(1) Replace the seat identification placard with a new placard having a new part number (P/N).

(2) Install a new modification placard to indicate accomplishment of the SICMA Service Bulletin 138–25–008, dated September 18, 2002.

Note 2: ATR Service Bulletins ATR42–25–0141 and ATR72–25–1082 reference SICMA Service Bulletin 138–25–008 as an additional source of service information for procedures to modify the forward flight attendant's seat, and to perform follow-on actions (including replacing the seat identification placard with a new placard, and installing a new modification placard).

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 4: The subject of this AD is addressed in French airworthiness directive 2002–539(B), dated October 30, 2002.

Issued in Renton, Washington, on February 13, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–4168 Filed 2–20–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AC75

Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Safety Measures and Procedures for Pipeline Modifications and Repairs

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Proposed rule; withdrawal.

SUMMARY: MMS withdraws a proposed rule that was published in the **Federal Register** on August 28, 2001 (66 FR 45236). The proposed rule required all lessees, lease operators, and pipeline right-of-way holders to submit in writing the measures they plan to take and the procedures they plan to follow to ensure the safety of offshore workers and to prevent pollution before beginning any operation that involves cutting into a pipeline or opening a pipeline at a flange. Issues raised during the comment period for the proposed rule led MMS to reevaluate its pipeline permitting procedures. MMS determined that a rewrite of its Subpart J pipeline regulations is a more appropriate course of action. Based on this determination, MMS is withdrawing the proposed rule.

DATES: The proposed rule is withdrawn as of February 21, 2003.

FOR FURTHER INFORMATION CONTACT: Carl W. Anderson, Operations Analysis Branch, at (703) 787–1608 or e-mail at *carl.anderson@mms.gov.*

SUPPLEMENTARY INFORMATION: MMS is authorized to issue and enforce rules to promote safe operations, environmental protection, and resource conservation on the Outer Continental Shelf (OCS). (The OCS Lands Act (43 U.S.C. 1331 *et seq.*) defines the OCS.) Under this authority, MMS regulates pipeline transportation of mineral production and rights-of-way for pipelines and associated facilities. MMS approves all OCS pipeline applications, regardless of whether a pipeline is built and operated under Department of the Interior (DOI) or Department of Transportation (DOT) regulatory requirements. MMS also has sole authority to grant rights-of-way for OCS pipelines.

We received comments from five respondents on the proposed rule. They were the Offshore Operators Committee, Duke Energy Gas Transmission, CMS Panhandle Pipeline Companies, Shell Exploration & Production Company, and Enron Transportation Services Company. They raised a number of questions that gave us reason to reconsider our existing pipeline regulations and internal permitting procedures. We reviewed our regulations regarding platform piping systems under 30 CFR part 250, subpart H—Oil and Gas Production Safety Systems; industry response in emergency repair situations; and the impacts that MMS permitting procedures for pipeline modifications and repairs have on production operations and transportation pipeline operations.

The comments we received on this rule have been helpful in calling attention to certain aspects of our pipeline regulatory program that need upgrading and redefining. Moreover, the review of our internal permitting procedures pointed out the need for increased clarification regarding our overlapping responsibilities with DOT for OCS pipelines. The respective responsibilities of DOI and DOT regarding OCS pipelines are defined in a 1996 Memorandum of Understanding between the two Departments.

Therefore, we concluded that rather than continue with this rulemaking, we should review and rewrite our regulations under 30 CFR part 250, subpart J—Pipelines and Pipeline Rights-of-Way. MMS will rewrite the new subpart J in close cooperation with DOT's Office of Pipeline Safety to ensure, to the extent possible, that the two agencies have compatible regulations governing OCS pipelines. MMS will subsequently publish the new subpart J as a proposed rule. The withdrawal of this rule will not diminish the safety of offshore operations.

Dated: February 6, 2003.

Rebecca W. Watson,

Assistant Secretary—Land and Minerals Management.

[FR Doc. 03–4149 Filed 2–20–03; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506–AA28

Financial Crimes Enforcement Network; Anti-Money Laundering Programs for Dealers in Precious Metals, Stones, or Jewels

AGENCY: Financial Crimes Enforcement Network (''FinCEN''), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: FinCEN is issuing this proposed rule to prescribe minimum standards applicable to dealers in precious metals, stones, or jewels pursuant to the provisions in the U.S.A. Patriot Act of 2001 that require financial institutions to establish anti-money laundering programs.

DATES: Written comments may be submitted on or before April 22, 2003.

