

report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 239

Environmental protection, Administrative practice and procedure, Municipal solid waste landfills, Non-municipal solid waste, Non-hazardous solid waste, State permit program approval, Adequacy.

Dated: January 19, 1999.

Carol M. Browner,
Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as set forth below:

PART 239—REQUIREMENTS FOR STATE PERMIT PROGRAM DETERMINATION OF ADEQUACY

1. The authority citation for Part 239 continues to read as follows:

Authority: 42 U.S.C. 6912, 6945.

2. Section 239.13 is amended by revising paragraphs (a), (b), (c), (f), and (g)(3) to read as follows:

§ 239.13 Criteria and procedures for withdrawal of determination of adequacy.

(a) The Regional Administrator may initiate withdrawal of a determination of adequacy when the Regional Administrator has reason to believe that:

(1) A state no longer has an adequate permit program; or

(2) The state no longer has adequate authority to administer and enforce an approved program in accordance with this part.

(b) Upon receipt of substantive information sufficient to indicate that a state program may no longer be adequate, the Regional Administrator shall inform the state in writing of the information.

(c) If, within 45 days of the state's receipt of the information in paragraph (b) of this section, the state demonstrates to the satisfaction of the Regional Administrator that the state program is adequate (i.e., in compliance with this part), the Regional Administrator shall take no further action toward withdrawal of the determination of adequacy and shall so notify the state and any person(s) who submitted information regarding the

adequacy of the state's program and authorities.

* * * * *

(f) If the state takes appropriate action to correct deficiencies, the Regional Administrator shall take no further action toward withdrawal of the determination of adequacy and shall so notify the state and any person(s) who submitted information regarding the adequacy of the state's permit program. If the state has not demonstrated its compliance with this part to the satisfaction of the Regional Administrator, the Regional Administrator shall inform the State Director and may initiate withdrawal of the determination of state program adequacy.

(g) * * *

(3) Indicate that a public hearing will be held by EPA if sufficient public interest is expressed during the comment period or when the Regional Administrator determines that such a hearing might clarify issues involved in the tentative withdrawal determination.

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[FR Doc. 99-1906 Filed 1-27-99; 8:45 am]

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CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Part 2506

RIN 3045-AA21

Claims Collection

AGENCY: Corporation for National and Community Service.

ACTION: Interim rule with request for comments.

SUMMARY: The Corporation for National and Community Service (hereinafter the "Corporation") is issuing interim regulations to govern the collection of debts owed to the Corporation and to other federal agencies. These regulations describe a number of actions that the Corporation may take to collect debts owed to it. These regulations also provide that the Corporation will enter into a cross-servicing agreement with the U.S. Department of the Treasury (Treasury) under which the Treasury will take authorized action to collect amounts owed to the Corporation.

DATES: These regulations are effective on January 28, 1999. Written comments must be received on or before March 29, 1999.

ADDRESSES: Send comments to: Corporation for National and Community Service, Kenneth L. Klothen, General Counsel, 1201 New

York Avenue, N.W., Washington, D.C. 20525; telefax number (202) 565-2796.

FOR FURTHER INFORMATION CONTACT: Suzanne Dupre, Associate General Counsel, telephone number (202) 606-5000, extension 396.

SUPPLEMENTARY INFORMATION: These regulations describe a number of actions that the Corporation may take to collect debts owed to it, including: making offsets against amounts (including salary payments) owed to the debtor by the Corporation or other federal agencies; making offsets against tax refunds owed to the debtor by the Internal Revenue Service; referring the debt to a private collection contractor, and referring the matter to the U.S. Department of Justice (DOJ) for the initiation of an action in a judicial proceeding against the debtor. In addition, these regulations describe the actions necessary for the Corporation to take collection actions on behalf of another federal agency. These actions could include making offsets against the salary of a Corporation employee or any other amounts owed by the Corporation.

The regulations of this part are issued under section 3 of the Federal Claims Collection Act of 1966, Public Law 89-508, 80 Stat. 308; the Debt Collection Act of 1982, Public Law 97-365, 96 Stat. 1749; the Debt Collection Improvement Act of 1996, Public Law 104-134, 110 Stat. 1321; 31 U.S.C. 3720A; and in conformity with the Federal guidelines for agency debt collection issued by the DOJ and the General Accounting Office (4 CFR chapter II) and the guidelines of the Office of Personnel Management (5 CFR part 550, subpart K) on offsets against Federal employee salaries. These regulations also provide that the Corporation will enter into a cross-servicing agreement with the Treasury which is authorized under the Debt Collection Improvement Act of 1996, to take all of the above-listed actions to collect the debt for the Corporation. The Corporation anticipates that some of these procedures may change when revised Federal Claims Collection Standards are issued by the DOJ and the Treasury.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Waiver of Notice of Proposed Rulemaking and 30-Day Delay of Effective Date

Under 5 U.S.C. 553(b)(3)(B) and (d)(3), I find that good cause exists for waiving the general notice of proposed rulemaking and for making these regulations effective in less than 30 days. The Corporation wishes to have these procedures in effect at the earliest possible date in order to initiate debt collection action against persons who owe money to the Corporation.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531, the effect of these regulations on State, local, and tribal governments and the private sector has been assessed. Other than by incorporating requirements specifically set forth in law, this regulation will not compel either the private sector or State, local, and tribal governments (in the aggregate) to expend \$100 million or more in any one year. Therefore, a statement under 2 U.S.C. 1532 is not required.

Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), the Corporation submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States before publication of this rule in today's **Federal Register**. This interim rule is not a major rule as defined at 5 U.S.C. 804(2).

List of Subjects in 45 CFR Part 2506

Administrative practice and procedure, Claims, Government employees, Grants administration, Income taxes, Penalties, Wages.

For the reasons stated in the preamble, the Corporation amends 45 CFR Chapter XXV by adding Part 2506 to read as follows:

PART 2506—CLAIMS COLLECTION

Subpart A—Definitions, Authority, Administrative Collection, Compromise, Termination, and Referral of Claims

Sec.

- 2506.1 What definitions apply to the regulations in this Part?
 2506.2 What is the Corporation's authority to issue these regulations?
 2506.3 What other regulations also apply to the Corporation's debt collection efforts?
 2506.4 Do these regulations apply to claims involving fraud or misrepresentation?

- 2506.5 What is the extent of the Chief Executive Officer's authority to compromise debts owed to the Corporation?
 2506.6 What notice will I be provided if I owe a debt to the Corporation?
 2506.7 What interest, penalty, and administrative costs will I have to pay on a debt owed to the Corporation?
 2506.8 What opportunity do I have to obtain a review of my debt within the Corporation?
 2506.9 How can I resolve the Corporation's claim through a voluntary repayment agreement?
 2506.10 How will the Corporation use credit reporting agencies to collect its claims?
 2506.11 How will the Corporation contract for collection services?
 2506.12 When will the Corporation refer claims to the DOJ?
 2506.13 Will the Corporation use a cross-servicing agreement with the Treasury to collect its claims?

Subpart B—Salary Offset

- 2506.20 What debts are included or excluded from coverage of these regulations on salary offset?
 2506.21 May I ask the Corporation to waive an overpayment that would otherwise be collected by offsetting my salary as a federal employee?
 2506.22 What are the Corporation's procedures for salary offset?
 2506.23 How will the Corporation coordinate salary offsets with other agencies?
 2506.24 Under what conditions will the Corporation make a refund of amounts collected by salary offset?
 2506.25 Will the collection of a claim by salary offset act as a waiver of my rights to dispute the claimed debt?

Subpart C—Tax Refund Offset

- 2506.30 Which debts can the Corporation refer to the Department of the Treasury for collection by offsetting tax refunds?
 2506.31 What are the Corporation's procedures for collecting debts by tax refund offset?

Subpart D—Administrative Offset

- 2506.40 Under what circumstances will the Corporation collect amounts that I owe to the Corporation (or some other federal agency) by offsetting the debt against payments that the Corporation (or some other federal agency) owes me?
 2506.41 How will the Corporation request that my debt to the Corporation be collected by offsetting against some payment that another federal agency owes me?
 2506.42 What procedures will the Corporation use to collect amounts I owe to a federal agency by offsetting a payment that the Corporation would otherwise make to me?
 2506.43 When may the Corporation make an offset in an expedited manner?

Authority: 31 U.S.C. 3711, 3716, 3720A; 42 U.S.C. 12651f.

Subpart A—Definitions, Authority, Administrative Collection, Compromise, Termination, and Referral of Claims

§ 2506.5 What definitions apply to the regulations in this Part?

As used in this part:
 (a) *Administrative offset* means the withholding of funds payable by the United States to any person (including funds payable to the United States on behalf of a State government), or the withholding of funds held by the United States for any person, in order to satisfy a debt owed to the United States.

(b) *Agency* means an executive department or agency, the United States Postal Service, the Postal Rate Commission, the United States Senate, the United States House of Representatives, and any court, court administrative office, or instrumentality in the judicial or legislative branches of the Government, and Government corporations.

(c) *Corporation* means the Corporation for National and Community Service.

(d) *Certification* means a written debt claim form received from a creditor agency which requests the paying agency to offset the salary of an employee.

(e) *Chief Executive Officer* means the Chief Executive Officer of the Corporation for National and Community Service, or his or her designee.

(f) *Creditor agency* means an agency of the Federal Government to which the debt is owed.

(g) *Debt* means money owed by a person to the United States, including a debt owed to the Corporation or to any other Federal agency.

(h) *Debtor* means a person who owes a debt. Uses of the terms "I", "you," "me," and similar references to the reader of the regulations in this part are meant to apply to debtors as defined in this paragraph (h).

(i) *Delinquent debt* means a debt that has not been paid within the time limit prescribed by the Corporation.

(j) *Disposable pay* means that part of current basic pay, special pay, incentive pay, retirement pay, retainer pay, or, in the case of an employee not entitled to basic pay, other authorized pay remaining after the deduction of any amount required by law to be withheld, excluding any garnishment under 5 CFR parts 581 and 582. The Corporation will deduct the following items in determining the amount of disposable pay that will be subject to salary offset:

- (1) Federal Social Security and Medicare taxes;

(2) Federal, state, and local income taxes, but no more than would be the case if the employee claimed all dependents to which he or she is entitled and any additional amounts for which the employee presents evidence of a tax obligation supporting the additional withholding;

(3) Health insurance premiums;

(4) Normal retirement contributions as set forth in 5 CFR 581.105(e);

(5) Normal life insurance premiums, excluding optional life insurance premiums; and

(6) Levies pursuant to the Internal Revenue Code, as defined in 5 U.S.C. 5514(d).

(k) *Employee* means a current employee of an agency, including a current member of the Armed Forces or Reserve of the Armed Forces of the United States.

