

(5) In the case of grants, an application is filed or renewed on or after July 26, 1996; and

(6) For all other Federal payments, as determined by the agency.

(b) *Waiver.* The head of an agency shall waive the application of subsection 208.3 (a) only upon receipt of written certification that the recipient does not have an account with a financial institution or an authorized payment agent.

(c) *Agency implementation plan.* If the head of an agency determines that the agency cannot make a Federal payment or class of Federal payment in accordance with §208.3 (a) due to the inability of the agency's system to make the payment(s) by electronic funds transfer, then the agency shall notify the Service immediately in writing and shall submit an implementation plan to the Service no later than January 1, 1997. The plan shall:

(1) Identify the specific type of payment(s) that cannot be made by electronic funds transfer;

(2) Describe the system problem that prevents the agency from making the payment(s) by electronic funds transfer; and

(3) Outline a proposed solution and provide a time table for solving the problem.

§208.4 Recipient responsibilities.

Each recipient of a Federal payment shall designate a financial institution or authorized payment agent through which a Federal payment may be made or certify in writing that such recipient does not have an account with a financial institution or an authorized payment agent; and provide the agency with the information requested by the agency in order to effect the payment.

APPENDIX A TO PART 208—MODEL CERTIFICATION

This appendix contains model language which may be used to qualify for a waiver under §208.3(b). Use of the model language is optional. An agency may customize the model language by making appropriate changes.

Any payment that we make to you will be made by electronic funds transfer unless you certify in writing that you do not have an

account with a financial institution or an authorized payment agent.

I certify that I do not have an account with a financial institution or an authorized payment agent.

Signature

PART 210—FEDERAL PAYMENTS THROUGH FINANCIAL INSTITUTIONS BY THE AUTOMATED CLEARING HOUSE METHOD

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AUTHORITY: 5 U.S.C. 5525; 12 U.S.C. 391; 31 U.S.C. 321; and other provisions of law.

SOURCE: 52 FR 2406, Jan. 22, 1987, unless otherwise noted.

Subpart A—General

§210.1 Scope of regulations.

This part governs Federal Government payments (benefit and nonbenefit) made by the Automated Clearing House (ACH) Method through Federal

Reserve Banks, and financial institutions to recipients maintaining accounts at financial institutions. It describes the procedures to be used, defines the obligations and responsibilities of the participants in ACH payments, and states terms of a contract between the Federal Government and those participants. It also prescribes the liabilities of financial institutions to the Federal Government arising from payments to deceased or incompetent recipients, and deceased beneficiaries of Federal benefit payments. Regulations promulgated by the Bureau of the Public Debt governing *Treasury Direct* payments made by the ACH Method for principal and interest on Government securities can be found at part 357 of this title; regulations promulgated by the Bureau of the Public Debt governing State and Local Government series payments made by the ACH for principal and interest on Government securities can be found at part 344 of this title.

[54 FR 20569, May 12, 1989]

§ 210.2 Definitions.

As used in this part, unless the context otherwise requires:

Account, recipient's account, designated account and *appropriate account* mean the account specified by a recipient or beneficiary into which payments under this part shall be deposited. These terms also include an account on which the financial institutions has, after execution of an enrollment, made changes to the account number of the type of account as authorized by § 210.4(f).

Automated Clearing House (ACH) means a payment mechanism through which participating institutions exchange funds electronically.

Allotment means a recurring specified deduction from pay of an employee for a legal purpose authorized by an employee to be paid to a recipient.

Allotter means the employee from whose pay an allotment is made.

Banking day means that part of any business day on which an office of a financial institution is open to the public for carrying out its banking functions.

Beneficiary means a person other than a recipient who is entitled to re-

ceive the benefit of all or part of a benefit payment from the Federal Government.

Benefit Payment is a payment of money for any Federal Government entitlement program or annuity. It can be either a one-time or recurring payment. These payments include, but are not limited to, the following nine:

- (1) Social Security.
- (2) Supplemental Security Income.
- (3) Black Lung.
- (4) Civil Service Retirement.
- (5) Railroad Retirement Board Retirement/Annuity.
- (6) Veterans Administration Compensation/Pension.
- (7) Central Intelligence Agency Annuity.
- (8) Military Retirement Annuity.
- (9) Coast Guard Retirement.