ADDRESSES: Commenters are encouraged to submit comments by electronic mail because paper mail in the Washington, DC area may be delayed. Comments submitted by electronic mail may be sent to *regcomments@fincen.treas.gov* with the caption in the body of the text, ''Attn: section 352—Jewelry Dealer Regulations.'' Comments also may be submitted by paper mail to FinCEN, PO

Box 39, Vienna, VA 22183–0039, ''Attn: section 352—Jewelry Dealer Regulations.'' Comments should be sent by one method only. Comments may be inspected at FinCEN between 10 a.m. and 4 p.m., in the FinCEN Reading Room in Washington, DC. Persons wishing to inspect the comments submitted must request an appointment by telephoning (202) 354–6400 (not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Office of Chief Counsel, FinCEN, (703) 905–3590; the Office of the General Counsel, (202) 622–1927; or the Office of the Assistant General Counsel (Banking and Finance), (202) 622–0480 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (U.S.A. Patriot Act) of 2001 (Pub. L. 107–56) (the ''Act''). Title III of the Act makes a number of amendments to the anti-money laundering provisions of the Bank Secrecy Act (''BSA''), which are codified in subchapter II of chapter 53 of title 31, United States Code.[1] These amendments are intended to promote the prevention, detection, and prosecution of international money laundering and the financing of terrorism.

Section 352(a) of the Act, which became effective on April 24, 2002, amended section 5318(h) of the BSA. As amended, section 5318(h)(1) requires every financial institution to establish an anti-money laundering program that includes, at a minimum: (i) The development of internal policies, procedures, and controls; (ii) the designation of a compliance officer; (iii) an ongoing employee training program; and (iv) an independent audit function to test programs. Section 352(c) of the Act directs the Secretary of the Treasury (''Secretary'') to prescribe regulations for anti-money laundering programs that are ''commensurate with the size, location, and activities'' of the financial institutions to which such regulations apply.

Although a dealer ''in precious metals, stones, or jewels'' (''dealer'') is defined as a financial institution under the BSA, 31 U.S.C. 5312(a)(2)(N), FinCEN has not previously defined the term or issued regulations regarding dealers. On April 29, 2002, FinCEN deferred the anti-money laundering program requirement contained in 31 U.S.C. 5318(h) that would have applied to the industry. The purpose of the deferral was to provide FinCEN with time to study the industry and to consider how anti-money laundering controls could best be applied to the industry.[2] This rule defines the term dealer and provides guidance, tailored to the industry, to such entities in complying with section 352.

The industry of dealers encompasses various segments, including: (1) Those who trade in precious metals, including large scale metal suppliers and large and small scale refiners; (2) those who trade loose gemstones; (3) large and small scale manufacturers of jewelry; and (4) retail stores, including independent and chain stores of varying sizes, selling jewelry products to, and buying jewelry products from, the consuming public. The size of businesses in each segment of the industry varies substantially from a single artisan goldsmith to publicly traded commercial manufacturers employing hundreds of people and producing millions of finished pieces every year. The sources of supply vary as well, from large scale producers of fabricated precious metals materials to small dealers selling unique and rare gemstones on an individualized basis. Further, there is an active secondary market for jewelry, loose gemstones, and precious metals, with small firms selling used or antique pieces for scrap value or as unique works of art.

Because dealers are not generally regulated as financial institutions, the industry traditionally has been subject to limited federal financial regulation. Federal laws governing this industry, such as the National Gold and Silver Stamping Act (15 U.S.C. 291–300) and the Lanham Act (15 U.S.C. 1117, 1125), are generally intended to protect consumers against misleading descriptions of the fineness of precious metals or the identity and quality of precious stones and jewels. Similarly, state regulation of the industry is focused on consumer protection.

II. The Anti-Money Laundering Program

The Congressional mandate that all financial institutions establish an anti-money laundering program is a key element in the national effort to prevent and detect money laundering and the financing of terrorism. The mandate recognizes that financial institutions other than depository institutions (which have long been subject to BSA requirements) are vulnerable to money laundering. The legislative history of the Act explains that the anti-money laundering program is not a one-size-fits-all requirement. The general nature of the requirement reflects Congress' intent that each financial institution have the flexibility to tailor its program to fit its business, taking into account factors such as size, location, activities, and risks or vulnerabilities to money laundering. This flexibility is designed to ensure that all firms subject to the anti-money laundering program requirement, from the largest to the smallest firms, have in place policies and procedures appropriate to monitor for anti-money laundering compliance.[3]

Although dealers do not perform the same functions as banking institutions, the industry presents identifiable money laundering risks. Precious metals, precious stones, and jewels constitute easily transportable, highly concentrated forms of wealth. They serve as international mediums of exchange that can be converted into cash anywhere in the world. In addition, precious metals, especially gold, silver, and platinum, have a ready, actively traded market, and can be melted and poured into various forms, thereby obliterating refinery marks and leaving them virtually untraceable. For these reasons, precious metals, precious stones, and jewels can be highly attractive to money launderers and other criminals, including those involved in the financing of terrorism.

