

354 owes a debt to another Federal agency, salary offset may be used only when the Federal agency certifies that the person owes the debt and that the Federal agency has complied with its regulations. The request must include the creditor agency's certification as to the indebtedness, including the amount, and that the employee has been given the due process entitlements guaranteed by the Debt Collection Act of 1982. When a request for offset is received, FmHA or its successor agency under Public Law 103-354 will notify the employee and NFC and arrange for offset. (See FmHA or its successor agency under Public Law 103-354 Form Letter 1951-7).

(q) *Deductions by the National Finance Center (NFC).* The NFC will automatically deduct the full amount of the delinquency or indebtedness if less than 15 percent of disposable pay or 15 percent of disposable pay if the delinquency or indebtedness exceeds 15 percent, unless the creditor agency advises otherwise. Deductions will begin the second pay period after the 30-day notification period has expired unless FmHA or its successor agency under Public Law 103-354 issues the notice. If FmHA or its successor agency under Public Law 103-354 issues the notice, the NFC will begin deductions on the first pay period after receipt of the Form AD-343.

(r) *Interest, penalties and administrative costs.* Interest and administrative costs will normally be assessed on outstanding claims being collected by salary offset. However, penalties should not be charged routinely on debts being collected in installments by salary offsets, since it is not to be construed as a failure to pay within a given time period. Additional interest, penalties, and administrative costs will not be assessed on delinquent loans until FmHA or its successor agency under Public Law 103-354 publishes regulations permitting such charges.

(s) *Adjustment in rate of repayment.* (1) When an employee who is indebted receives a reduction in basic pay that would cause the current deductions to exceed 15 percent of disposable pay, and the employee has not consented in writing to a greater amount, FmHA or its successor agency under Public Law

103-354 must take action to reduce the amount of the deductions to 15 percent of the new amount of disposable pay. Upon an increase in basic pay which results in the current deductions to be less than the specified percentage, FmHA or its successor agency under Public Law 103-354 may increase the amount of the deductions accordingly. In either case, when a change is made the employee will be notified in writing.

(2) When an employee has an existing reduced repayment schedule because of financial hardship, the creditor agency may arrange for a new repayment schedule.

[52 FR 18544, May 18, 1987, as amended at 53 FR 44178, Nov. 2, 1988; 54 FR 26945, June 27, 1989; 62 FR 41799, Aug. 1, 1997; 65 FR 50603, Aug. 21, 2000; 67 FR 69671, Nov. 19, 2002]

§§ 1951.112–1951.132 [Reserved]

§ 1951.133 Establishment of Federal Debt.

Any amounts paid by RBS on account of liabilities of a business and industry (B&I) program guaranteed loan borrower will constitute a Federal debt owing to RBS by the B&I guaranteed loan borrower. In such case, the RBS may use all remedies available to it, including offset under the Debt Collection Improvement Act of 1996 (DCIA), to collect the debt from the borrower. Interest charges will be established at the note rate of the guaranteed loan on the date a loss claim is paid. RBS may, at its option, refer such debt in all or part to the Department of the Treasury, before a final loss claim is determined.

[69 FR 3000, Jan. 22, 2004]

§§ 1951.134–1951.135 [Reserved]

§ 1951.136 Procedures for Department of Treasury offset and cross-servicing for the Rural Housing Service (Community Facility Program only) and the Rural Business-Cooperative Service.

(a) The National Offices of the Rural Housing Service (RHS), Community Facilities (CF) and the Rural Business-Cooperative Service (RBS) will refer past due, legally enforceable debts which are over 180 days delinquent to

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the Secretary of the Treasury for collection by centralized administrative offset (TOP), Internal Revenue Service offset administered through TOP and Treasury's Cross-Servicing (Cross-Servicing) Program, which centralizes all Government debt collection actions. A borrower with a workout agreement in place, in bankruptcy or litigation, or meeting other exclusion criteria, may be excluded from TOP or Cross-Servicing.

(b) A 60 day due process notice will be sent to borrowers subject to TOP or Cross-Servicing. The borrower will be given 60 days to resolve any delinquency before the debt is reported to Treasury. The notice will include:

(1) The nature and amount of the debt, the intention of the Agency to collect the debt through TOP or Cross-Servicing, and an explanation of the debtor's rights;

(2) An opportunity to inspect and copy the records related to the debt from the Agency;

(3) An opportunity to review the matter within the Agency or the National Appeals Division, if there has not been a previous opportunity to appeal the offset; and

(4) An opportunity to enter into a written repayment agreement.

(c) In referring debt to the Department of Treasury the Agency will certify that:

(1) The debt is past due and legally enforceable in the amount submitted and the Agency will ensure that collections are properly credited to the debt;

(2) Except in the case of a judgment debt or as otherwise allowed by law, the debt is referred for offset within 10 years after the Agency's right of action accrues;

(3) The Agency has made reasonable efforts to obtain payment; and

(4) Payments that are prohibited by law from being offset are exempt from centralized administrative offset.

[67 FR 69672, Nov. 19, 2002]

§ 1951.137 Procedures for Treasury offset and cross-servicing for the Farm Service Agency (FSA) farm loan programs.

(a) The Farm Service Agency, Farm Loan Programs, will refer past due, legally enforceable debts which are over

180 days delinquent to the Secretary of the Treasury for collection by centralized administrative offset (TOP), Internal Revenue Service offset administered through TOP and Treasury's Cross-Servicing (Cross-Servicing) Program, which centralizes all Government debt collection actions. A borrower with a workout agreement in place, in bankruptcy or litigation, or meeting other exclusion criteria, may be excluded from TOP or Cross-Servicing. Guaranteed debtors will only be referred to TOP upon confirmation of payment on a final loss claim.

(b) A 60 day due process notice will be sent to borrowers subject to TOP or Cross-Servicing by the Director of Kansas City Finance Office. The borrower will be given 60 days to resolve any delinquency before the debt is reported to Treasury. The notice will include:

(1) The nature and amount of the debt, the intention of the Agency to collect the debt through TOP or Cross-Servicing, and an explanation of the debtor's rights;

(2) An opportunity to inspect and copy the records related to the debt, from the Agency;

(3) An opportunity to review the matter within the Agency; and

(4) An opportunity to enter into a written repayment agreement.

(c) In referring debt to the Department of Treasury the Agency will certify that:

(1) The debt is past due and legally enforceable in the amount submitted and the Agency will ensure that collections are properly credited to the debt;

(2) Except in the case of a judgment debt or as otherwise allowed by law, the debt is referred for offset within 10 years after the Agency's right of action accrues;

(3) The Agency has made reasonable efforts to obtain payment; and

(4) Payments that are prohibited by law from being offset are exempt from centralized administrative offset.

[67 FR 69672, Nov. 19, 2002]

§§ 1951.138-1951.149 [Reserved]

§ 1951.150 OMB control number.

The collection of information requirements in this regulation have