Business day means any day other than a Saturday, Sunday or legal holiday.

Discretionary allotment means an amount that a Federal Government employee is permitted, by the employing Federal agency, to direct voluntarily to be deducted from his or her net salary amount and paid to a recipient. The aggregate amount of discretionary allotments may not exceed the net pay due the employee for each pay period after all deductions required by law are subtracted.

Employee means an employee of a Federal Government agency, unless otherwise provided.

Federal Reserve Bank means any Federal Reserve District Head Office, branch, or regional check processing center that processes ACH payments for the Federal Government.

Financial Institution means any bank, savings bank, savings and loan association, credit union, or similar institution.

Nonbenefit Payment means any Federal Government payment other than a benefit payment. Nonbenefit payments can be one-time or recurring payments, including but not limited to: vendor payments, Internal Revenue Service tax refunds, Federal Government salary payments, and allotments therefrom, grants, travel disbursements and reimbursements, loans, and payments of principal and/or interest related to United States savings bonds, notes, and

other savings-type securities, and payments of service fees to organizations qualified to issue and/or redeem savings bonds.

Outstanding Total means the sum of all benefit payments received pursuant to an enrollment, after death or legal incapacity, minus any amount returned to or recovered by the Federal Government.

Payment means a sum of money which is transferred to a recipient in satisfaction of an obligation. A payment includes any Federal Government benefit, or nonbenefit payment.

Payment Date means the date specified in the payment instruction for a payment. It is the date on which the funds specified in the payment instruction are to be available for withdrawal from the recipient's account with the financial institution specified by the recipient, and on which the funds are to be made available to the financial institution by the Federal Reserve Bank with which the financial institution maintains or utilizes an account. If the payment date is not a business day for the financial institution receiving a payment, or for the Federal Reserve Bank from which it received such payment, then the next succeeding business day for both shall be deemed to be the payment date.

Payment instruction means an order issued by the Federal Government for the payment of money under this part. A payment instruction may be contained on:

(1) A letter, memorandum, telegram, bill, invoice, computer printout or similar record, or

(2) Any form of nonverbal communication, registered upon magnetic tape, disc or any other medium designed to capture and contain in durable form conventional signals used to electronically communicate messages.

Prenotification means a zero dollar ACH payment instruction. It is used to ensure that, before actual payment instructions are sent through a Federal Reserve Bank, the financial institution will be able to credit payments accurately to the designated account. A prenotification, if used, will precede the relevant first dollar payment instruction by at least ten (10) days and

is constructed from a recipient's enrollment to receive an ACH payment.

Program Agency means an agency of the Federal Government responsible for determining and initiating a payment to be made, and includes any department, agency, independent establishment, board, office, commission, or other establishment in the executive, legislative, or judicial branches of the Federal Government and any wholly-owned or -controlled Federal Government corporation.

Recipient means a person, corporation, or other public or private entity which is authorized by a program agency to receive benefit or nonbenefit payments from the Federal Government. Recipient includes a natural person or entity authorized by a program agency to receive benefit or nonbenefit payments from the Federal Government.

[52 FR 2406, Jan. 22, 1987, as amended at 54 FR 20569, May 12, 1989]

§210.3 Policy for payments by the Automated Clearing House method.

Once an ACH enrollment has been completed, all payments covered by that enrollment shall be made by the ACH method unless the United States Department of the Treasury (hereafter referred to as Treasury) determines that conditions exist that make payment by check or other means more appropriate.

§210.4 Recipients.

(a) In order for a recipient to receive a payment by the ACH method, the recipient shall designate the desired financial institution and account identification at that financial institution using an enrollment procedure prescribed by the Financial Management Service for such payments. The title of the account so designated shall include the name of the recipient.

(b) In executing an enrollment, a recipient:

(1) Agrees to the provisions of this part; and

(2) Authorizes the termination of any inconsistent previously executed enrollment or inconsistent payment instructions.

