

## Nuclear Regulatory Commission

## § 16.3

(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 renewal of the judgment lien or enforced collection proceedings are justified under the criteria discussed in this part.

(d) Claims must be referred to the Department of Justice in the manner prescribed by 4 CFR 105.2. Care must be taken to preserve all files, records, and exhibits on claims referred under paragraphs (a) and (b) of this section.

[47 FR 7616, Feb. 22, 1982, as amended at 55 FR 32381, Aug. 9, 1990]

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

#### Sec.

- 16.1 Purpose and scope.
- 16.3 Definitions.
- 16.5 Application.
- 16.7 Notice requirements.
- 16.9 Hearing.
- 16.11 Written decision.
- 16.13 Coordinating offset with another Federal agency.
- 16.15 Procedures for salary offset.
- 16.17 Refunds.
- 16.19 Statute of limitations.
- 16.21 Non-waiver of rights.
- 16.23 Interest, penalties, and administrative charges.

**AUTHORITY:** Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201), sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 3, Pub. L. 89-508, 80 Stat. 308, as amended (31 U.S.C. 3711, 3717, 3718); sec. 5, Pub. L. 89-508, 80 Stat. 308, as amended (31 U.S.C. 3716), Debt Collection Act of 1982, Pub. L. 97-365, 96 Stat. 1749-1758; Federal Claims Collection Standards, 4 CFR parts 101-105; 5 U.S.C. 5514, as amended; 5 CFR 550.1101-550.1108.

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

#### § 16.1 Purpose and scope.

(a) This part provides procedures for the collection by administrative offset of a Federal employee's salary without his/her consent to satisfy certain debts owed to the Federal Government. This

part applies to all Federal employees who owe debts to the Nuclear Regulatory Commission (NRC) and to current employees of the NRC who owe debts to other Federal agencies. This part does not apply when the employee consents to recovery from his/her current pay account.

(b) These procedures do not apply to debts or claims arising under:

(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.

[56 FR 51830, Oct. 16, 1991, as amended at 63 FR 15743, Apr. 1, 1998]

#### § 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

## § 16.5

## 10 CFR Ch. I (1–1–01 Edition)

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).

*FCCS* means the Federal Claims Collection Standards jointly published by the Justice Department and the General Accounting Office at 4 CFR parts 101–105.

*Hearing official* means an individual responsible for conducting any hearing with respect to the existence or amount of a debt claimed or the repay-

ment 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. 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.

*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 law.

### § 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