§ 15.65 Referral of a compromise offer.

The NRC may refer a debtor's firm written offer of compromise which is substantial in amount to the GAO or to DOJ if the offer should be accepted.

§ 15.67 Referral to the Department of Justice.

(a) Claims for which the gross original amount is over $500,000 must be referred to the Commercial Litigation Branch, Civil Division, Department of Justice, Washington, DC 20530. Claims for which the gross original amount is $500,000 or less must be referred to the United States Attorney in whose district the debtor can be found.

(b) A claim of less than $500, exclusive of interest, is not referred for litigation unless:

(1) Referral is important to a significant enforcement policy; or

(2) The debtor not only has the clear ability to pay the claim but the Government can effectively enforce payment.

(c) A claim on which the NRC holds a judgment is referred to the DOJ for further action if the NRC holds a judgment

PART 16—SALARY OFFSET PROCEDURES FOR COLLECTING DEBTS OWED BY FEDERAL EMPLOYEES TO THE FEDERAL GOVERNMENT

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SOURCE: 56 FR 51830, Oct. 16, 1991, unless otherwise noted.
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§ 16.3

(1) The Internal Revenue Code of 1954, as amended, 26 U.S.C. 1 et seq.;
(2) The Social Security Act, 42 U.S.C. 301 et seq.;
(3) The tariff laws of the United States; or
(4) Any case where a collection of a debt by salary offset is explicitly provided for or prohibited by another statute.

c) These procedures do not apply to any adjustment to pay arising out of an employee's selection 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 pay periods or less.

d) These procedures do not preclude the compromise, suspension, or termination of collection action where appropriate under the standards implementing the Federal Claims Collection Act, 31 U.S.C. 3711 et seq., 4 CFR parts 101-105.

e) This part does not preclude an employee from requesting waiver of an overpayment under 5 U.S.C. 5584, 10 U.S.C. 2774, or 32 U.S.C. 716 or in any way questioning the amount or validity of the debt by submitting a subsequent claim to the NRC. This part does not preclude an employee from requesting a waiver pursuant to other statutory provisions applicable to the particular debt being collected.


§ 16.3 Definitions.

For the purposes of this part, the following definitions apply:

Administrative charges are those amounts assessed by NRC to cover the costs of processing and handling delinquent debts due the Government.

Administrative offset means withholding money payable by the United States Government to, or held by the Government for, a person to satisfy a debt the person owes the United States Government.

Agency means an executive agency as is defined at 5 U.S.C. 105 including the U.S. Postal Service, the U.S. Postal Rate Commission, a military department as defined at 5 U.S.C. 102, an agency or court in the judicial branch, an agency of the legislative branch including the U.S. Senate and House of Representatives and other independent establishments that are entities of the Federal Government.

Creditor agency means the agency to which a debt is owed.

Debt means an amount that has been determined by an appropriate NRC official or an appropriate official of another agency to be owed to the United States from sources which 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, interests, fines, forfeitures (except those arising under the Uniform Code of Military Justice), and all other similar sources.

Disposable pay means the amount that remains from an employee's 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 after required deductions for social security; Federal, state or local income taxes; health insurance premiums; retirement contributions; life insurance premiums; Federal employment taxes; and any other deductions that are required to be withheld by law. Deductions described in 5 CFR 581.105 (b) through (f) are excluded when determining disposable pay subject to salary offset.

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


Hearing official means an individual responsible for conducting any hearing with respect to the existence or amount of a debt claimed or the repayment schedule if not established by written agreement between the employee and the NRC, and who renders a decision on the basis of this hearing.

Paying agency means the agency that employs the individual who owes the debt and authorizes the payment of his/her current pay.

Salary offset means an administrative offset to collect a debt under 5 U.S.C.
§ 16.5 Application.

The regulations in this part are to be followed when:

(a) The NRC is owed a debt by an individual currently employed by another Federal agency;

(b) The NRC is owed a debt by an individual who is a current employee of the NRC; or

(c) The NRC employs an individual who owes a debt to another Federal agency.

§ 16.7 Notice requirements.

(a) If the NRC is the creditor agency, deductions will not be made unless the NRC provides the employee with a signed written notice of the debt at least 30 days before salary offset commences. The notice will be delivered in person or by certified or registered mail, return receipt requested, with receipt returned as proof of delivery.