(l) *Federal Claims Collection Standards* means the standards published at 4 CFR chapter II.

(m) *Paying agency* means the agency of the Federal Government that employs the individual who owes a debt to the United States. In some cases, the Corporation may be both the creditor agency and the paying agency.

(n) *Payroll office* means the payroll office in the paying agency that is primarily responsible for the payroll records and the coordination of pay matters with the appropriate personnel office with respect to an employee.

(o) *Person* includes a natural person or persons, profit or non-profit corporation, partnership, association, trust, estate, consortium, State and local government, or other entity that is capable of owing a debt to the United States Government; however, agencies of the United States are excluded.

(p) *Private collection contractor* means a private debt collector under contract with an agency to collect a non-tax debt owed to the United States.

(q) *Salary offset* means a payroll procedure to collect a debt under 5 U.S.C. 5514 by deduction(s) at one or more officially established pay intervals from the current pay account of an employee, without his or her consent.

(r) *Tax refund offset* means the reduction of a tax refund by the amount of a past-due legally enforceable debt owed to the Corporation or any other Federal agency.

(s) *Waiver* means the cancellation, remission, forgiveness, or non-recovery of a debt allegedly owed by a person to the Corporation or any other Federal agency as permitted or required by 5 U.S.C. 5584 or 8346(b), 10 U.S.C. 2774, 32 U.S.C. 716, or any other law.

§ 2506.2 What is the Corporation's authority to issue these regulations?

The Corporation is issuing regulations in this part under 42 U.S.C. 12651f and 31 U.S.C. 3711, 3716, and 3720A. The Corporation is also issuing the regulations in this part in conformity with the Federal Claims Collection Standards, 4 CFR chapter II, which prescribe standards for the handling of the federal government's claims for money or property, including standards for administrative collection, compromise, termination of agency collection action, and referral to the U.S. Department of Justice (DOJ) for litigation.

§ 2506.3 What other regulations also apply to the Corporation's debt collection efforts?

All provisions of the Federal Claims Collection Standards also apply to the regulations in this part. This part supplements the Federal Claims Collection Standards by prescribing procedures and directives necessary and appropriate for operations of the Corporation.

§ 2506.4 Do these regulations apply to claims involving fraud or misrepresentation?

The Federal Claims Collection Standards and this part do not apply to any claim as to which there is an indication of fraud or misrepresentation, as described in the Federal Claims Collection Standards, unless returned to the Corporation by the DOJ to the Corporation for handling.

§ 2506.5 What is the extent of the Chief Executive Officer's authority to compromise debts owed to the Corporation?

The Chief Executive Officer may exercise his or her compromise authority for those debts not exceeding \$100,000, excluding interest, in conformity with the Federal Claims Collection Act of 1966, as amended; the Federal Claims Collection Standards issued thereunder; and this part, except where standards are established by other statutes or authorized regulations issued pursuant to them.

§ 2506.6 What notice will I be provided if I owe a debt to the Corporation?

(a) When the Chief Executive Officer determines that you owe a debt to the Corporation, he or she will send you a written notice. The notice will be hand-delivered or sent to you by certified mail, return receipt requested at the most current address known to the Corporation. The notice will inform you of the following:

(1) The amount, nature, and basis of the debt, and that a designated Corporation official has reviewed the

claim and has determined that the debt is valid;

(2) That payment of your debt is due as of the date of the notice, and that the debt will be considered delinquent if you do not pay it within 30 days of the date the notice is mailed or hand-delivered;

(3) The Corporation's policy concerning interest, penalties, and administrative costs, including a statement that such assessments must be made against you unless excused in accordance with the Federal Claims Collection Standards and this part;

(4) That you have the right to inspect and copy Corporation records pertaining to your debt, or to receive copies of those records if personal inspection is impractical;

(5) That you have the opportunity to enter into an agreement, in writing and signed by both you and the Chief Executive Officer, for voluntary repayment of the debt; and

(6) The address, telephone number, and name of the Corporation official available to discuss the debt.

(b) *Notice of possible collection actions.* The notice provided by the Chief Executive Officer under paragraph (a) of this section will also advise you that, if your debt (including any interest, penalties and administrative costs) is not paid within 60 days of the date of the notice, or you do not enter into a voluntary repayment agreement within 60 days of the date of the notice, the Corporation may enforce the collection of the debt by any or all of the following methods:

(1) Referral to a credit reporting agency (See § 2506.10), a collection agency (See § 2506.11), or the DOJ (See § 2506.12);

(2) If you are a Corporation employee, by deducting money from your disposable pay account (in the amount and with the frequency, approximate beginning date and duration specified by the Corporation) until the debt (and all accumulated interest, penalties, and administrative costs) is paid in full, and that such proceedings with respect to the debt are governed by 5 U.S.C. 5514;

(3) If you are an employee of a federal agency other than the Corporation, by initiating certification procedures to implement a salary offset by the federal agency, as appropriate (which may not exceed 15 percent of the employee's disposable pay), and that such proceedings with respect to the debt are governed by 5 U.S.C. 5514;

(4) By referring the debt to the U.S. Department of the Treasury (Treasury) for offset against any refund of overpayment of tax (see Subpart C of this part); or

(5) By administrative offset (see Subpart D of this part).

