

## § 143.2

## 17 CFR Ch. I (4–1–07 Edition)

for collection by offset against obligations of the United States to the debtor, by compromise, and by referral to the Department of Justice for litigation. It also sets forth the Commission's policy on collecting interest on unpaid claims, the method used in calculating such interest, and the maximum inflation-adjusted civil monetary penalties that may be assessed and enforced for each violation of the Commodity Exchange Act or regulations or orders of the Commission promulgated thereunder. Subpart B describes procedures for collection by administrative garnishment of the debtor's wages.

[69 FR 52997, Aug. 31, 2004]

### Subpart A—General Provisions

#### § 143.2 Notice of claim.

(a) The Commission will send a written notice to any person who owes payment to the United States under this part, stating the basis for the claim, the interest, penalties, and administrative costs that may be imposed for non-payment, and the date full payment is due.

(b) If the claim is disputed, the debtor shall respond to the notice in writing and state the reasons for non-payment. If the claim is not disputed but full payment is not made by the date indicated in the notice, the debtor shall state the reasons for the failure to make full payment.

(c) If no response or an unsatisfactory response is received by the date indicated in the notice, the Commission may take further action as appropriate under the Commodity Exchange Act or regulations thereunder, or under 31 CFR parts 900–905 or the Federal Claims Collection Act as amended, 31 U.S.C. 3701–3720E.

[50 FR 5384, Feb. 8, 1985, as amended at 69 FR 52997, Aug. 31, 2004]

#### § 143.3 Interest, penalty charges, and administrative costs.

(a) The Commission will assess interest on unpaid claims. The rate of interest assessed shall be the rate of the current value of funds to the U.S. Treasury (*i.e.*, the Treasury tax and loan account rate) as prescribed and

published by the Secretary of the Treasury. The Commission will charge penalty fees of not more than 6 percent per year on any portion of a claim that is delinquent for more than 90 days. The Commission will also impose actual administrative costs to cover the processing and handling of delinquent claims.

(b) Interest on claims will be charged and will run from the date the notice of claim is mailed if the amount of the claim is not paid within 30 days from that date. Interest will be calculated only on the principal of the claim. The rate of interest charged is the rate in effect on the date from which interest begins to run. The rate will remain fixed for the duration of the indebtedness.

(c) The Commission may waive in whole or in part interest, penalty charges or administrative costs if it finds that:

(1) The debtor is unable to pay any significant sum within a reasonable period of time;

(2) Collection of interest or penalty charges jeopardizes collection of the principal of the claim; or

(3) It is in the best interests of the United States.

#### § 143.4 Collection by offset.

(a) Whenever feasible, the Commission will collect claims under this part by means of administrative offset against obligations of the United States to the debtor.

(b) The Commission will notify the debtor in writing of its intent to use offset procedures to collect the debt unless the debtor agrees to repayment. The notice to the debtor shall include the type and amount of the claim and an explanation of the debtor's rights for records and review under 31 U.S.C. 3716(a).

(c) The Commission will seek to coordinate administrative offset with other federal agencies in accordance with 4 CFR part 102.

#### § 143.5 Collection by compromise.

The Commission may settle claims not exceeding \$100,000 (excluding interest) by compromise at less than the principal amount of the claim if—

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(a) The debtor shows an inability to pay the full amount within a reasonable period of time;

(b) The Government would be unable to enforce collection in full through litigation or administrative means within a reasonable period of time;

(c) The cost of collecting the claim in full is not justified by the amount of the claim; or

(d) The Commission's enforcement policy would be served by settlement of the claim for less than the full amount.

[50 FR 5384, Feb. 8, 1985, as amended at 57 FR 61292, Dec. 24, 1992]

### § 143.6 Referral for litigation.

Claims that cannot be collected by the Commission under this part or for which collection action cannot be ended or suspended under 4 CFR part 104 will be referred to the Department of Justice for litigation.

### § 143.7 Delegation of authority to the Executive Director.

(a) The Commission hereby delegates, until such time as the Commission orders otherwise, to the Executive Director or to any Commission employee under the Executive Director's supervision as he or she may designate, authority to take action to carry out subpart A and subpart B of this part and the requirements of 31 CFR parts 900-905 and 31 CFR 285.11.

(b) Delegated waivers or compromise under this part shall be with the concurrence of the General Counsel and the Director of the Division of Enforcement or of their respective designees.

[50 FR 5384, Feb. 8, 1985, as amended at 69 FR 52997, Aug. 31, 2004]

### § 143.8 Inflation-adjusted civil monetary penalties.

(a) Unless otherwise amended by an act of Congress, the inflation-adjusted maximum civil monetary penalty for each violation of the Commodity Exchange Act or the rules or orders promulgated thereunder that may be assessed or enforced by the Commission under the Commodity Exchange Act pursuant to an administrative proceeding or a civil action in Federal court will be:

(1) For each violation for which a civil monetary penalty is assessed against any person (other than a registered entity) pursuant to Section 6(c) of the Commodity Exchange Act, 7 U.S.C. 9:

(i) For violations committed between November 27, 1996 and October 22, 2000, not more than the greater of \$110,000 or triple the monetary gain to such person for each such violation;

(ii) For violations committed between October 23, 2000 and October 22, 2004, not more than the greater of \$120,000 or triple the monetary gain to such person for each such violation; and

(iii) For violations committed on or after October 23, 2004, not more than the greater of \$130,000 or triple the monetary gain to such person for each such violation;

(2) For each violation for which a civil monetary penalty is assessed against any registered entity or other person pursuant to Section 6c of the Commodity Exchange Act, 7 U.S.C. 13a-1:

(i) For violations committed between November 27, 1996 and October 22, 2000, not more than the greater of \$110,000 or triple the monetary gain to such person for each such violation;

(ii) For violations committed between October 23, 2000 and October 22, 2004, not more than the greater of \$120,000 or triple the monetary gain to such person for each such violation; and

(iii) For violations committed on or after October 23, 2004, not more than the greater of \$130,000 or triple the monetary gain to such person for each such violation; and

(3) For each violation for which a civil monetary penalty is assessed against any registered entity or any director, officer, agent, or employee of any registered entity pursuant to Section 6b of the Commodity Exchange Act, 7 U.S.C. 13a:

(i) For violations committed between November 27, 1996 and October 22, 2000, not more than \$550,000 for each such violation;

(ii) For violations committed between October 23, 2000 and October 22, 2004, not more than \$575,000 for each such violation; and