(b) The written notice must contain:

(1) A statement that the debt is owed and an explanation of its origin, nature, and amount;

(2) The NRC's intention to collect the debt by deducting from the employee's current disposable pay account;

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

(4) An explanation of interest, penalties, and administrative charges, including a statement that these charges will be assessed unless excused in accordance with the Federal Claims Collection Standards at 4 CFR parts 101-105;

(5) The employee's right to inspect and copy government records pertaining to the debt or, if the employee or his or her representative cannot personally inspect the records, to request and receive a copy of these records;

(6) If not previously provided, the opportunity (under terms agreeable to the NRC) to establish a schedule for the voluntary repayment of the debt or to enter into a written agreement to establish a schedule for repayment of the debt in lieu of offset (4 CFR 102.2(e)). The agreement must be in writing, signed by both the employee and the NRC, and documented in the NRC's files;

(7) The employee's right to a hearing conducted by an official arranged for by the NRC (an administrative law judge, or alternatively, a hearing official not under the control of the head of the agency) if a petition is filed as prescribed in § 16.9;

(8) The methods and time period for petitioning for hearings;

(9) A statement that the timely filing of a petition for a hearing will stay the commencement of collection proceedings;

(10) A statement that a final decision on the hearing will be issued not later than 60 days after the filing of the petition requesting the hearing unless the employee requests and the hearing official grants a delay in the proceedings;

(11) A statement that knowingly false or frivolous statements, representations, or evidence may subject the employee to appropriate disciplinary procedures under chapter 75 of title 5, United States Code and 5 CFR part 752, penalties under the False Claims Act, sections 3729-3731 of title 31, United States Code or other applicable statutory authority, or criminal penalties under sections 286, 287, 1001 and 1002 of title 18, United States Code or any other applicable statutory authority;

(12) A statement of other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made; and

(13) Unless there are contractual or statutory provisions to the contrary, a statement that amounts paid on or deducted for the debt which are later waived or found not owed to the United States will be promptly refunded to the employee.
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§ 16.9 Hearing.

(a) Request for hearing. (1) An employee shall file a petition for a hearing in accordance with the instructions outlined in the creditor agency’s notice of offset.

(2) If the NRC is the creditor agency, a hearing may be requested by filing a written petition stating why the employee disputes the existence or amount of the debt or the repayment schedule if it was not established by written agreement between the employee and the NRC. The employee shall sign the petition and fully identify and explain with reasonable specificity all the facts, evidence, and witnesses, if any, which the employee believes support his or her position. The petition for a hearing must be received no later than fifteen (15) calendar days after receipt of the notice of offset unless the employee can show that the delay in meeting the deadline date was because of circumstances beyond his or her control or because of failure to receive notice of the time limit (unless otherwise aware of it).

(b) Hearing procedures. (1) The hearing will be presided over by a hearing official arranged by NRC (an administrative law judge or, alternatively, a hearing official not under the supervision or control of the head of the agency.)

(2) The hearing must conform to procedures contained in the Federal Claims Collection Standards 4 CFR 102.3(c). The burden is on the employee to demonstrate either that the existence or the amount of the debt is in error or that the terms of the repayment schedule would result in undue financial hardship or would be against equity and good conscience.

(3) An employee is entitled to representation of his or her choice at any stage of the proceeding. NRC attorneys may not be provided as representatives for the debtor. The NRC will not compensate the debtor for representation expenses, including hourly fees for attorneys, travel expenses, and costs for reproducing documents.

§ 16.11 Written decision.

(a) The hearing official will issue a written opinion no later than 60 days after the hearing.

(b) The written opinion must include:

(1) A statement of the facts presented to demonstrate the nature and origin of the alleged debt;

(2) The hearing official’s analysis, findings, and conclusions;

(3) The amount and validity of the debt; and

(4) The repayment schedule, where appropriate.

§ 16.13 Coordinating offset with another Federal agency.

(a) The NRC as the creditor agency. When the NRC determines that an employee of another Federal agency owes a delinquent debt to the NRC, the NRC will, as appropriate:

(1) Arrange for a hearing upon the proper petitioning by the employee;

(2) Certify in writing that the employee owes the debt, the amount and basis of the debt, the date on which payment is due, the date the Government’s right to collect the debt accrued, and that NRC procedures for salary offset implementing 5 U.S.C. 5514 have been approved by the Office of Personnel Management;

(3) If collection must be made in installments, the NRC must advise the paying agency of the amount or percentage of disposable pay to be collected in each installment;

(4) Advise the paying agency of the actions taken under 5 U.S.C. 5514(a) and provide the dates on which action was taken unless the employee has consented to salary offset in writing or signed a statement acknowledging receipt of procedures required by law. The written consent or acknowledgment must be sent to the paying agency;

(5) Except as otherwise provided in this paragraph, the NRC must submit a debt claim containing the information specified in paragraphs (a) (2) through (4) of this section and an installment agreement (or other instruction on the payment schedule), if applicable, to the employee’s paying agency.