(c) *Notice of opportunity for review.* The notice provided by the Chief Executive Officer under paragraph (a) of this section will also advise you of the opportunity to obtain a review within the Corporation concerning the existence or amount of the debt, the proposed schedule for offset of federal employee salary payments, or whether the debt is past due or legally enforceable. The notice shall also advise you:

(1) Of the name, address, and telephone number of an officer or employee of the Corporation who may be contacted concerning procedures for requesting a review;

(2) Of the method and time period for requesting a review;

(3) That the timely filing of a request for a review on or before the 60th calendar day following the date of the notice to the debtor will stay the commencement of collection proceedings;

(4) Of the name and address of the officer or employee of the Corporation to whom you should send the request for a review;

(5) That a final decision on the review (if one is requested) will be issued at the earliest practical date, but not later than 60 days after the receipt of the request for a review, unless you request, and the review official grants, a delay in the proceedings;

(6) That any knowingly false or frivolous statements, representations, or evidence may subject you to:

(i) Disciplinary procedures appropriate under 5 U.S.C. chapter 75, 5 CFR part 752, or any other applicable statute or regulations;

(ii) Penalties under the False Claims Act, 31 U.S.C. 3729–3733, or any other applicable statutory authority; and

(iii) Criminal penalties under 18 U.S.C. 286, 287, 1001, and 102, or any other applicable statutory authority;

(7) Of any other rights available to you to dispute the validity of the debt or to have recovery of the debt waived, or remedies available to you under statutes or regulations governing the program for which the collection is being made; and

(8) That unless there are applicable contractual or statutory provisions to the contrary, amounts paid on or deducted for the debt which are later waived or found not owed will be promptly refunded to you.

(d) The Corporation will respond promptly to communications from you.

§ 2506.7 What interest, penalty, and administrative costs will I have to pay on a debt owed to the Corporation?

(a) *Interest.* (1) The Corporation will assess interest on all delinquent debts unless prohibited by statute, regulation, or contract.

(2) Interest begins to accrue on all debts from the date that the debt becomes delinquent. The Corporation will not recover interest if you pay the debt within 30 days of the date on which interest begins to accrue. Unless otherwise established in a contract, repayment agreement, or by statute, the Corporation shall assess interest at the rate established annually by the Secretary of the Treasury under 31 U.S.C. 3717, unless a different rate is necessary to protect the interests of the Corporation. The Corporation will notify you of the basis for its finding when a different rate is necessary to protect the Corporation's interests.

(3) The Chief Executive Officer may extend the 30-day period for payment without interest where he or she determines that such action is in the best interest of the Corporation. A decision to extend or not to extend the payment period is final and is not subject to further review.

(b) *Penalty.* The Corporation will assess a penalty charge, not to exceed six percent a year, on any portion of a debt that is delinquent for more than 90 days.

(c) *Administrative costs.* The Corporation will assess charges to cover administrative costs incurred as a result of your failure to pay a debt before it becomes delinquent. Administrative costs include the additional costs incurred in processing and handling the debt because it became delinquent, such as costs incurred in obtaining a credit report, or in using a private collection contractor, or service fees charged by a Federal agency for collection activities undertaken on behalf of the Corporation.

(d) *Allocation of payments.* A partial payment by a debtor will be applied first to outstanding administrative costs, second to penalty assessments, third to accrued interest, and then to the outstanding debt principal.

(e) *Waiver.* (1) The Chief Executive Officer may (without regard to the amount of the debt) waive collection of all or part of accrued interest, penalty, or administrative costs, if he or she determines that collection of these charges would be against equity and good conscience or not in the best interest of the Corporation.

(2) A decision to waive interest, penalty charges, or administrative costs may be made at any time before a debt

is paid. However, where these charges have been collected before the waiver decision, they will not be refunded. The Chief Executive Officer's decision to waive or not waive collection of these charges is final and is not subject to further review.

§ 2506.8 What opportunity do I have to obtain a review of my debt within the Corporation.

(a) *Request for review.* If you desire a review within the Corporation concerning the existence or amount of the debt, the proposed schedule for offset of federal employee salary payments, or whether the debt is past due or legally enforceable, you must send such a request to the Corporation office designated in the notice to debtor. (See § 2506.6(c)).

(1) Your request for review must be signed by you and fully identify and explain with reasonable specificity all the facts and evidence that support your position.

(2) The request for review must be received by the designated office on or before the 60th calendar day following the date of the notice. Timely filing will stay the commencement of collection procedures. If you file a request for a review after the expiration of the 60 day period provided for in this section, the Corporation will accept the request if you can show that the delay was the result of circumstances beyond his or her control or because you did not receive notice of the filing deadline (unless you had actual notice of the filing deadline).

(b) *Review of Corporation records related to the debt.* (1) In accordance with § 2506.6, if you want to inspect or copy Corporation records related to the debt, you must send a letter to the official designated in the notice to the debtor stating his or her intention. Your letter must be received within 30 calendar days after the date of the notice to debtor.

(2) In response to a timely request submitted by the debtor, the designated official will notify you of the location and time when you may inspect and copy records related to the debt.

(3) If personal inspection is impractical, reasonable arrangements will be made to send you copies of those records.

(c) *Review official.* The Chief Executive Officer shall designate an officer or employee of the Corporation (who was not involved in the determination of the debt) as the review official. When required by law or regulation, the Corporation may request an administrative law judge to conduct the review, or may obtain a review

official who is an official, employee, or agent of the United States (but who is not under the supervision or control of the Chief Executive Officer). However, unless the review is conducted by an official or employee of the Corporation, any unresolved dispute you have regarding whether all or part of the debt is past due or legally enforceable (for purposes of collection by tax refund offset under § 2506.31), must be referred to the Chief Executive Officer for ultimate administrative disposition, and the Chief Executive Officer must directly notify you of his or her determination.

