3)(I)(C). This provision helps to prevent coercion and customer confusion, and enables customers to make informed decisions about whether to purchase a DCC or DSA. The acknowledgment may be made electronically if it complies with the requirements of the Electronic Signatures in Global and National Commerce Act (E–Sign), 15 U.S.C. 7001 *et seq.*

We invite comment on whether any additional customer protections should be included, as well as on whether modifications to any of those proposed would be appropriate.

Section 37.5 Refunds of Fees in the Event of Termination of the Agreement or Prepayment of the Covered Loan

Some banks that offer DCCs and DSAs may structure those products so that the customer does not receive a refund of any unearned portion of the fee paid for the product if the DCC or DSA is terminated or the customer prepays the loan covered by the contract or agreement. Banks have suggested that customers benefit from a ''no-refund'' product because the total fee paid by a customer is substantially less than the fee that would be charged for the same product with a fee refund feature. On the other hand, a no-refund product could be structured in a way that is unfair to customers if, for example, the customer pays most of the fee early in the term of the contract but also prepays the loan well before the end of the term. The proposal does not preclude a bank from offering a no-refund product, but instead requires a bank that provides a no-refund product also to offer a product that provides for a refund of the unearned portion of the fee. Requiring both options should encourage the availability of products that allow a customer to choose between a lower total fee or the availability of a refund.

If a customer is entitled to a refund, the amount due the customer may vary greatly depending on the method used to calculate the refund. The two most commonly used formulas for computing refunds are ''the Rule of 78's'' and the actuarial method. Both of these methods recognize that the initial payment of a loan includes more interest than later payments. However, under the Rule of 78's, a customer will receive a substantially lower refund than if the actuarial method had been used to compute the refund. Because application of the Rule of 78's creates substantial inequities for the customer, proposed § 37.5(b) requires banks to calculate the amount of any refund due a customer based on a method at least as favorable to the customer as the actuarial method. This provision uses language similar to the TILA provision relating to refunds of unearned interest charges. *See* 15 U.S.C. 1615(b).

Section 37.6 Disclosures

Content of Required Disclosures

The first disclosure under proposed § 37.6(a) requires a bank to inform the customer that its approval of an extension of credit and the terms and conditions of such extension are not conditioned on the purchase of a DCC or DSA from the bank. Requiring a bank to disclose the anti-tying provision to customers prior to their decision to purchase a DCC or DSA helps ensure that the customer evaluates the coverage on the basis of the economic benefit it provides and not because the customer believes that credit will be denied or the terms of credit will be altered without the coverage.

The second and third disclosures under proposed § 37.6(a) relate to the fee banks charge for a DCC or DSA. The proposed rule requires a bank to inform customers of the total fee for the DCC or DSA and the method of payment, including whether the payment will be collected in a lump sum or periodic payments, and whether the fee is included in the loan amount. The method of payment is an important factor in determining the total cost to the customer. For example, if the fee is paid in a lump sum and included in the amount financed, the customer will pay interest on the fee, in addition to the interest charged on the underlying loan. Information about the amount of the fee and the method the bank uses to collect it helps customers understand the costs and benefits of the product and enables them to make an informed decision about whether the product meets their needs.

The fourth disclosure requires a bank to describe any material limitations relating to the DCC or DSA. A DCC or DSA may contain important conditions that limit the circumstances under which a customer may take advantage of the debt cancellation or debt suspension features of the product. Examples of

number of loan payments at the customer's option, without reference in the contract to a specified triggering event and without incurring a late fee or other penalty.

material limitations in a DSA or DCC include imposing a waiting period before a customer may activate benefits; limiting the number of payments a customer may defer; limiting the term of coverage to a specific number of months; limiting the maximum amount of indebtedness the bank will cancel; or terminating coverage when the customer reaches a particular age. Disclosure of material limitations assists a bank to avoid inappropriate sales practices that could subject the bank to substantial reputation or litigation risk.

The fifth disclosure requires a bank to inform the customer if the customer's activation of the contract will prohibit the customer from incurring additional charges or using the credit line. This disclosure promotes informed choice because the inability to use a credit line or incur new charges may be a factor in some customers' decisions whether to purchase the DCC or DSA.