In addition, significant incentives currently exist for dealers to minimize financial losses caused by fraud in connection with the valuable products in which they deal. By their very nature, precious metals, precious stones, and jewels are extremely valuable by weight and volume, and fraud perpetrators attempt to incorrectly identify the mass, quality, or fineness of these products. Theft of such items, through the use of counterfeit checks, forged signatures, or other means, is likewise a risk. As such, this industry has long been aware that rigorous anti-fraud measures are a necessity in order to remain economically viable. This proposed rule

[1] Regulations implementing the BSA appear at 31 CFR part 103. The authority of the Secretary the Treasury to administer the BSA and its implementing regulations has been delegated to the Director of FinCEN.

[2] *See* 31 CFR 103.170, as codified by interim final rule published at 67 FR 21110 (April 29, 2002), as amended at 67 FR 67547 (November 6, 2002) and corrected at 67 FR 68935 (November 14, 2002).

[3] *See* U.S.A. Patriot Act of 2001: Consideration of H.R. 3162 Before the Senate (October 25, 2001) (statement of Sen. Sarbanes); Financial Anti-Terrorism act of 2001: Consideration Under Suspension of Rules of H.R. 3004 Before the House of Representatives (October 17, 2001) (statement of Rep. Kelly) (provisions of the Financial Anti-Terrorism Act of 2001 were incorporated as Title III in the Act).

seeks to take advantage of those existing practices by focusing the due diligence conducted by dealers to include the potential for money laundering or terrorist financing.

A. Definitions

Section 103.140(a) defines the key terms used in the proposed rule. Paragraph 103.140(a)(1)(i) defines ''dealer'' as any person who is ''engaged in the business of purchasing and selling jewels, precious metals, or precious stones, or jewelry composed of jewels, precious metals, or precious stones.'' The proposed definition of dealer reflects Treasury's determination that all segments of the industry are vulnerable to money laundering and terrorist financing. Thus, the anti-money laundering requirement contained in the proposed rule covers entities including manufacturers, refiners, wholesalers, retailers, and any other entity engaged in the business of purchasing and selling jewels, precious metals, precious stones, or jewelry.

The proposed definition contains an explicit minimum dollar threshold, to carve out small businesses that may, on a part-time basis, deal in precious metals, stones, jewels, or jewelry. Thus, paragraphs (a)(1)(i)(A) and (B) provide that a person is a ''dealer'' only if, during the prior calendar or tax year, the person (1) purchased more than $50,000 in jewels, precious metals, precious stones, or jewelry, or (2) received more than $50,000 in gross proceeds from the sale of jewels, precious metals, precious stones, or jewelry. Thus, an amateur silversmith, who sells a portion of his production to finance his hobby, would not be subject to this rule if he were to remain below the proposed threshold. FinCEN specifically solicits comment on the amount of the proposed threshold, and whether an alternative threshold should be employed, such as specific physical quantities of precious metals, stones, or jewels, or other types of thresholds.

In addition to the minimum dollar threshold, the definition of ''dealer'' contains two exceptions, found in proposed paragraph (a)(1)(ii). The first exception provides that a retailer[4] is a dealer only if it purchased more than $50,000 in jewels, precious metals, precious stones, or jewelry from persons other than dealers during the prior calendar or tax year. Thus, a retailer that purchases jewels, precious metals, precious stones, or jewelry from a dealer (for example, from a wholesaler), would not fall within the definition of ''dealer,'' even if its gross sales of jewels, precious metals, stones, and jewelry exceeded $50,000 in the prior calendar or tax year. However, a retailer that, in the prior calendar or tax year, purchased more than $50,000 in jewels, precious metals, precious stones, or jewelry from sources other than a dealer (for example, from the general public), would be a dealer for purposes of the rule. The rationale for this limited exception is that, in order to abuse this industry, a money launderer must be able to sell as well as purchase the goods. Therefore, there is substantially less risk that a retailer who purchases goods exclusively or almost exclusively from dealers subject to the proposed rule will be abused by money launderers.

The second exception, contained in proposed paragraph (a)(1)(ii)(B), carves out from the definition of ''dealer'' a person buying or selling value-added fabricated goods containing minor amounts of precious metals or gemstones. Precious metals, stones, and jewels often have minor uses in equipment for which they act as a very small component, for example, in computers or drills with industrial diamond cutting tools, or as reflective coating on windows. Similarly, sapphire bearings may be used in highly precise electronic equipment, because of the toughness exhibited by corundum. Although the amount of precious metals, stones, and jewels contained in each industrial product may be minimal, the high volume production or sale of such products could result in a high volume of sale of precious metals, stones, or jewels. FinCEN has determined that the anti-money laundering program requirement should be imposed on those sectors of the industry that pose the most significant risk of money laundering and terrorist financing, and for this reason, persons who buy and sell value-added fabricated goods containing minor amounts of precious metals or gemstones are excluded from the proposed definition of ''dealer.''