(d) *Review procedure.* After you request a review, the reviewing official will notify you of the form of the review to be provided. The reviewing official shall determine the type of review to be conducted (i.e. whether an oral hearing is required), and shall conduct the review in accordance with the standards included in 4 CFR 102.3(c). If the review will include an oral hearing, the notice will set forth the date, time, and location of the hearing. If the review will be on a written record, you will be notified that you should submit arguments and evidence in writing to the review official by a specified date after which the record will be closed. This date will give you reasonable time to submit documentation.

(e) *Date of decision.* The reviewing official will issue a written decision, based upon either the written record or documentary evidence and information developed at an oral hearing, as soon as practical, but not later than 60 days after the date on which the Corporation received your request for a review, unless you request and the review official grants a delay in the proceedings.

(f) *Content of review decision.* The review official shall prepare a written decision that will include:

- (1) A statement of the facts presented to support the origin, nature, and amount of the debt;
- (2) The reviewing official's findings, analysis, and conclusions; and
- (3) The terms of any repayment schedules, if applicable.

(g) *Interest, penalty, and administrative cost accrual during review period.* During the review period, interest, penalties, and administrative costs authorized by law will continue to accrue.

§ 2506.9 How can I resolve the Corporation's claim through a voluntary repayment agreement?

In response to a notice of a debt owed to the Corporation, you may propose to the Corporation you be allowed to repay

a debt through a voluntary payment agreement in lieu of the Corporation taking other collection actions under this part.

(a) Your request to enter into a voluntary repayment must:

(1) Admit the existence of the debt; and

(2) Either propose payment of the debt (together with interest, penalties, and administrative costs) in a lump sum, or set forth a proposed repayment schedule.

(b) The Corporation will consider a request to enter into a voluntary repayment agreement consistent with the standards in 4 CFR 102.11. The Chief Executive Officer may request additional information from you in order to make a determination of whether to accept a voluntary repayment agreement, including requesting financial statements if you request to make payments in installments. It is within the Chief Executive Officer's discretion to accept a repayment agreement instead of proceeding with other debt collection actions under this part, and to set the necessary terms of any voluntary repayment agreement. At the Corporation's option, you may be required to enter into a confession-judgment note or bond of indemnity with surety as part of an agreement to make payments in installments. Notwithstanding the provisions of this section, any reduction or compromise of a claim will be governed by 31 U.S.C. 3711.

§ 2506.10 How will the Corporation use credit reporting agencies to collect its claims?

(a) The Corporation may report delinquent debts to appropriate credit reporting agencies by providing the following information:

- (1) A statement that the debt is valid and is overdue;
- (2) The name, address, taxpayer identification number, and any other information necessary to establish the identity of the debtor;
- (3) The amount, status, and history of the debt; and
- (4) The program or pertinent activity under which the debt arose.

(b) Before disclosing debt information to a credit reporting agency, the Corporation will:

- (1) Take reasonable action to locate the debtor if a current address is not available; and
- (2) If a current address is available, provide the notice required under § 2506.6.

(c) At the time debt information is submitted to a credit reporting agency,

the Corporation will provide a written statement to the reporting agency that all required actions have been taken. In addition, the Corporation will, thereafter, ensure that the credit reporting agency is promptly informed of any substantive change in the conditions or amount of the debt, and promptly verify or correct information relevant to the claim.

(d) If a debtor disputes the validity of the debt, the credit reporting agency will refer the matter to the appropriate Corporation official. The credit reporting agency will exclude the debt from its reports until the Corporation certifies in writing that the debt is valid.

§ 2506.11 How will the Corporation contract for collection services?

The Corporation will use the services of a private collection contractor where it determines that such use is in the best interest of the Corporation. When the Corporation determines that there is a need to contract for collection services, it will—

- (a) Retain sole authority to:
 - (1) Resolve any dispute with the debtor regarding the validity of the debt;
 - (2) Compromise the debt;
 - (3) Suspend or terminate collection action;
 - (4) Refer the debt to the DOJ for litigation; and
 - (5) Take any other action under this part which does not result in full collection of the debt;

(b) Require the contractor to comply with the Privacy Act of 1974, as amended, to the extent specified in 5 U.S.C. 552a(m), with applicable Federal and State laws pertaining to debt collection practices (e.g., the Fair Debt Collection Practices Act (15 U.S.C. 1692–1692o)), and with applicable regulations of the Corporation in this chapter;

(c) Require the contractor to account accurately and fully for all amounts collected; and

(d) Require the contractor to provide to the Corporation, upon request, all data and reports contained in its files relating to its collection actions on a debt.

§ 2506.12 When will the Corporation refer claims to the DOJ?

The Chief Executive Officer will refer to the DOJ for litigation all claims on which aggressive collection actions have been taken but which could not be collected, compromised, suspended, or terminated. Referrals will be made as early as possible, consistent with aggressive Corporation collection action, and within the period for bringing a timely suit against the debtor.

§ 2506.13 Will the Corporation use a cross-servicing agreement with the Treasury to collect its claims?

Yes. The Corporation will enter into a cross-servicing agreement with the Treasury which will authorize the Treasury to take all of the debt collection actions described in this part. These debt collection services will be provided to the Corporation in accordance with 31 U.S.C. Chapter 37.

Subpart B—Salary Offset

§ 2506.20 What debts are included or excluded from coverage of these regulations on salary offset?