The sixth disclosure requires a bank to disclose whether the customer is not entitled to a refund of the unearned portion of the fee in the event the customer terminates the contract or prepays the loan prior to the scheduled termination date, and that the customer has the option of purchasing a DCC or DSA that provides for a refund in those circumstances. This information is particularly important when a loan is repaid in full prior to its scheduled termination date.

The seventh disclosure requires a bank to explain the circumstances under which a customer or the bank may terminate the contract if termination is permitted during the life of the loan. Even if a customer has a right to terminate the contract, there may be substantial limitations on that right. This information may be an important component of a customer's decision whether to purchase the product. The fact that the bank may terminate the contract and the conditions under which it may do so are also critical factors in a customer's decision whether to purchase the product.

The eighth disclosure requires a bank to describe the procedures a customer must follow to notify the bank that a triggering event has occurred. This information is important because a customer wishing to activate the debt suspension or debt cancellation feature of the contract must follow the procedures outlined in the contract. Requiring banks to disclose this information will help to eliminate customer confusion.

The OCC invites comment on each of these disclosures and any others that commenters believe would be desirable.

Method of Making Disclosures

The proposed rule sets forth the timing and manner in which a bank is required to provide disclosures. Proposed § 37.6(a) requires banks to make these disclosures before a customer completes the purchase of a DCC or DSA. Under proposed § 37.6(b), a bank may make the disclosures in writing, or electronically, if done in a manner consistent with the requirements of E-Sign.

Form of Disclosures

Proposed § 37.6(c) requires disclosures to be clear, conspicuous, readily understandable, and designed to call attention to the nature and significance of the information provided. These standards are similar to those contained in 12 CFR part 14, consumer protection in sales of insurance. Many banks are already familiar with these types of requirements because the OCC's insurance sales rule provides specific examples that will satisfy this requirement. *See* 12 CFR 14.40(c)(6), 65 FR 75840 (Dec. 4, 2000). The examples included in § 37.6(c) are modeled on those examples.

Section 37.7 Safety and Soundness Requirement

To ensure that the offering of DCCs and DSAs does not unduly increase the bank's risk exposure, loss reserves must be established and maintained at a level adequate to cover expected losses related to DCCs and to cover the debt service on loans during debt suspension periods.

National banks offering DCCs and DSAs typically set aside reserves from the fees paid by bank customers for these products. Such reserves are used to absorb losses arising from debt cancellation and to service the interest accrual during the debt suspension period. If the bank maintains a separate reserve, the bank's own risk managers and our examiners will be able to determine more easily the adequacy of the reserves, the accuracy of the accounting for the reserves, and appropriateness of the methodology used to determine the amount of the reserve. Proposed § 37.7 requires national banks to establish a separate loss reserve and to maintain the reserve at a level adequate to conduct this business line in a safe and sound manner.

Consistent with longstanding OCC practice, the proposed rule also permits a national bank to elect to obtain insurance to cover risks associated with offering DCCs and DSAs.

The OCC requests comment on alternative approaches, including any approaches that could be designed for community banks in particular.

Part 7—Bank Activities and Operations

The proposed rule removes 12 CFR 7.1013 and replaces it with several of the new provisions in part 37.

Regulatory Analysis

A. Paperwork Reduction Act

For purposes of compliance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.,* the OCC invites comment on:

(1) Whether the proposed collection of information contained in this notice of proposed rulemaking is necessary for the proper performance of the OCC's functions, including whether the information has practical utility;

(2) The accuracy of the OCC's estimate of the burden of the proposed information collection;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected;

(4) Ways to minimize the burden of the information collection on the respondents, including the use of automated collection techniques or other forms of information technology; and

(5) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Respondents are not required to respond to this collection of information unless the final regulation displays a currently valid Office of Management and Budget (OMB) control number.

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the OMB for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Alexander Hunt, Desk Officer, Washington, DC 20503, with a copy to Jessie Dunaway, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Mailstop 8–4, Washington, DC 20219.