(c) Once an ACH enrollment has been effected, it shall remain in effect until

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it is terminated by one of the following events:

(1) A request from the recipient to the program agency to terminate the enrollment;

(2) A change in the title of an account which removes the name of the recipient, removes or adds the name of a beneficiary, or alters the interest of the beneficiary;

(3) The death or legal incapacity of a recipient, or the death of the beneficiary of a benefit payment; or

(4) The closing of the account.

Upon the occurrence of any of the foregoing events, except the death of the recipient or beneficiary, the recipient or representative payee shall execute a new enrollment before further payments may be credited to that account.

(5) The closing of a financial institution, whether voluntarily or involuntarily, without successor.

(d) A recipient who wishes to change the account or financial institution to which payment is directed shall execute a new enrollment.

(e) A recipient of a benefit payment made under this part may request only that the full amount of the payment be credited to one account on the books of a financial institution. Except as authorized by law or other regulations, the procedures set forth in this part shall not be used to effect an assignment of a payment.

(f) A financial institution may change the account numbers or, at the request of the recipient, the type of the recipient's account without executing a new enrollment provided no change is made to the title of the account or the interest of the recipient or beneficiary in the account. These changes must be communicated to the appropriate program agency or agencies in accordance with implementing instructions issued by the Federal Government.

[52 FR 2406, Jan. 22, 1987, as amended at 54 FR 20570, May 12, 1989]

§ 210.5 The Federal Government.

(a) The Federal agencies that perform disbursing functions will, in accordance with the provisions of this part, issue and direct payment instructions to the Federal Reserve Bank on whose books the financial institution named therein maintains or utilizes an

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account in sufficient time for the Federal Reserve Bank to carry out its responsibilities under this part.

(b) Procedural instructions will be issued by the Financial Management Service for the guidance of program agencies, Federal agencies that perform disbursing functions, Federal Reserve Banks, and financial institutions in the implementation of these regulations.

§ 210.6 Federal Reserve Banks.

(a) Each Federal Reserve Bank as Fiscal Agent of the United States shall receive payment instructions from the Federal Government and shall make available and pay to financial institutions amounts specified in these payment instructions, and shall otherwise carry out the procedures and conduct the operations contemplated under this part. Each Federal Reserve Bank may issue operating circulars (sometimes referred to as operating letters or bulletins) not inconsistent with this part, governing the details of its handling of payments under this part and containing such provisions as are required and permitted by this part.

(b) The Federal Government by its action of issuing and sending any payment instruction contained in the media specified in § 210.2(k) shall be deemed to authorize the Federal Reserve Banks to:

(1) Pay the amount specified in the payment instruction to the debit of the general account of the Treasury on the payment date; and

(2) Handle and act upon the payment instruction.

(c) Upon receipt of a payment instruction, a Federal Reserve Bank, either directly or through another Federal Reserve Bank, correspondent financial institution or service provider, shall deliver or make available to the financial institution identified in the payment instruction the information contained in the payment instruction no later than the opening of business on the payment date on a medium as prescribed by the Federal Reserve Bank.

(d) A financial institution by its action in maintaining or utilizing an account at a Federal Reserve Bank shall be deemed to authorize that Federal

Reserve Bank to credit the amount of the payment to the account of the financial institution on its books, or the account of its designated correspondent maintaining an account with the Federal Reserve Bank.

(e) A Federal Reserve Bank receiving a payment instruction from the Federal Government shall make the amount specified in the payment instruction available to the financial institution, referred to in paragraph (d) of this section, on the payment date. In the case of a Federal Government benefit or salary payment, the amount of the payment shall be made available by the opening of business on the payment date.

(f) Each Federal Reserve Bank shall be responsible only to the Treasury and shall not be liable to any other party for any loss resulting from the Federal Reserve Bank's action under this section.

[52 FR 2406, Jan. 22, 1987, as amended at 54 FR 20570, May 12, 1989; 58 FR 21636, Apr. 22, 1993]

§210.7 Financial institutions.

(a) A financial institution's execution of actions required of it in connection with an enrollment shall constitute its agreement to the terms of this part with respect to each payment received by it pursuant to the enrollment. Regardless of whether it has executed an enrollment, a financial institution's acceptance and handling of a payment issued pursuant to this part shall constitute its agreement to the provisions of this part.