The term ''jewel'' is defined in paragraph (a)(2) to include organic substances that have a market-recognized gem level of quality, beauty, and rarity. Certain substances, such as coral, are available in two forms that are not generally transmutable, one that is of gem quality, and another that is of non-gem quality. As proposed, the definition of ''jewel'' would not include substances that are of non-gem quality.

Paragraph (a)(3) contains a definition of the term ''precious metal,'' which is defined to include gold, silver, and the platinum group of metals, when it is at a level of purity of 0.500 (50 percent) or greater, singly or in any combination. For example, an alloy of 25 percent gold and 30 percent platinum would be a precious metal under the proposed rule. Similarly, this definition excludes the products of a mining firm or refinery that does not deal in precious metals refined to that purity level, but would include 12 karat gold jewelry. The 50 percent threshold is intended to exclude materials that have incidental levels of precious metals, such as polymer resin castings that have been electroplated with gold, or antique mirrors with a thin silver foil on the back. Similarly, operations that process lead ore that may contain smaller amounts of silver or gold would also be excluded. As a result, the focus of the definition is on materials that are predominantly precious metal.

The term ''precious stone'' is defined in paragraph (a)(4) to include inorganic substances that have a market-recognized gem level of quality, beauty, and rarity. Certain substances, such as diamonds, are available in two forms that are not generally transmutable, one that is of gem quality, and another that is of industrial (or non-gem) quality. For example, diamonds are available in both industrial grades and gem quality grades. However, industrial grade diamonds cannot generally be transformed into gem quality diamonds. Similarly, a flame fusion synthetic corundum may be chemically identical to a gem quality ruby, yet not be a ''precious stone.'' Therefore, precious stones of industrial quality have been carved out of the definition of precious stones.

B. Anti-Money Laundering Program Requirements

Section 103.140(b) requires that each dealer develop and implement an anti-money laundering program reasonably designed to prevent the dealer from being used to facilitate money laundering or the financing of terrorist activities. The program must be in writing and should set forth clearly the details of the program, including the responsibilities of the individuals and departments involved. To ensure that this requirement receives the highest level of attention throughout the company, the proposed rule requires that each dealer's program be approved in writing by its senior management.[5] A

[4] The NPRM defines a retailer as a person engaged in the business of selling to the public jewels, precious metals, or precious stones or jewelry composed of jewels, precious metals, or precious stones.

[5] This may be the sole proprietor in the case of a sole proprietorship, the board of directors, or a committee authorized for this purpose in the case of a corporation, or partners representing a majority interest in a general partnership.

dealer must make its anti-money laundering program available to Treasury or its designee upon request. While it is permissible for a dealer to delegate certain functions relating to its anti-money laundering program to a third party, the dealer remains responsible for ensuring compliance with these requirements.

Section 103.140(c) sets forth the minimum requirements of a dealer's money laundering program. Section 103.140(c)(1) requires the anti-money laundering program to incorporate policies, procedures, and internal controls based upon the dealer's assessment of the money laundering and terrorist financing risks associated with its line(s) of business. Policies, procedures, and internal controls must also be reasonably designed to ensure compliance with BSA requirements. The only BSA regulatory requirement currently applicable to a dealer is the obligation to report on Form 8300 the receipt of cash or certain non-cash instruments totaling more than $10,000 in one transaction or two or more related transactions.[6] To assure reasonable compliance, the program should be reasonably designed to detect and report not only transactions required to be reported on Form 8300, but also activity designed to evade this reporting requirement. Such activity, commonly known as ''structuring,'' may involve payments of more than $10,000 with multiple money orders, travelers' checks, or cashiers' checks or other bank checks, each with a face amount of less than $10,000. Such methods of payment may be indicative of money laundering, particularly when the payment instruments were obtained from different sources or the payments were made at different times on the same day or were made on consecutive days or close in time. Should dealers become subject to additional requirements, their compliance programs would have to be updated to include appropriate policies, procedures, training, and testing functions relating to such requirements.

Section 103.140(c)(1)(i) provides that, for purposes of making the risk assessment required under section 103.140(c)(1), a dealer must consider all relevant factors, including those listed in the rule. First, the dealer must assess the money laundering and terrorist financing risks associated with its products, customers, suppliers, distribution channels, and geographic locations. In addition, a dealer must take into consideration the extent to which the dealer engages in transactions other than with established customers or sources of supply. Finally, a dealer must analyze the extent to which it engages in transactions for which payment or account reconciliation is routed to or from accounts located in jurisdictions that have been identified as vulnerable to terrorism or money laundering.[7] The proposed rule is intended to give a dealer the flexibility to design its program to meet the specific money laundering and terrorist financing risks presented by the dealer's business, based on the dealer's assessment of such risks.