The proposed rule requires banks to make certain disclosures to a customer before the customer completes the purchase of a DCC or DSA. The bank may make the disclosures in writing or electronically. The disclosure requirements are as follows:

Section 37.6(a)(1) requires a bank to inform the customer that its approval of

an extension of credit and the terms and conditions of such extension are not conditioned on the purchase of a DCC or DSA from the bank.

Sections 37.6(a)(2) and 37.6(a)(3) require a bank to inform customers of the total fees for the DCC or DSA and the method the bank will use to collect the payments.

Section 37.6(a)(4) requires a bank to describe any material limitations on the customer's ability to collect benefits relating to the DCC or DSA.

Section 37.6(a)(5) requires a bank, if applicable, to inform the customer that activation of the contract will prohibit the customer from incurring additional charges or using the credit line.

Section 37.6(a)(6) requires a bank to disclose, if applicable, that the customer is not entitled to a refund of the unearned portion of the fee in the event the customer terminates the contract or prepays the loan prior to the scheduled termination date, and that the customer has the option of purchasing a DCC or DSA that provides for a refund in those circumstances.

Section 37.6(a)(7) requires a bank to explain the circumstances under which a customer or the bank may terminate the contact if termination is permitted during the life of the loan.

Section 37.6(a)(8) requires a bank to describe the procedures a customer must follow to notify the bank that a triggering event has occurred.

The estimated total annual burden with respect to extensions of credit will depend on the number of banks that offer DCCs and DSAs, the number of consumer loan transactions per bank per year where disclosures are provided, and the amount of time per transaction. The OCC cannot at this time accurately estimate the total number of participating banks or the total number of consumer loan transactions in which disclosures are provided to individual customers because the OCC does not currently collect this type of data. Solely for the purpose of complying with the Paperwork Reduction Act, the OCC has estimated the annual paperwork burden assuming that 2,300 national banks will provide DCCs and DSAs, and the average burden associated with developing the disclosures would be approximately 10 hours.

The OCC specifically requests comment on appropriate ways to estimate the total number of participating banks, the total number of consumer loan transactions in which these disclosures will be provided to individual customers, and the burden associated with developing the disclosures and providing the disclosures to individual customers.

The likely respondents are national banks.

Estimated Number of Respondents: 2,300 respondents.

Estimated Number of Responses: 2,300 responses.

Estimated Burden Hours per Response: 10 hours.

Estimated Total Annual Burden Hours: 23,000 hours.

The OCC will revisit these estimates when we have more information on the scope of the rule and the number of potential respondents and consumer loan transactions. The revised estimates will also reflect all comments received concerning the burden estimates.

B. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (RFA) requires federal agencies either to certify that a proposed rule would not, if adopted in final form, have a significant impact on a substantial number of small entities or to prepare an initial regulatory flexibility analysis (IRFA) of the proposal and publish the analysis for comment. *See* 5 U.S.C. 603, 605. On the basis of the information currently available, the OCC is of the opinion that this proposal, if it is adopted in final form, is unlikely to have a significant impact on a substantial number of small entities, within the meaning of those terms as used in the RFA.

C. Executive Order 12866 Determination

The OCC has determined that the proposed rule, if adopted as a final rule, would not constitute a ''significant regulatory action'' for the purposes of Executive Order 12866. Under the most conservative cost scenarios that the OCC can develop on the basis of available information, the impact of the proposal falls short of the thresholds established by the Executive Order.

D. Unfunded Mandates Act of 1995

Section 202 of the Unfunded Mandates Act of 1995 (Unfunded Mandates Act) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in the annual expenditure of $100 million or more in any one year by State, local, and tribal governments, in the aggregate, or by the private sector. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act requires an agency to identify and consider a reasonable number of alternatives before promulgating a rule.

The OCC has determined that the proposed rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

Solicitation of Comments on Use of ''Plain Language''

Section 722 of the G–L–B Act requires that the Federal banking agencies use ''plain language'' in all proposed and final rules published after January 1, 2000. We invite your comments on how to make the proposed rules easier to understand.