(b) A financial institution in executing an enrollment shall be responsible for:

(1) The completeness and accuracy of the data provided by it with respect to the enrollment, and

(2) Verifying that the account number entered by the recipient during enrollment corresponds to an account bearing the name of the recipient.

(c) A financial institution wishing to terminate an enrollment shall do so by giving written notice to the recipient. The termination shall become effective 30 days after the financial institution has sent the notice to the recipient. However, terminations for reasons of fraud shall be effective immediately.

(d) A financial institution receiving a nonbenefit (except Federal salary) payment instruction under this part shall credit the amount of the payment to the designated account of the recipient on its books, and it shall make the amount available on the payment date. In the case of a Federal Government salary or benefit payment instruction, the financial institution shall make the amount of the payment available for withdrawal not later than the opening of business on the payment date. *Available* in this paragraph means accessible through any means of access provided by a financial institution to its customers for the recipients' type of account, for example, automated teller machines owned by the financial institution, or automatic transfers from the recipient's account. If the payments or any related information received by the financial institution from a Federal Reserve Bank do not balance; are incomplete; are clearly erroneous on their face; or are incapable of being processed, the financial institution, after assuring itself that neither it nor any of its agents are responsible, shall immediately notify the Federal Reserve Bank in order that it may deliver corrected information to the financial institution.

(e) A financial institution receiving a payment under this part shall credit the amount of the payment to the account specified in the payment instruction. If the financial institution is unable to credit the amount of the payment to the account indicated in the payment instruction because, for example, such an account does not exist on its books, or because in processing the payment it has reason to believe the account indicated in the payment instruction is not the account designated by the recipient, it shall either:

(1) Return the payment to the Federal Reserve Bank with a statement identifying the reason therefor; or

(2) Credit the amount of the payment to the account designated by the recipient.

A credit to any other account by a financial institution shall constitute a breach of its warranty made by reason of paragraph (i) of this section.

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(f) A financial institution shall immediately return to the Federal Government through the Federal Reserve Bank any payment received by the financial institution:

(1) After termination of the enrollment pursuant to § 210.4(c)(2) and before the execution of a new enrollment;

(2) After termination of the enrollment pursuant to § 210.7(c) has become effective;

(3) After the financial institution learns of the death or legal incapacity of the recipient, or the death of the beneficiary, of a benefit payment, regardless of whether or not notice has been received from the Federal Government; or

(4) After the closing of the recipient's account.

(g) A financial institution to which a payment is sent under this part does not thereby become a Federal Government depository and shall not advertise itself as one because of that fact.

(h) If any change in account numbers permitted by § 210.4(f) is made by a financial institution, the financial institution shall be liable to the recipient for any lost or late payment caused by the financial institution's actions in processing the change.

(i) Each financial institution by its action of handling a payment under this part shall be deemed to warrant to the Federal Government that it has handled the payment in accordance with the requirements of this part. In addition to the liability which may be imposed pursuant to § 210.11, if the foregoing warranty is breached, the financial institution shall be liable to the Federal Government for any loss sustained by the Federal Government, but only to the extent that the loss was the result of the breach. Except as provided in this section §§ 210.10(b) and 210.11, a financial institution shall not be liable under this part to any party for its handling of a payment.

[52 FR 2406, Jan. 22, 1987, as amended at 54 FR 20570, May 12, 1989]

§ 210.8 Prenotification.

(a) Regardless of whether it has participated in an enrollment, a financial institution's acceptance and handling of a prenotification or a payment issued pursuant to this part shall con-

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stitute its agreement to the provisions of this part.

(b) At the discretion of the Service, a prenotification may be originated for any ACH payment.

(c) The financial institution shall respond to the prenotification message by midnight of the banking day following the banking day of receipt of such prenotification if the information contained in the message does not agree with the corresponding record of the financial institution, or if for any reason the financial institution will not be able to credit the payment in accordance with this part.

(d) If a financial institution does not respond to a prenotification message within the specified time period, the financial institution shall be deemed to have accepted the prenotification and to have warranted to the Federal Government that it shall make the payment available on time to the account specified in the prenotification.

