

§ 1650.101

29 CFR Ch. XIV (7-1-07 Edition)

1650.308 Accelerated procedures.

1650.309 Additional administrative procedures.

Subpart D—Procedures for the Collection of Debts by Administrative Wage Garnishment

1650.401 Purpose and regulatory procedures for the collection of debts by administrative wage garnishment.

AUTHORITY: 5 U.S.C. 5514; 31 U.S.C. 321, 3701, 3711, 3716, 3720A, 3720D; EO 13019, 61 FR 51763, 3 CFR 1996 Comp., p. 216; 5 CFR 550.1101.

SOURCE: 59 FR 24, Jan. 3, 1994, unless otherwise noted.

Subpart A—Procedures for the Collection of Debts by Salary Offset

SOURCE: 56 FR 28817, June 25, 1991, unless otherwise noted. Redesignated at 61 FR 7067, Feb. 26, 1996.

§ 1650.101 Purpose.

This subpart sets forth the procedures to be followed in the collection of debts owed to the United States by present or former Commission employees by salary offset under 5 U.S.C. 5514. The general standards and procedures governing the collection, compromise, termination, and referral to the Department of Justice of claims for money and property that are prescribed in the regulations issued jointly by the General Accounting Office and the Department of Justice pursuant to the Federal Claims Collection Act of 1966 (4 CFR Parts 101-105) apply to the administrative collection activities of the EEOC. The Director of the Financial Management Division shall act on all claims arising out of the activities of the EEOC.

[56 FR 28817, June 25, 1991. Redesignated at 61 FR 7067, Feb. 26, 1996, as amended at 64 FR 28917, May 28, 1999]

§ 1650.102 Scope.

(a) *Applicability.* (1) The procedures in this subpart apply to the collection of debts owed to the Commission or another Federal agency by present or former Commission employees by offset against their basic pay, special pay, incentive pay, retired pay, retainer pay, or, in the case of an individual not

entitled to basic pay, other authorized pay from the Commission or other agency pursuant to the offset authority in 5 U.S.C. 5514.

(2) The procedures in this subpart apply to the collection by salary offset of the following types of debts owed to the United States: Interest, penalties, fees, direct loans, loans insured and guaranteed by the United States, leases, rents, royalties, services, sales of real or personal property, fines and forfeitures (except those arising under the Uniform Code of Military Justice), erroneous payments of pay and all other similar sources.

(b) *Non-applicability.* The procedures in this subpart do not apply 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). The procedures in this subpart also do not apply to debts or claims arising under the Internal Revenue Code of 1954 as amended, 25 U.S.C. 1 *et seq.*, the Social Security Act, 42 U.S.C. 301 *et seq.*, or the tariff laws of the United States.

(c) *Waiver requests and claims to the GAO.* The procedures in this subpart do not preclude an employee from requesting waiver of a salary overpayment under 5 U.S.C. 5584, or any other similar provision of law, or in any way questioning the amount or validity of a debt by submitting a subsequent claim to the General Accounting Office.

(d) *Compromise, suspension, or termination under the Federal Claims Collection Standards.* Nothing in this subpart precludes the compromise, suspension, or termination of 5 U.S.C. 5514 salary offset collection actions, where appropriate, in accordance with the Federal Claims Collection Standards in 4 CFR chapter II.

§ 1650.103 Definitions.

For the purpose of this subpart, terms are defined as follows:

(a) *Agency* means:

(1) An Executive agency as defined in section 105 of title 5, United States Code, including the U.S. Postal Service and the U.S. Postal Rate Commission;

(2) A military department as defined in section 102 of title 5, United States Code;

(3) An agency or court in the judicial branch, including a court as defined in section 610 of title 28, United States Code, the District Court for the Northern Mariana Islands, and the Judicial Panel on Multidistrict Litigation;

(4) An agency of the legislative branch, including the U.S. Senate and the U.S. House of Representatives; and

(5) Other independent establishments that are entities of the Federal Government.

(b) *Creditor agency* means an agency to which a debt is owed.

(c) *Debt* means an amount owed to the United States from sources that include loans insured or guaranteed by the United States and all other amounts due the United States from fees, leases, rents, royalties, services, sales of real or personal property, overpayments, penalties, damages, interest, fines and forfeitures (except those arising under the Uniform Code of Military Justice), and all other similar sources.

(d) *Disposable pay* means that part of current basic pay, special pay, incentive pay, retired 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. Deductions described in 5 CFR 581.105(b) through (f) will not be used to determine disposable pay subject to salary offset.

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

(f) *FCCS* means the Federal Claims Collection Standards jointly published by the Justice Department and the General Accounting Office at 4 CFR chapter II.

(g) *FRMS* means Financial and Resource Management Services, EEOC Office of Management.

(h) *Paying agency* means the agency employing the individual and authorizing the payment of his or her current pay.

(i) *Salary offset* means an administrative offset 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.

(j) *Waiver* means the cancellation, remission, forgiveness, or non-recovery of a debt allegedly owed by an employee to an agency as permitted or required by 5 U.S.C. 5584, 10 U.S.C. 2774, 32 U.S.C. 716, 5 U.S.C. 8346(b), or any other applicable statute.

§ 1650.104 Notice of salary offset.

(a) Notice of the Commission's intent to collect a debt by salary offset shall be given at least 30 days in advance. The written notice shall include, inter alia, the following:

(1) The Commission's determination that a debt is owed, including origin, nature, and amount of the debt;

(2) The Commission's intention to collect the debt by means of deduction from the employee's current disposal pay account;

(3) The amount, frequency, proposed beginning date, and duration of the intended deduction(s);

(4) An explanation of the Commission's policy concerning interest, penalties, and administrative costs;

(5) The employee's right to inspect and copy the Commission's records relating to the debt;

(6) The opportunity to establish a schedule for voluntary repayment of the debt agreeable to the Commission in lieu of an offset;

(7) The employee's right to an oral hearing, the method and time period for petitioning for a hearing, and the oral hearing procedures;

(8) The employee's right to request reconsideration of the validity of the indebtedness; and

(9) The employee's right to request waiver, forgiveness, or compromise and the standards involved for each.

(b) *Exception to the advance notice requirement.* Where an adjustment to pay arises out of an employee's election of coverage or change in coverage under a Federal benefits program requiring periodic deductions from the employee's pay and the amount to be recovered was accumulated over four pay periods or less, the advance notice provision in paragraph (a) of this section is