List of Subjects

12 CFR Part 7

Credit, Insurance, Investments, National banks, Reporting and recordkeeping requirements; Securities; Surety bonds.

12 CFR Part 37

Banks, banking, Consumer protection, Debt cancellation contract, Debt suspension agreement, National banks, Reporting and recordkeeping requirements, Safety and soundness.

Authority and Issuance

For the reasons set forth in the preamble, the OCC proposes to amend chapter I of Title 12 of the Code of Federal Regulations by amending part 7 and adding a new part 37 as follows:

PART 7—BANK ACTIVITIES AND OPERATIONS

1. The authority citation for part 7 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.* and 93a.

2. Section 7.1013 is removed.

3. Add part 37 to read as follows:

PART 37—DEBT CANCELLATION CONTRACTS AND DEBT SUSPENSION AGREEMENTS

Sec.

Authority: 12 U.S.C. 1 *et seq.*, 24(Seventh).

§ 37.1 Authority, purpose, and scope.

(a) *Authority.* A national bank may enter into debt cancellation contracts and debt suspension agreements and charge a fee therefor, pursuant to 12 U.S.C. 24(Seventh).

(b) *Purpose.* The purpose of this part is to set forth the standards that apply to a national bank's provision of debt

cancellation contracts and debt suspension agreements, enhance consumer protections for customers who buy debt cancellation contracts or debt suspension agreements from national banks, and ensure that national banks providing debt cancellation contracts or debt suspension agreements do so on a safe and sound basis.

(c) *Scope.* This part applies to the provision of debt cancellation contracts and debt suspension agreements by national banks and Federal branches and agencies. Sales of debt cancellation contracts and debt suspension agreements are governed by this part and not by part 14 of this chapter.

§ 37.2 Definitions.

For purposes of this part:

(a) *Bank* includes a national bank and a Federal branch or Federal agency as those terms are defined in part 28 of this chapter.

(b) *Customer* means an individual who obtains a loan or other extension of credit from a bank primarily for personal, family or household purposes.

(c) *Debt cancellation contract* means a contract entered into by a bank providing for cancellation of all or part of the amount due under an extension of credit from that bank upon the occurrence of a specified event.

(d) *Debt suspension agreement* means a contract entered into by a bank providing for the suspension of all or part of the repayment obligation under an extension of credit from that bank upon the occurrence of a specified event.

§ 37.3 Prohibited practices.

(a) *Anti-tying.* A bank may not extend credit or alter the terms or conditions of an extension of credit conditioned upon the purchase of a debt cancellation contract or debt suspension agreement from the bank.

(b) *Misleading or deceptive representations.* A bank may not engage in any practice that could mislead a reasonable person with respect to the information that must be disclosed under § 37.6(a) of this part.

(c) *Terms not routinely enforced.* A debt cancellation contract or debt suspension agreement may not contain any term that the bank routinely does not enforce.

(d) *Unilateral right to modify.* A debt cancellation contract or debt suspension agreement may not give the bank the unilateral right to modify the contract or agreement.

§ 37.4 Affirmative election required.

The customer must affirmatively elect to purchase a debt cancellation contract or debt suspension agreement. The customer's election must be in writing in a document that is separate from the documents pertaining to the credit transaction. The election may be made electronically in a manner consistent with the requirements of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 *et seq.*

§ 37.5 Refunds of fees in the event of termination of the agreement or prepayment of the covered loan.

(a) *Refunds.* If a debt cancellation contract or debt suspension agreement is terminated, including when the the customer prepays the loan covered by the contract or agreement, a bank shall refund to the customer any unearned portion of the fee paid for the product unless the contract or agreement provides otherwise. A bank may offer a customer a contract or agreement that does not provide for a refund of the unearned portion of the fee upon termination or prepayment if the bank also offers that customer the option of purchasing a contract or agreement that provides for such a refund.

(b) *Method of calculating refund.* The bank shall calculate the amount of the refund using a method at least as favorable to the customer as the actuarial method.

§ 37.6 Disclosures.