[54 FR 20570, May 12, 1989]

§ 210.9 Timeliness of action.

If, because of circumstances beyond its control, action by the Federal Government, a Federal Reserve Bank, or a financial institution is delayed beyond the time prescribed for the action (including the payment date) by this part, by the operating circulars of the Federal Reserve Banks, or by applicable law, the time within which the action shall be completed shall be extended for such time after the cause of the delay ceases to operate as shall be necessary to take or complete the action, provided the Federal Government, the Federal Reserve Bank, or the financial institution exercises such diligence as the circumstances require.

[52 FR 2406, Jan. 22, 1987, redesignated at 54 FR 20570, May 12, 1989]

§ 210.10 Liability of, and acquittance to, the United States.

(a) The United States shall be liable to a recipient for the failure to credit the proper amount of a payment to the appropriate account of the recipient as required by this part. This liability shall be limited to the amount of the payment.

(b) The United States shall be liable to the financial institution, up to the amount of the payment, for a loss sustained by the financial institution as a result of its crediting the amount of the payment to the account specified in the payment instruction, if the financial institution has handled the payment in accordance with this part. The foregoing does not extend to benefit payments received by the financial institution after the death or legal incapacity of the recipient or death of the beneficiary, in which event §210.11 shall govern.

(c) The crediting of the amount of a payment to the appropriate account of a recipient on the books of the appropriate financial institution shall constitute a full acquittance to the United States for the amount of the payment.

[52 FR 2406, Jan. 22, 1987. Redesignated at 54 FR 20570, May 12, 1989]

§210.11 Fraud.

(a) The False Claims Act, 31 U.S.C. 3729, *et seq.*, provides for the recovery of damages and a civil penalty from any person who knowingly presents to the Federal Government, or causes to be presented, a false or fraudulent claim for payment, or uses a false record or statement in connection with such a claim. In addition, criminal penalties are provided in 18 U.S.C. 1001 for knowingly making false or fraudulent statements or representations to agencies of the Federal Government, and in 18 U.S.C. 1002 for knowingly possessing false documents for the purpose of enabling another to receive a payment from the Federal Government. These provisions are in addition to the Federal Government's remedies under common law.

(b) A financial institution shall verify the identity of any person who initiates and executes an enrollment through such financial institution. The Federal Government shall verify the identity of any person who presents an enrollment to the Federal Government without prior review or execution by a financial institution. A financial institution that executes an enrollment in which the recipient's or beneficiary's signature is forged or other information is falsified shall be liable to the Federal Government for all payments

made in reliance thereon, except for the case where the beneficiary was deceased at the time the recipient executed the enrollment and if the financial institution had no knowledge of the beneficiary's death. However, once the financial institution has provided written or electronic notice to the program agency that a payment certified by the program agency has not been received by the correct recipient or beneficiary, it shall not be liable for any payments based on the forged, false, or fraudulent information which are certified for payment after the date such written or electronic notice is received by the program agency.

[52 FR 2406, Jan. 22, 1987. Redesignated and amended at 54 FR 20570, May 12, 1989; 54 FR 50618, Dec. 8, 1989]

Subpart B—Repayment of Benefit Payments

SOURCE: 52 FR 2406, Jan. 22, 1987, unless otherwise noted. Redesignated at 54 FR 50618, Dec. 8, 1989.

§210.12 Death or legal incapacity of recipients or death of beneficiaries.

(a) A financial institution shall be liable to the Federal Government for the total amount of all benefit payments received after the death or legal incapacity of the recipient or the death of the beneficiary, except as provided in paragraph (f) of this section. However, a financial institution may limit its liability if the financial institution did not have knowledge of the death or legal incapacity at the time of the deposit or withdrawal of any of the benefit payments made after the death or legal incapacity, and if it fulfills the requirements of this section and those of §§210.12 and 210.13.

(b) Except as provided in paragraph (f) of this section, if limitation of liability is available to a financial institution under this part, the amount of its liability shall be:

(1) An amount equal to the amount in the recipient's or beneficiary's account as defined in §210.12(b)(2)(i), plus.

(2) An amount equal to the benefit payments received by the financial institution within 45 days after the death or legal incapacity of the recipient or the death of the beneficiary; *Provided,*

that the financial institution will be liable only for the 45-day amount to the extent described in §210.12(d).