(a) The regulations in this subpart provide Corporation procedures for the collection by salary offset of a federal employee's pay to satisfy certain debts owed to the Corporation or to other federal agencies.

(b) The regulations in this subpart apply to collections by the Chief Executive Officer, from:

(1) Federal employees who owe debts to the Corporation; and

(2) Employees of the Corporation who owe debts to other federal agencies.

(c) The regulations in subpart A and this subpart do not apply to debts arising under the Internal Revenue Code of 1986, as amended (title 26, United States Code); the Social Security Act (42 U.S.C. 301 et seq.); the tariff laws of the United States; or to any case where collection of a debt by salary offset is explicitly provided for or prohibited by another statute (e.g., travel advances in 5 U.S.C. 5705 and employee training expenses in 5 U.S.C. 4108).

(d) Nothing in the regulations in this subpart precludes the compromise, suspension, or termination of collection actions under the standards implementing the Federal Claims Collection Act (31 U.S.C. 3711 et seq., 4 CFR parts 101–105, 38 CFR 1.900–1.994).

(e) A levy pursuant to the Internal Revenue Code takes precedence over a salary offset under this subpart, as provided in 5 U.S.C. 5514(d).

(f) This subpart does not apply to any adjustment to pay arising out of an employee's election of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay, if the amount to be recovered was accumulated over four or fewer pay periods.

§ 2506.21 May I ask the Corporation to waive an overpayment that would otherwise be collected by offsetting my salary as a federal employee?

Yes, the regulations in this subpart do not preclude an employee from requesting waiver of an overpayment

under 5 U.S.C. 5584 or 8346(b), 10 U.S.C. 2774, 32 U.S.C. 716, or under other statutory provisions pertaining to the particular debts being collected.

§ 2506.22 What are the Corporation's procedures for salary offset?

(a) The Corporation will coordinate salary deductions under this subpart as appropriate.

(b) The Corporation's payroll office will determine the amount of an employee's disposable pay and will implement the salary offset.

(c) Deductions will begin within three official pay periods following receipt by the Corporation's payroll office of certification of debt from the creditor agency.

(d) Types of collection—

(1) *Lump-sum offset.* If the amount of the debt is equal to or less than 15 percent of disposable pay, the debt generally will be collected through one lump-sum offset.

(2) *Installment deductions.* Installment deductions will be made over a period not greater than the anticipated period of employment. The size and frequency of installment deductions will bear a reasonable relation to the size of the debt and the employee's ability to pay. However, the amount deducted from any period will not exceed 15 percent of the disposable pay from which the deduction is made unless the employee has agreed in writing to the deduction of a greater amount.

(3) *Deductions from final check.* A deduction exceeding the 15 percent disposable pay limitation may be made from any final salary payment under 31 U.S.C. 3716 and the Federal Claims Collection Standards, in order to liquidate the debt, whether the employee is being separated voluntarily or involuntarily.

(4) *Deductions from other sources.* If an employee subject to salary offset is separated from the Corporation, and the balance of the debt cannot be liquidated by offset of the final salary check, the Corporation may offset any later payments of any kind against the balance of the debt, as allowed by 31 U.S.C. 3716 and the Federal Claims Collection Standards.

(e) Multiple debts. In instances where two or more creditor agencies are seeking salary offsets, or where two or more debts are owed to a single creditor agency, the Corporation's payroll office may, at its discretion, determine whether one or more debts should be offset simultaneously within the 15 percent limitation.

§ 2506.23 How will the Corporation coordinate salary offsets with other agencies?

(a) *Responsibilities of the Corporation as the creditor agency.* Upon completion of the procedures established in the regulations in this subpart and pursuant to 5 U.S.C. 5514, the Corporation must submit a debt claim to a paying agency.

(1) The Corporation must include in its claim a certification, in writing, that:

(i) The employee owes the debt;

(ii) The amount and basis of the debt;

(iii) The date the Corporation's right to collect the debt first accrued;

(iv) That the Corporation's regulations in this subpart have been approved by the Office of Personnel Management under 5 CFR part 550, subpart K;

(2) If the collection must be made in installments, the Corporation's claim will also advise the paying agency of the amount or percentage of disposable pay to be collected in each installment. The Corporation may also advise the paying agency of the number of installments to be collected, and the date of the first installment if that date is other than the next officially established pay period.

(3) The Corporation shall also include in its claim either:

(i) The employee's written consent to the salary offset;

(ii) The employee's signed statement acknowledging receipt of the procedures required by 5 U.S.C. 5514; or

(iii) Information regarding the completion of procedures required by 5 U.S.C. 5514, including the actions taken and the dates of those actions.

(4) If the employee is in the process of separating and has not received a final salary check or other final payment(s) from the paying agency, the Corporation must submit its debt claim to the paying agency for collection under 31 U.S.C. 3716. The paying agency will (under its regulations adopted under 5 U.S.C. 5514 and 5 CFR part 550, subpart K), certify the total amount of its collection on the debt and notify the employee and the Corporation. If the paying agency's collection does not fully satisfy the debt, and the paying agency is aware that the debtor is entitled to payments from the Civil Service Retirement and Disability Fund or other similar payments that may be due the debtor employee from other Federal Government sources, then (under its regulations adopted under 5 U.S.C. 5514 and 5 CFR part 550, subpart K), the paying agency will provide written notice of the outstanding debt to the agency responsible for making the other payments to the debtor employee. The written notice will state that the employee owes a debt, the amount of the debt, and that the provisions of this

section have been fully complied with. However, the Corporation must submit a properly certified claim under this paragraph (a)(4) to the agency responsible for making the payments before the collection can be made.