Section 103.140(c)(1)(ii) provides that a dealer's policies, procedures, and internal controls must be reasonably designed to detect transactions that may involve use of the dealer to facilitate money laundering or terrorist financing. In addition, a dealer's program must incorporate procedures for making reasonable inquiries to determine whether a transaction involves money laundering or terrorist financing. A dealer that identifies indicators that a transaction may involve money laundering or terrorist financing should take reasonable steps to determine whether its suspicions are justified and respond accordingly, including refusing to enter into, or complete, a transaction that appears designed to further illegal activity.[8] The proposed rule provides flexibility to dealers in developing procedures for making reasonable inquiries under paragraph (c)(1)(ii). For example, a dealer may appropriately determine that reasonable inquiry with respect to a transaction conducted by a new customer or supplier involves considerable scrutiny, including verification of customer identity, income source, or the purpose of a transaction. In contrast, reasonable inquiry with respect to an established customer may not involve additional steps beyond those normally required to complete the transaction, unless the transaction appears suspicious or unusual to the dealer. As explained further below, the determination whether to refuse to enter into, or to terminate, a transaction lies with the dealer. In addition, dealers are encouraged to adopt procedures for voluntarily filing Suspicious Activity Reports with FinCEN and for reporting suspected terrorist activities to FinCEN using its Financial Institutions Hotline (1–866–566–3974).

The proposed rule lists several examples of factors that may indicate that a transaction is designed to involve use of the dealer to facilitate money laundering or terrorist financing. Factors that may indicate a transaction is designed to involve use of the dealer to facilitate money laundering or terrorist financing include: (1) Unusual payment methods, such as the use of large amounts of cash, multiple or sequentially numbered money orders, traveler's checks, or cashier's checks, or payment from unknown third parties; (2) unwillingness by a customer or supplier to provide complete or accurate contact information, financial references, or business affiliations; (3) attempts by a customer or supplier to maintain a high and unusual degree of secrecy with respect to the transaction, such as a request that normal business records not be kept; (4) purchases or sales that are unusual for the particular customer or supplier or type of customer or supplier; and (5) purchases or sales that are not in conformity with standard industry practice. For example, one money laundering scheme observed in this industry involved a customer who ordered items, paid for them in cash, cancelled the order, and then received a large refund.[9] In one case, funds were laundered through large cash purchases of a dealer's gold at artificially inflated prices, followed by re-purchase by the dealer of the same gold at lower prices.[10] A dealer should make reasonable inquiries when transactions appear to vary from standard industry practice, or from the standard practice of an established customer or supplier. Over- or under-invoicing, structured, complex, or multiple invoice requests, and high-dollar shipments that are over- or under-insured may all be indicia that a transaction involves money laundering or terrorist financing.

The list of factors contained in the proposed rule is intended to provide

[6] *See* 31 CFR 103.30.

[7] Examples of designations to this effect include the Department of State's designation of a jurisdiction as a sponsor of international terrorism under 22 U.S.C. 2371, the FATF's designation of jurisdictions that are non-cooperative with international anti-money laundering principles, or the Secretary of the Treasury's designation pursuant to 31 U.S.C. 5318A of jurisdictions warranting special measures due to money laundering concerns.

[8] 18 U.S.C. 1956 and 1957 make it a crime for any person, including an individual or company, to engage knowingly in a financial transaction with the proceeds from any of a long list of crimes or types of ''specific unlawful activity.'' Although the standard of knowledge required is ''actual knowledge,'' actual knowledge includes ''willful blindness.'' Thus, a person could be deemed to have knowledge that proceeds were derived from illegal activity if he or she ignored ''red flags'' that indicated illegality. See, *e.g., U.S.* v. *Finkelstein,* 229 F.3d 90 (2nd Cir. 2000) (owner of jewelry/precious metals business convicted for participation in money laundering scheme; sentence enhancement based on willful blindness of certain funds received derived from narcotics trafficking).

[9] *See United States* v. *Huppert,* 917 F.2d 507 (11th Cir. 1990).

[10] *See Finkelstein, supra* n. 8.

examples of indicia of illegal activity, and is by no means exhaustive. Determinations as to whether a transaction should be refused or terminated must be based on the facts and circumstances relating to the transaction and the dealer's knowledge of the customer or supplier in question. It is not intended that dealers automatically refuse to engage in or terminate transactions simply because such transactions involve one or more of the factors listed in the rule. Rather, it is intended that dealers will develop procedures for identifying transactions involving potentially illegal activity, and procedures setting forth the actions that a dealer will take in response to such transactions.

Section 103.140(c)(2) requires that a dealer designate a compliance officer to be responsible for administering the anti-money laundering program. The person (or group of persons) should be competent and knowledgeable regarding BSA requirements and money laundering issues and risks, and should be empowered with full responsibility and authority to develop and enforce appropriate policies and procedures throughout the dealer's business. The role of the compliance officer is to ensure that (1) The program is being implemented effectively; (2) the program is updated as necessary; and (3) appropriate persons are trained in accordance with the rule. Whether the compliance officer is dedicated full time to BSA compliance would depend upon the size and complexity of the dealer's business and the risks posed. In all cases, the person responsible for the supervision of the overall program should be an officer or employee of the dealer.