(c) Although a financial institution shall be liable for an amount equal to the amount in the recipient's or beneficiary's account, plus the amount of benefit payments received within 45 days after the death or legal incapacity of the recipient or the beneficiary, this part does not authorize or direct a financial institution to debit the account of any customer, living or deceased, including that of the recipient or beneficiary, for the financial institution's liability to the Federal Government under this part. The amount in the recipient's or beneficiary's account is only a measure of the financial institution's liability. Nothing in this part shall be construed to affect any right a financial institution may have under State law or the financial institution's contract with a customer to recover from the customer's account an amount returned to the Federal Government in compliance with this part.

(d) A financial institution shall be deemed to have knowledge of the death or legal incapacity of the recipient or beneficiary when it is brought to the attention of a financial institution employee who handles benefits payments, or when it would have been brought to that person's attention if the financial institution had exercised due diligence. The financial institution will be considered to have exercised due diligence only if it maintains procedures under which, once it learns of the death of a depositor, it determines whether its deceased depositor is a recipient or beneficiary of benefit payments under this part, and immediately communicates such information to the appropriate employees, and it complies with such procedures. This obligation does not impose a duty on a financial institution to learn of the deaths of its customers by searching obituaries or any other means, unless it does so for purposes other than its participation in the payment system governed by this part.

(e) A financial institution that fails to comply timely with the collection procedures set forth in §210.12 or the Notice to Account Owners requirement

of §210.13 may not limit its liability in accordance with paragraph (a) of this section.

(f) A financial institution will not be liable under this part for benefit payments made after the death of a beneficiary if the beneficiary was deceased at the time the recipient executed an enrollment and if the financial institution had no knowledge of the beneficiary's death.

§210.13 Collection procedures.

The amount for which the financial institution is liable under §210.11 shall be collected as follows:

(a) For each type of benefit payment, the Federal Government will send a Notice of Reclamation to the financial institution. The Notice of Reclamation will identify benefit payments sent to the financial institution for credit to the account of a recipient or beneficiary which should have been returned by the financial institution because of the death or legal incapacity of a recipient or the death of a beneficiary.

(b) Upon receipt of the Notice of Reclamation, the financial institution must do one of the following:

(1) If the financial institution had knowledge of the death or legal incapacity and did not immediately return to the Federal Government all benefit payments received after it acquired that knowledge, the financial institution shall immediately return to the Federal Government an amount equal to the outstanding total of benefit payments listed on the notice that it received after it learned of the death. With respect to any benefit payments received prior to learning of the death that have not been returned, the financial institution shall certify on the Notice of Reclamation the date it learned of the death and follow the procedure in paragraph (b)(2) of this section.

(2) If the financial institution had no knowledge of the death or legal incapacity at the time any benefit payments made after the death or legal incapacity were credited to the recipient's or beneficiary's account, an appropriate official of the financial institution shall certify on the Notice of Reclamation that it had no knowledge of the death or legal incapacity and

fully complete the Notice of Reclamation in accordance with its instructions and do the following:

(i) The financial institution shall return to the Federal Government both the executed Notice of Reclamation and an amount equal to the amount in the account or the outstanding total, whichever is less. The amount in the account is the balance when the financial institution has received the Notice of Reclamation and has had a reasonable time to take action based on its receipts, plus any additions to the account balance made before the financial institution returns the completed Notice of Reclamation to the Federal Government. For the purposes of this paragraph, action is taken within a reasonable time if it is taken not later than the close of business day following the receipt of the Notice of Reclamation.

(ii) If the amount returned is less than the amount requested in the notice, the financial institution shall include with the Notice of Reclamation the name and the most current address on its records of any person(s) who withdrew funds from the account after the death or legal incapacity. If the financial institution is unable to supply the name(s) of the withdrawer(s), it shall provide the names and most current addresses on its records of any co-owners of the account or other persons authorized to withdraw. If it is unable to supply the names or addresses of the withdrawers or co-owners, it shall state the reason for its inability on the Notice of Reclamation.