(5) Separated employee. If the employee is already separated and all payments due from his or her former paying agency have been paid, the Corporation may request, unless otherwise prohibited, that money due and payable to the employee from the Civil Service Retirement and Disability Fund (5 CFR part 831, subpart R, or 5 CFR part 845, subpart D) or other similar funds, be administratively offset to collect the debt.

(6) Employee transfer. When an employee transfers from one paying agency to another paying agency, the Corporation will not repeat the due process procedures described in 5 U.S.C. 5514 and this subpart to resume the collection. The Corporation will submit a properly certified claim to the new paying agency and will subsequently review the debt to make sure the collection is resumed by the new paying agency.

(b) *Responsibility of the Corporation as the paying agency.* (1) Complete claim. When the Corporation receives a certified claim from a creditor agency (under the creditor agency's regulations adopted under 5 U.S.C. 5514 and 5 CFR part 550, subpart K), deductions should be scheduled to begin within three officially established pay intervals. Before deductions can begin, the employee will receive a written notice from the Corporation including:

(i) A statement that the Corporation has received a certified debt claim from the creditor agency;

(ii) The amount of the debt claim;

(iii) The date salary offset deductions will begin; and

(iv) The amount of such deductions.

(2) Incomplete claim. When the Corporation receives an incomplete certification of debt from a creditor agency, the Corporation will return the debt claim with a notice that the creditor agency must comply with the procedures required under 5 U.S.C. 5514 and 5 CFR part 550, subpart K, and must properly certify a debt claim to the Corporation before the Corporation will take action to collect from the employee's current pay account.

(3) Review. The Corporation is not authorized to review the merits of the creditor agency's determination with respect to the amount or validity of the debt certified by the creditor agency.

(4) Employees who transfer from the Corporation to another paying agency. If, after the creditor agency has

submitted the debt claim to the Corporation, the employee transfers from the Corporation to a different paying agency before the debt is collected in full, the Corporation will certify the total amount collected on the debt and notify the employee and the creditor agency in writing. The notification to the creditor agency will include information on the employee's transfer.

§ 2506.24 Under what conditions will the Corporation make a refund of amounts collected by salary offset?

If the Corporation is the creditor agency, it will promptly refund any amount deducted under the authority of 5 U.S.C. 5514, when:

(a) The debt is waived or all or part of the funds deducted are otherwise found not to be owed (unless expressly prohibited by statute or regulation); or

(b) An administrative or judicial order directs the Corporation to make a refund.

(c) Unless required or permitted by law or contract, refunds under this section will not bear interest.

§ 2506.25 Will the collection of a claim by salary offset act as a waiver of my rights to dispute the claimed debt?

Your involuntary payment of all or any portion of a debt being collected under this subpart will not be construed as a waiver of any rights which you may have under 5 U.S.C. 5514 or any other provisions of a written contract or law, unless there are statutory or contractual provisions to the contrary.

Subpart C—Tax Refund Offset

§ 2506.30 Which debts can the Corporation refer to the Department of the Treasury for collection by offsetting tax refunds?

(a) The regulations in this subpart implement 31 U.S.C. 3720A which authorizes the Treasury to reduce a tax refund by the amount of a past-due legally enforceable debt owed to a Federal agency.

(b) For purposes of this section, a past-due legally enforceable debt referable to the Treasury for tax refund offset is a debt that is owed to the Corporation; and:

(1) Is at least \$25.00 dollars;

(2) Except in the case of a judgment debt, has been delinquent for at least three months and will not have been delinquent more than 10 years at the time the offset is made;

(3) Cannot be currently collected under the salary offset provisions of 5 U.S.C. 5514;

(4) Is ineligible for administrative offset under 31 U.S.C. 3716(a) by reason

of 31 U.S.C. 3716(c)(2) or cannot be collected by administrative offset under 31 U.S.C. 3716(a) by the Corporation against amounts payable to the debtor by the Corporation;

(5) With respect to which the Corporation has given the debtor at least 60 days to present evidence that all or part of the debt is not past due or legally enforceable, has considered evidence presented by the debtor, and has determined that an amount of the debt is past due and legally enforceable;

(6) Which has been disclosed by the Corporation to a credit reporting agency as authorized by 31 U.S.C. 3711(e), unless the credit reporting agency would be prohibited from reporting information concerning the debt by reason of 15 U.S.C. 1681c;

(7) With respect to which the Corporation has notified or has made a reasonable attempt to notify the debtor that:

(i) The debt is past due, and

(ii) Unless repaid within 60 days thereafter, the debt will be referred to the Treasury for offset against any refund of overpayment of tax; and

(8) All other requirements of 31 U.S.C. 3720A and the Treasury regulations relating to the eligibility of a debt for tax return offset have been satisfied (31 CFR 285.2).

§ 2506.31 What are the Corporation's procedures for collecting debts by tax refund offset?

(a) The Chief Executive Officer will be the point of contact with the Treasury for administrative matters regarding the offset program.

(b) The Corporation will ensure that the procedures prescribed by the Treasury are followed in developing information about past-due debts and submitting the debts to the Treasury.