(6) Upon receipt of notification that the employee has transferred to another agency before the debt is collected in full, the NRC will submit a properly certified claim to the new paying agency so that collection can be resumed;
§ 16.15 Procedures for salary offset.

(a) Deductions to liquidate an employee's debt will be by the method and in the amount stated in the NRC's notice of intention to offset as provided in §16.7. Debts will be collected in one lump sum where possible. If the employee is financially unable to pay in one lump sum, collection must be made in installments.

(b) Debts will be collected by deduction at officially established pay intervals from an employee's current pay account unless alternative arrangements for repayment are made.

(c) Installment deductions will be made over a period not greater than the anticipated period of employment. The size of installment deductions must bear a reasonable relationship to the size of the debt and the employee's ability to pay. The deduction for the pay intervals for any period may not exceed 15% of disposable pay unless the employee has agreed in writing to a deduction of a greater amount.

(d) Offset against any subsequent payment due an employee who retires or resigns or whose employment or period of active duty ends before collection of the debt is completed is provided for in accordance with 31 U.S.C. 3716. These payments include but are not limited to final salary payment or lump-sum leave due the employee from the paying agency as of the date of separation to the extent necessary to liquidate the debt.

§ 16.17 Refunds.

(a) The NRC will refund promptly any amounts deducted to satisfy debts owed to the NRC when the debt is waived, found not owed to the NRC, or when directed by an administrative or judicial order.

(b) The creditor agency will promptly return any amounts deducted by NRC to satisfy debts owed to the creditor agency when the debt is waived, found not owed, or when directed by an administrative or judicial order.
(c) Unless required or permitted by law or contract, refunds under this section may not bear interest.

§ 16.19 Statute of limitations.
If a debt has been outstanding for more than 10 years after the agency’s right to collect the debt first accrued, the agency may not collect by salary offset unless facts material to the Government’s right to collect were not known and could not reasonably have been known by the NRC official or officials who were charged with the responsibility for discovery and collection of the debts.

§ 16.21 Non-waiver of rights.
An employee’s involuntary payment of all or any part of a debt collected under these regulations will not be construed as a waiver of any rights that the employee may have under 5 U.S.C. 5514 or any other provision of contract or law, unless there are statutes or contract(s) to the contrary.

§ 16.23 Interest, penalties, and administrative charges.
Charges may be assessed for interest, penalties, and administrative charges in accordance with the Federal Claims Collection Standards, 4 CFR 102.13.

PART 19—NOTICES, INSTRUCTIONS
AND REPORTS TO WORKERS: INVESTIGATIONS

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PART 19—NOTICES, INSTRUCTIONS
AND REPORTS TO WORKERS: INVESTIGATIONS

§ 19.1 Purpose.
The regulations in this part establish requirements for notices, instructions, and reports by licensees to individuals participating in licensed activities and options available to these individuals in connection with Commission inspections of licensees to ascertain compliance with the provisions of the Atomic Energy Act of 1954, as amended, title II of the Energy Reorganization Act of 1974, and regulations, orders, and licenses thereunder regarding radiological working conditions. The regulations in this part also establish the rights and responsibilities of the Commission and individuals during interviews compelled by subpoena as part of agency inspections or investigations pursuant to section 161c of the Atomic Energy Act of 1954, as amended, on any matter within the Commission’s jurisdiction.

[55 FR 247, Jan. 4, 1990]

§ 19.2 Scope.
The regulations in this part apply to all persons who receive, possess, use, or transfer material licensed by the Nuclear Regulatory Commission pursuant to the regulations in parts 30 through 36, 39, 40, 60, 61, 70, or part 72 of this chapter, including persons licensed to operate a production or utilization facility pursuant to part 50 of this chapter, persons licensed to possess power reactor spent fuel in an independent spent fuel storage installation (ISFSI) pursuant to part 72 of this chapter, and in accordance with 10 CFR 76.60 to persons required to obtain a certificate of compliance or an approved compliance plan under part 76 of this chapter. The