(3) If the Federal Government issues a second or subsequent Notice of Reclamation for the same type of payment for the same recipient or beneficiary, the financial institution shall be liable with respect to such second or subsequent Notice only for an amount equal to the amount in the account at the time it receives a second or subsequent Notice of Reclamation, plus any further additions to the account balance up to the date it returns these subsequent Notices of Reclamation. For a second or subsequent Notice of Reclamation for the same type of payment for the same recipient or beneficiary, the financial institution shall not be liable for an amount in excess of the

amount determined under the first sentence of this paragraph, attributable to benefit payments received within 45 days after the death or legal incapacity if it complied properly and timely to the first Notice of Reclamation.

(c) If the Federal Government does not receive a response to the Notice of Reclamation within 30 days, it will issue a follow-up to ensure that the original Notice of Reclamation was received. If the Federal Government does not receive from the financial institution the fully completed and properly executed Notice of Reclamation along with the amount due under §210.11(b)(1) within 60 days of the issue date of the original Notice of Reclamation, the financial institution shall be liable for the outstanding total listed on the Notice of Reclamation. Following the sixtieth day after the date of the original Notice of Reclamation, the Federal Government will instruct the appropriate Federal Reserve Bank to debit the account utilized by the financial institution for receipt of benefit payments in the amount of the outstanding total. By receiving benefit payments under this part, the financial institution is deemed to authorize this debit. The Federal Reserve Bank will provide advice of the debit to the financial institution.

(d) After the financial institution has paid to the Federal Government an amount equal to the amount in the recipient's account as provided in §210.11(b)(1), if the program agency is unable to collect the entire outstanding total from the withdrawer(s), the financial institution shall be liable for an additional amount equal to the benefit payment received by it within 45 days after the death or legal incapacity, or the balance of the outstanding total, whichever is less. The Federal Government will instruct the appropriate Federal Reserve Bank to debit the account utilized by the financial institution for receipt of benefit payments in the amount of the outstanding total. By receiving benefit payments under this part, the financial institution is deemed to authorize this debit. The Federal Reserve Bank will provide advice of the debit to the financial institution.

(e) Immediately upon learning of the death or legal incapacity regardless of whether there has been notification from the Federal Government, the financial institution shall return to the Federal Government any further benefit payments it receives and notify the Federal Government that it has learned of the death or legal incapacity in order that the above collection procedures can be commenced. See § 210.7(f)(3).

§ 210.14 Notice to Account Owners of collection action.

(a) Upon receipt by a financial institution of the Notice of Reclamation as described in § 210.12(a), the financial institution shall immediately mail to the current address(es) of the account owner(s) of record a copy of the Notice to Account Owners included with the Notice of Reclamation.

(b) The financial institution shall indicate with the Notice to Account Owners any action it has taken or intends to take with respect to the recipient's or beneficiary's account in connection with the Federal Government's collection action against the financial institution.

(c) The financial institution is not authorized by this part to debit the account of any party or to deposit any funds from any account in a suspense account or escrow account or the equivalent. If such action is taken, it must be under authority of State law or the financial institution's contract with its depositor(s).

(d) The financial institution's liability under this part is not affected by any action taken by it to recover from any party the amount of the financial institution's liability to the Federal Government.

(e) Failure to mail the Notice to Account Owners, or failure to certify on the Notice of Reclamation that it has done so, shall result in the forfeiture by the financial institution of its ability under this part to limit its liability. See § 210.11(e).

§ 210.15 Erroneous death information.

(a) In the event that the financial institution is advised that the Federal Government's information that the recipient or beneficiary is deceased is in-

correct, or that the date of death is incorrect, the financial institution shall certify the correct information to the Federal Government by one of the following means:

(1) Certify on the "Notice of Reclamation" that the person whose name is reflected on the notice is alive, or that the date of death is incorrect, and that the financial institution took prudent measures to assure that the person was alive or that the date of death was erroneous. Prudent measures to assure that the person was alive include, but are not limited to, the named person providing the financial institution adequate identification, or obtaining through a third person a signed, dated and notarized statement from the named person. Prudent measures to assure the correct date of death include obtaining a death certificate.