Section 103.140(c)(3) requires that a dealer provide for training of appropriate persons. Employee training is an integral part of any anti-money laundering program. Employees of the dealer must be trained in BSA requirements relevant to their functions and in recognizing possible signs of money laundering that could arise in the course of their duties, so that they can carry out their responsibilities effectively. Such training could be conducted by internal or external seminars, and could include videos, computer-based training, booklets, etc. The level, frequency, and focus of the training should be determined by the responsibilities of the employees and the extent to which their functions bring them in contact with BSA requirements or possible money laundering activity. Consequently, the training program should provide both a general awareness of overall BSA requirements and money laundering issues, as well as more job-specific guidance regarding particular employees' roles and functions in the anti-money laundering program.[11] For those employees whose duties bring them in contact with BSA requirements or possible money laundering activity, the requisite training should occur when the employee assumes those duties. Moreover, these employees should receive periodic updates and refreshers regarding the anti-money laundering program.

Section 103.140(c)(4) requires that a dealer conduct periodic testing of its program, in order to ensure that the program is indeed functioning as designed. Such testing should be accomplished by personnel knowledgeable regarding BSA requirements. Testing may be accomplished either by dealer employees or unaffiliated service providers so long as those same individuals are not involved in the operation or oversight of the program. The frequency of such a review would depend upon factors such as the size and complexity of the dealer and the extent to which its business model may be more subject to money laundering than other institutions. Any useful recommendations resulting from such review should be implemented promptly or reviewed by senior management.

Section 103.140(d) provides that a dealer must develop and implement an anti-money laundering program within 90 days after enactment of a final rule based on the Notice, or not later than 90 days after the date a person becomes a dealer for purposes of the rule.

III. Regulatory Flexibility Act

It is hereby certified, pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), that the proposed rule is not likely to have a significant economic impact on a substantial number of small entities. Because the requirements of the proposed rule closely parallel the requirements for anti-money laundering programs for all financial institutions mandated by section 352 of the Act, the costs associated with the establishment and implementation of anti-money laundering programs are attributable to the statute and not the proposed rule. Moreover, FinCEN believes that the definition of ''dealer'' in section 103.140(a)(1), which excludes dealers who have less than $50,000 in gross proceeds in a year, will exclude most small dealers from the requirements of the rule.

Furthermore, the proposed rule provides for substantial flexibility in how each dealer may meet its requirements. This flexibility is designed to account for differences among dealers, including size. In this regard, the costs associated with developing and implementing an anti-money laundering program will be commensurate with the size of a dealer. If a dealer is small, the burden to comply with section 352 and the proposed rule should be similarly small.

FinCEN specifically solicits comment on the impact of section 352 and the proposed rule on small dealers, particularly whether the proposed $50,000 threshold should be higher or lower, and whether an alternative threshold (such as one based upon specific physical quantities of precious metals, stones, or jewels, or other types of thresholds) would be more appropriate.

IV. Paperwork Reduction Act

The collection of information contained in this proposed rule has been submitted to the Office of Management and Budget for review under the requirements of the Paperwork Reduction Act, 44 U.S.C. 3507(d). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Comments concerning the collection of information in the proposed rule should be sent (preferably by fax ((202)395–6974)) to the Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (1506), Washington, DC 20503 (or by the Internet to *jlackeyj@omb.eop.gov*), with a copy to FinCEN by mail or the Internet at the addresses previously specified.

FinCEN specifically invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the mission of FinCEN, and whether the information shall have practical utility; (b) the accuracy of the estimate of the burden of the collection of information (see below), including the number of dealers (as defined in section 103.140(a)(1)) who will be subject to the requirements of the proposed rule; (c) ways to enhance the quality, utility, and clarity of the information collection; (d) ways

[11] Appropriate topics for an anti-money laundering program include, but are not limited to: BSA requirements, a description of money laundering, how money laundering is carried out, what types of activities and transactions should raise concerns, what steps should be followed when suspicions arise, and the need to review OFAC and other government lists.

to minimize the burden of the information collection, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to maintain the information.

The collection of information is the recordkeeping requirement in section 103.140(b). The information will be used by federal agencies to verify compliance by dealers with the provisions of sections 103.140 and 103.141. The collection of information is mandatory.

Estimated Number of Recordkeepers: 20,000.

Estimated Average Annual Burden Per Recordkeeper: The estimated average burden associated with the recordkeeping requirement in section 103.140(b) rule is 1 hour per recordkeeper.

Estimated Total Annual Recordkeeping Burden: 20,000 hours.

V. Executive Order 12866

It has been determined that this proposed rule is not a significant regulatory action for purposes of Executive Order 12866. Accordingly, a regulatory impact analysis is not required.

