

## §513.31

### **§513.31 What notice will the Commission, as the creditor agency, give a debtor that salary offset will occur?**

(a) Deductions from a debtor's salary will not be made unless the Commission sends the debtor a written Notice of Intent at least 30 calendar days before the salary offset is initiated.

(b) The Notice of Intent will include the following:

(1) Notice that the Commission has reviewed the records relating to the debt and has determined that the employee owes the debt;

(2) Notice that, after a 30-day period, the Commission will begin to collect the debt by deductions from the employee's current disposable pay account and the date on which deductions from salary will start;

(3) The amount of the debt and the facts giving rise to it;

(4) The frequency and the amount of the intended deduction stated as a fixed dollar amount or as a percentage of pay not to exceed 15 percent of the disposable pay, and the intention to continue the deductions until the debt and all accumulated interest are paid in full or resolved;

(5) The name, address, and telephone number of the person to whom the debtor may propose a written alternative schedule for voluntary repayment in lieu of salary offset. The debtor must include a justification for the alternative schedule in the proposal;

(6) The Commission's policy concerning interest, penalties, and administrative costs, set out at §513.5, and a statement that assessments will be made unless excused in accordance with the FCCS;

(7) Notice of the employee's right to inspect and copy all Commission records pertaining to the debt and the name, address, and telephone number of the Commission employee to whom requests for access must be made;

(8) Notice of the employee's opportunity to a hearing conducted by an individual who does not work for the Commission on the Commission's determination of the existence or amount of the debt and the terms of the repayment schedule;

(9) Notice that filing a request for a hearing on or before the 15th calendar day following the debtor's receiving

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the Notice of Intent will stay collection proceedings and that a final decision will be issued at the earliest practical date, but not later than 60 days after the filing of the petition for hearing, unless the employee requests, and a hearing official grants, a delay in proceedings;

(10) An explanation of the effect of submitting knowingly false or frivolous statements; and

(11) Notice that amounts paid on or deducted from debts that are later waived or found not to be owed will be promptly refunded to the employee.

### **§513.32 What are the hearing procedures when the Commission is the creditor agency?**

(a) To request a hearing, the debtor must file, within 15 days of receiving the Commission's notice of intent to offset, a written petition signed by the debtor and addressed to the Commission stating why the debtor believes the Commission's determination of the existence or amount of the debt is in error. The Commission may waive the 15-day time limit for filing a request for hearing if the employee shows that the delay was due to circumstances beyond his or her control or because the employee did not receive notice of the 15-day time limit. A debtor who has previously obtained a hearing to contest a debt that arose from a notice of violation or proposed civil fine assessment matters under 25 CFR part 577 may not re-litigate matters that were at issue in that hearing.

(b) Regardless of whether the debtor is a Commission employee, the Commission will provide a prompt and appropriate hearing before a hearing official who is not from the Commission.

(c) The hearing will be conducted according to the FCCS review requirements at 31 CFR 901.3(e).

(d) Unless the employee requests, and a hearing official grants, a delay in proceedings, within 60 days after the petition for hearing the hearing official will issue a written decision on:

(1) The determination of the creditor agency concerning the existence or amount of the debt; and