(c) The Corporation will submit a notification of a taxpayer's liability for past-due legally enforceable debt to the Treasury which will contain:

(1) The name and taxpayer identifying number (as defined in section 6109 of the Internal Revenue Code, 26 U.S.C. 6109) of the person who is responsible for the debt;

(2) The dollar amount of the past-due and legally enforceable debt;

(3) The date on which the original debt became past due;

(4) A statement certifying that, with respect to each debt reported, all of the requirements of eligibility of the debt for referral for the refund offset have been satisfied. (See § 2506.30(b)). For purposes of this section, notice that collection of the debt is affected by a bankruptcy proceeding involving the individual will bar referral of the debt to the Treasury.

(d) The Corporation shall promptly notify the Treasury to correct Corporation data submitted when it:

(1) Determines that an error has been made with respect to a debt that has been referred;

(2) Receives or credits a payment on the debt; or

(3) Receives notice that the person owing the debt has filed for bankruptcy under Title 11 of the United States Code or has been adjudicated bankrupt and the debt has been discharged.

(e) When advising debtors of an intent to refer a debt to the Treasury for offset, the Corporation will also advise the debtors of remedial actions available to defer or prevent the offset from taking place.

Subpart D—Administrative Offset

§ 2506.40 Under what circumstances will the Corporation collect amounts that I owe to the Corporation (or some other federal agency) by offsetting the debt against payments that the Corporation (or some other federal agency) owes me?

(a) The regulations in this subpart apply to the collection of any debts you owe to the Corporation, or to any request from another federal agency that the Corporation collect a debt you owe by offsetting your debt against a payment the Corporation owes you. Administrative offset is authorized under section 5 of the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3716). The Corporation shall carry out administrative offset in accordance with the provisions of the Federal Claims Collection Standards; the regulations in this subpart are intended only to supplement the provisions of the Federal Claims Collection Standards.

(b) The Chief Executive Officer, after attempting to collect a debt you owe to the Corporation under section 3(a) of the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3711(a)), may collect the debt by administrative offset, subject to the following:

(1) The debt you owe is certain in amount; and

(2) It is in the best interest of the Corporation to collect your debt by administrative offset because of the decreased costs of collection and acceleration in the payment of the debt.

(c) The Chief Executive Officer may initiate administrative offset with regard to debts you owe to another federal agency. The head of the creditor agency, or his or her designee, must submit a written request for the offset with a certification that the debt exists and that you have been afforded the necessary due process rights.

(d) The Chief Executive Officer may request another federal agency that holds funds payable to you to instead pay those funds to the Corporation in settlement of your debt. The Corporation will provide certification that:

(1) The debt exists; and

(2) You have been afforded the necessary due process rights.

(e) No collection by administrative offset will be made on any debt that has been outstanding for more than 10 years unless facts material to the Corporation or a federal agency's right to collect the debt were not known, and reasonably could not have been known, by the official or officials responsible for discovering and collecting the debt.

(f) The regulations in this subpart do not apply to:

(1) A case in which administrative offset of the type of debt involved is explicitly provided for or prohibited by another statute; or

(2) Debts owed to the Corporation by federal agencies or by any State or local government.

§ 2506.41 How will the Corporation request that my debt to the Corporation be collected by offsetting against some payment that another federal agency owes me?

The Chief Executive Officer may request that funds due and payable to you by another federal agency instead be paid to the Corporation in payment of a debt you owe to the Corporation. In requesting administrative offset, the Corporation, as creditor, will certify in writing to the federal agency that is holding funds for you:

(a) That you owe the debt;

(b) The amount and basis of the debt; and

(c) That the Corporation has complied with the requirements of 31 U.S.C. 3716, its own administrative offset regulations in this subpart, and the applicable provisions of the Federal Claims Collection Standards with respect to providing the debtor with due process.

§ 2506.42 What procedures will the Corporation use to collect amounts I owe to a federal agency by offsetting a payment that the Corporation would otherwise make to me?

Any federal agency may request that the Corporation administratively offset funds due and payable to you in order to collect a debt you owe to that agency. The Corporation will initiate the requested offset only:

(a) Upon receipt of written certification from the creditor agency stating:

(1) That you owe the debt;

(2) The amount and basis of the debt;

(3) That the agency has prescribed regulations for the exercise of administrative offset; and

(4) That the agency has complied with its own administrative offset regulations and with the applicable provisions of the Federal Claims Collection Standards, including providing you with any required hearing or review; and

(b) Upon a determination by the Chief Executive Officer that offsetting funds payable to you by the Corporation in order to collect a debt owed by you would be in the best interest of the United States as determined by the facts and circumstances of the particular case, and that such an offset would not otherwise be contrary to law.

§ 2506.43 When may the Corporation make an offset in an expedited manner?

The Corporation may effect an administrative offset against a payment to be made to you before completion of the procedures required by §§ 2506.41 and 2506.42 if failure to take the offset would substantially jeopardize the Corporation's ability to collect the debt and the time before the payment is to be made does not reasonably permit the completion of those procedures. An expedited offset will be promptly followed by the completion of those procedures. Amounts recovered by offset, but later found not to be owed to the Corporation, will be promptly refunded.

Dated: January 15, 1999.

Kenneth L. Klothen,
General Counsel.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 74

[MM Docket No. 87-268; FCC 98-315]

Advanced Television Systems and Their Impact Upon the Existing Television Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted a *Second Memorandum Opinion and Order (Second MO&O)* addressing petitions for reconsideration of the *Memorandum Opinion and Order on Reconsideration of the Fifth Report and Order (Service Reconsideration Order)* and the *Memorandum Opinion and Order on Reconsideration of the Sixth*