List of Subjects in 31 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Banks and banking, Currency, Investigations, Law enforcement, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, part 103 of title 31 of the Code of Federal Regulations is proposed to be amended as follows:

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

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

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314 and 5316–5332; title III, secs. 312, 313, 314, 326, 352, Pub. L. 107–56, 115 Stat. 307.

2. Subpart I of part 103 is amended by adding new § 103.140 to read as follows:

§ 103.140 Anti-money laundering programs for dealers in precious metals, precious stones, or jewels.

(a) *Definitions.* For purposes of this section:

(1) *Dealer.* (i) Except as provided in paragraph (a)(1)(ii) of this section, the term ''dealer'' means a person engaged in the business of purchasing and selling jewels, precious metals, or precious stones, or jewelry composed of jewels, precious metals, or precious stones, and who, during the prior calendar or tax year:

(A) Purchased more than $50,000 in jewels, precious metals, or precious stones, or jewelry composed of jewels, precious metals, or precious stones; or

(B) Received more than $50,000 in gross proceeds from transactions in jewels, precious metals, precious stones, and jewelry composed of jewels, precious metals, or precious stones.

(ii) The term ''dealer'' does not include:

(A) A retailer, *i.e.*, a person engaged in the business of sales to the public of jewels, precious metals, or precious stones, or jewelry composed thereof, other than a retailer that, during the prior calendar or tax year, purchased more than $50,000 in jewels, precious metals, precious stones, or jewelry composed of jewels, precious metals, or precious stones, from persons other than dealers (such as members of the general public or persons engaged in other businesses); or

(B) A person who engages in transactions in jewels, precious metals, or precious stones for purposes of fabricating finished goods that contain minor amounts of, or the value of which is not significantly attributable to, such precious metals, precious stones, or jewels.

(2) *Jewel* means an organic substance with gem quality market-recognized beauty, rarity, and value, and includes pearl, amber, and coral.

(3) *Precious metal* means:

(i) Gold, iridium, osmium, palladium, platinum, rhodium, ruthenium, or silver, having a level of purity of 500 or more parts per thousand; and

(ii) An alloy containing 500 or more parts per thousand, in the aggregate, of two or more of the metals listed in paragraph (a)(3)(i) of this section.

(4) *Precious stone* means an inorganic substance with gem quality market-recognized beauty, rarity, and value, and includes diamond, corundum (including rubies and sapphires), beryl (including emeralds and aquamarines), chrysoberyl, spinel, topaz, zircon, tourmaline, garnet, crystalline and cryptocrystalline quartz, olivine peridot, jadeite jade, nephrite jade, spodumene, feldspar, turquoise, lapis lazuli, and opal.

(5) *Person* shall have the same meaning as provided in § 103.11(z).

(b) *Anti-money laundering program requirement.* Each dealer shall develop and implement a written anti-money laundering program reasonably designed to prevent the dealer from being used to facilitate money laundering and the financing of terrorist activities. The program must be approved by senior management. A dealer shall make its anti-money laundering program available to the Department of Treasury or its designee upon request.

(c) *Minimum requirements.* At a minimum, the anti-money laundering program shall:

(1) Incorporate policies, procedures, and internal controls based upon the dealer's assessment of the money laundering and terrorist financing risks associated with its line(s) of business. Policies, procedures, and internal controls developed and implemented by a dealer under this section shall include provisions for complying with the applicable requirements of the Bank Secrecy Act (31 U.S.C. 5311 *et seq.*), and this part.

(i) For purposes of making the risk assessment required by paragraph (c)(1) of this section, a dealer shall take into account all relevant factors including the following:

(A) The type(s) of products the dealer buys and sells, as well as the nature of the dealer's customers, suppliers, distribution channels, and geographic locations;

(B) The extent to which the dealer engages in transactions other than with established customers or sources of supply; and

(C) Whether the dealer engages in transactions for which payment or account reconciliation is routed to or from accounts located in jurisdictions that have been identified by the Department of State as a sponsor of international terrorism under 22 U.S.C. 2371; designated as non-cooperative with international anti-money laundering principles or procedures by an intergovernmental group or organization of which the United States is a member and with which designation the United States representative or organization concurs; or designated by the Secretary of the Treasury pursuant to 31 U.S.C. 5318A as warranting special measures due to money laundering concerns.

(ii) A dealer's program shall incorporate policies, procedures, and internal controls to assist the dealer in identifying transactions that may involve use of the dealer to facilitate money laundering or terrorist financing, including provisions for making reasonable inquiries to determine whether a transaction involves money laundering or terrorist financing, and for refusing to consummate, withdrawing

from, or terminating such transactions. Factors that may indicate a transaction is designed to involve use of the dealer to facilitate money laundering or terrorist financing include, but are not limited to:

(A) Unusual payment methods, such as the use of large amounts of cash, multiple or sequentially numbered money orders, traveler's checks, or cashier's checks, or payment from third-parties;

(B) Unwillingness by a customer or supplier to provide complete or accurate contact information, financial references, or business affiliations;

(C) Attempts by a customer or supplier to maintain a high degree of secrecy with respect to the transaction, such as a request that normal business records not be kept;

(D) Purchases or sales that are unusual for the particular customer or supplier, or type of customer or supplier; and

(E) Purchases or sales that are not in conformity with standard industry practice.