(a) *Content of disclosures.* A bank must disclose the following information to a customer before the customer completes the purchase of a debt cancellation contract or debt suspension agreement:

(1) That the approval of an extension of credit and the terms and conditions of such extension are not conditioned on the customer's purchase of a debt cancellation contract or debt suspension agreement from the bank;

(2) The amount of the total fee for the debt cancellation contract or debt suspension agreement;

(3) The method the bank will use to collect the payment, including whether the payment must be paid in a lump sum or in periodic payments, and whether the fee is included in the loan amount;

(4) A description of any material limitations on the customer's ability to collect benefits pursuant to the terms of the contract or agreement and where the customer may find further information regarding these limitations;

(5) If applicable, a statement that activation of the debt cancellation contract or debt suspension agreement will cause the bank to preclude the customer from incurring additional charges or using a credit line;

(6) If applicable, a statement that the customer will not be entitled to a refund of the unearned portion of the fee in the event the customer terminates the contract or prepays the loan in full prior to the scheduled termination date, and a statement that the customer has the option of purchasing a debt cancellation contract or debt suspension agreement that provides for a refund in those circumstances;

(7) An explanation of the circumstances under which the customer or the bank may terminate the contract or, if applicable, a statement that the customer has no right to terminate the contract; and

(8) A description of the procedures a customer must follow to notify the bank that a triggering event under the debt cancellation contract or debt suspension agreement has occurred.

(b) *Method of making disclosures.* The bank may make the disclosures required under § 37.6(a) of this section in writing or, if the customer consents, electronically. Electronic disclosures must be made in a manner consistent with the requirements of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 *et seq.*

(c) *Form of disclosures.* Disclosures required by this part must be clear, conspicuous, readily understandable, and designed to call attention to the nature and significance of the information provided. Examples of methods that could call attention to the nature and significance of the information provided include:

(1) A plain-language heading to call attention to the disclosures;

(2) A typeface and type size that are easy to read;

(3) Wide margins and ample line spacing;

(4) Boldface or italics for key words; and

(5) Distinctive type style, and graphic devices, such as shading or sidebars, when the disclosures are combined with other information.

§ 37.7 Safety and soundness requirement.

A national bank must establish and maintain a separately identifiable loss reserve for debt cancellation contracts and debt suspension agreements at a level sufficient to meet expected losses or interest payments for suspended or canceled debt. Instead of maintaining a separate loss reserve, a national bank may obtain from a third party insurance that is adequate to cover the expected losses.

Dated: April 9, 2001.

John D. Hawke, Jr.,

Comptroller.

[FR Doc. 01–9585 Filed 4–17–01; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AEA–05]

Proposed Amendment to Class D Airspace; White Plains, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to amend Class D airspace at White Plains, NY. Controlled airspace extending upward from the surface to 2999 feet Mean Sea Level (MSL) is necessary to insure a continuous altitude coverage for IFR operations to the base of the overlying Class B airspace. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before May 18, 2001.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 01–AEA–05, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809. An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 01–AEA–05''. The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434–4809. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend Class D airspace area at Westchester County Airport, White Plains, NY. This controlled additional airspace extending upward from 2900 feet to 2999 feet is needed to accommodate IFR operations at the airport either descending through 3000 feet or climbing through 2900 feet. Class D airspace designations for airspace areas extending upward from the surface are published in Section 5000 of FAA Order 7400.9H, dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR Part 71.1. The Class D airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(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 would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 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 Federal Aviation Administration order 7400.9H dated September 1, 2000, and effective September 16, 2000, is proposed to be amended as follows:

Section 5 Class D airspace areas extending upward from the surface of the earth.

* * * * *

AEA NY D White Plains, NY

Westchester County Airport, White Plains, NY

(lat. 41° 04′01″ N., long. 73° 42′27″ W.)

That airspace extending upward from the surface to and including 2999 feet MSL within a 4.1-mile radius of the Westchester County Airport. This Class D airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Jamaica, New York on April 6, 2001.

F.D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 01–9602 Filed 4–17–01; 8:45 am]

BILLING CODE 4910–13–M