(2) If there is any question regarding the sufficiency of the evidence presented to demonstrate that the date or fact of death is incorrect, the individual presenting the evidence should be referred by the financial institution to the agency making the payment, e.g., the Social Security Administration or the Veterans Administration. The agency will certify in writing to the financial institution the corrected information. The financial institution shall then return the agency's certification with the Notice of Reclamation.

(b) If the Federal Government's information that the recipient or beneficiary is deceased is in error, the financial institution shall be relieved of its liability, and shall no longer be subject to collection procedures under this part, if an accurate certification in accordance with paragraph (a) of this section is received by the Federal Government, on or with a properly completed Notice of Reclamation, within 60 days of the date of the original Notice of Reclamation to the financial institution.

(c) If the date of the death on the Notice of Reclamation is in error, the financial institution shall be relieved of an appropriate part of its liability if an accurate certification in accordance with paragraph (a) of this section is received by the Federal Government, on or with properly completed Notice of Reclamation, within 60 days of the date

of the original Notice of Reclamation to the financial institution. In that event, the financial institution shall adjust the outstanding total on the Notice of Reclamation to exclude benefit payments made before the corrected date of death. The financial institution shall include an explanation of the adjustment with the Notice of Reclamation. If correction of an error relating to the date of death shown on the Notice of Reclamation would result in additional payments being due to the Federal Government, the financial institution shall so notify the Federal Government when it returns the Notice of Reclamation.

(d) If after the financial institution has returned to the Federal Government a completed Notice of Reclamation and had made payment of its liability, the financial institution learns that the fact of death or date of death was in error, it should bring the information to the attention of the agency which made the benefit payments, e.g., the Social Security Administration or the Railroad Retirement Board. The agency will refund to the financial institution, without interest, the appropriate amount of funds paid by the financial institution pursuant to § 210.12, including funds debited from its Federal Reserve account under § 210.12 (c) or (d).

[52 FR 2406, Jan. 22, 1987; 52 FR 3917, Feb. 6, 1987. Redesignated at 54 FR 50618, Dec. 8, 1989]

Subpart C—Discretionary Salary Allotments

SOURCE: 54 FR 20571, May 12, 1989, unless otherwise noted.

§ 210.16 General.

This subpart applies only to discretionary allotments. This regulation does not supersede, and shall not be used to circumvent, the requirements of particular statutes, Executive orders or other executive branch regulations; for example, see Office of Personnel Management regulations at 5 CFR part 550, subpart C implementing 5 U.S.C. 5525. Savings allotments are governed under the regulations at 31 CFR part 209.

§ 210.17 Criteria and standards.

(a) Discretionary allotments may be made for any purpose determined appropriate by the head of an agency and which are consistent with subchapter III of chapter 55 of title 5, United States Code, and part 550, subpart C of chapter 1 of title 5, Code of Federal Regulations.

(b) Discretionary allotment payments shall be made in accordance with the schedule established by the program agency, provided such allotment payments are not issued until the related earnings have accrued.

§ 210.18 Method of payment.

(a) Payment of discretionary allotments shall be made following the policy and procedures outlined in 31 CFR part 210, subpart A.

(b) Discretionary allotments shall be made available by the allotter to the recipient on the payment date in accordance with § 210.7(d).

PART 211—DELIVERY OF CHECKS AND WARRANTS TO ADDRESSES OUTSIDE THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS

Sec.

- 211.1 Withholding delivery of checks.
- 211.2 Claims for the release of withheld checks or for the proceeds thereof.
- 211.3 Exceptions.
- 211.4 Implementing instructions.

AUTHORITY: 5 U.S.C. 301; 31 U.S.C. 321 and 3329.

§ 211.1 Withholding delivery of checks.

(a) It is hereby determined that postal, transportation or banking facilities in general or local conditions in the Republic of Cuba, Democratic Kampuchea, and the Democratic People's Republic of Korea (North Korea) are such that there is not a reasonable assurance that a payee in those areas will actually receive checks or warrants drawn against funds of the United States, or agencies or instrumentalities thereof, and be able to negotiate the same for full value.

(b) A check or warrant intended for delivery in any of the areas named in paragraph (a) of this section shall be withheld unless the check or warrant is