(2) Designate a compliance officer who will be responsible for ensuring that:

(i) The anti-money laundering program is implemented effectively;

(ii) The anti-money laundering program is updated as necessary to reflect changes in the risk assessment, current requirements of this part, and further guidance issued by the Department of the Treasury; and

(iii) Appropriate personnel are trained in accordance with paragraph (c)(3) of this section;

(3) Provide for on-going education and training of appropriate persons concerning their responsibilities under the program; and

(4) Provide for independent testing to monitor and maintain an adequate program. The scope and frequency of the testing shall be commensurate with the risk assessment conducted by the dealer in accordance with paragraph (c)(1) of this section. Such testing may be conducted by an officer or employee of the dealer, so long as the tester is not the person designated in paragraph (c)(2) of this section or a person involved in the operation of the program.

(d) *Effective date.* A dealer must develop and implement an anti-money laundering program that complies with the requirements of this section on or before May 22, 2003, or not later than 90 days after the date a dealer becomes subject to the requirements of this section.

Dated: February 12, 2003.

James F. Sloan,

Director, Financial Crimes Enforcement Network.

[FR Doc. 03–4171 Filed 2–20–03; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–234]

Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Notice of en banc field hearing on broadcast ownership rules.

SUMMARY: On Thursday, February 27, 2003 from 10 a.m. to 4 p.m., the Federal Communications Commission (FCC) will hold an en banc field hearing on broadcast ownership rules at the Greater Richmond Convention Center, 403 N. Third Street, Richmond, VA 23219.

DATES: The hearing will be held on Thursday, February 27, 2003, 10 a.m. to 4 p.m.

ADDRESSES: Location of hearing: The Greater Richmond Convention Center, 403 N. Fifth St. Richmond, VA 23219. Interested members of the public also may participate in this proceeding by filing comments electronically using the Commission's Electronic Comment Filing System (ECFS) and ECFS Express at *http://www.fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Amelia Brown, Consumer & Governmental Affairs Bureau, (202) 418–1400. Press inquiries should be directed to Rosemary Kimball, (202) 418–0511.

SUPPLEMENTARY INFORMATION: The hearing discussions will focus on diversity, competition and localism. (See MB Docket No. 02–277.) Attendance at this field hearing is open to the public. Seating will be available on a first-come, first-served basis. Requests for reasonable accommodations for people with disabilities should be made by sending an e-mail to: *fcc504@fcc.gov.* Include a description of the accommodation you will need including as much detail as you can. Also include a way we can contact you if we need more information. Make your request as early as possible; please allow at least 5 days advance notice. Last minute requests will be accepted, but may be impossible to fill. Contact the following Consumer & Governmental Affairs Bureau staff: for sign language interpreters, CART, and other reasonable accommodations, contact Helen Chang, 202–418–0424 (voice), 202–418–0432 (TTY), *hchang@fcc.gov;* for accessible format materials (braille, large print, electronic files, and audio format) contact Brian Millin, 202–418–7426 (voice), 202–418–7365 (TTY), *bmillin@fcc.gov.* Interested members of the public may also participate in this proceeding by filing comments electronically using the Commission's Electronic Comment Filing System (ECFS) and ECFS Express at *http://www.fcc.gov.*

Federal Communications Commission.

Kris A. Monteith,

Deputy Bureau Chief, Consumer & Governmental Affairs Bureau.

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GENERAL SERVICES ADMINISTRATION

48 CFR Parts 532, 538, and 552

General Services Administration Acquisition Regulation; Federal Supply Schedule Contracts; Acquisition of Information Technology by State and Local Governments Through Federal Supply Schedules; Public Meeting

AGENCIES: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Notice of meeting.

SUMMARY: The General Services Administration (GSA) is sponsoring a second public meeting to further facilitate an open dialogue between the government and interested parties on the implementation of section 211 of the E-Government Act of 2002. A proposed rule was published in the **Federal Register** at 68 FR 3220, January 23, 2003. Section 211 authorizes the Administrator of GSA to provide for the use by States or local governments of its Federal Supply Schedule for ''automated data processing equipment (including firmware), software, supplies, support equipment, and services (as contained in Federal Supply Classification Code Group 70).''

DATES: The public meeting will be held on March 10, 2003, at 9 a.m. Eastern standard time.

ADDRESSES: The public meeting will be held in the: GSA Training Room, 1931 Jefferson Davis Highway, Crystal Mall Building #3, Room C–43, Arlington, VA 22202.