

agreement shall be added to the principal under the new repayment agreement.

(c) Agencies shall assess administrative costs incurred for processing and handling delinquent debts. The calculation of administrative costs shall be based on actual costs incurred or upon estimated costs as determined by the assessing agency.

(d) Unless otherwise established in a contract, repayment agreement, or by statute, agencies shall charge a penalty, pursuant to 31 U.S.C. 3717(e)(2), not to exceed six percent a year on the amount due on a debt that is delinquent for more than 90 days. This charge shall accrue from the date of delinquency.

(e) Agencies may increase an “administrative debt” by the cost of living adjustment in lieu of charging interest and penalties under this section. “Administrative debt” includes, but is not limited to, a debt based on fines, penalties, and overpayments, but does not include a debt based on the extension of government credit, such as those arising from loans and loan guarantees. The cost of living adjustment is the percentage by which the Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds the Consumer Price Index for the month of June of the calendar year in which the debt was determined or last adjusted. Increases to administrative debts shall be computed annually. Agencies may use this alternative only when there is a legitimate reason to do so, such as when calculating interest and penalties on a debt would be extremely difficult because of the age of the debt.

(f) When a debt is paid in partial or installment payments, amounts received by the agency shall be applied first to outstanding penalties, second to administrative charges, third to interest, and last to principal, except as otherwise required by law.

(g) Agencies shall waive the collection of interest and administrative charges imposed pursuant to this section (*i.e.*, this does not apply to interest or administrative penalties determined by an applicable agreement or instrument such as a loan contract) on the portion of the debt that is paid

within 30 days after the date on which interest began to accrue. Agencies may extend this 30-day period on a case-by-case basis. In addition, agencies may waive interest, penalties, and administrative costs charged under this section, in whole or in part, without regard to the amount of the debt, either under the criteria set forth in the Federal standards for the compromise of debts (31 CFR part 902), or if the agency determines that collection of these charges is against equity and good conscience or is not in the best interest of the United States.

(h) [Reserved]

(i) Agencies are authorized to impose interest and related charges on debts not subject to 31 U.S.C. 3717, in accordance with the common law. Agencies shall consult OGC before imposing interest and related charges under common law for any debt.

#### **§ 3.18 Use and disclosure of mailing addresses.**

(a) When attempting to locate a debtor in order to collect or compromise a debt under this part or parts 902–904 of title 31 or other authority, agencies may send a request to Treasury to obtain a debtor’s mailing address from the records of the Internal Revenue Service (IRS).

(b) Agencies are authorized to use mailing addresses obtained under paragraph (a) of this section to enforce collection of a delinquent debt and may disclose such mailing addresses to other agencies and to collection agencies for collection purposes.

#### **§ 3.19 Standards for the compromise of claims.**

An agency shall follow the standards set forth in 31 CFR part 902 for the compromise of debts pursuant to 31 U.S.C. 3711 arising out of the activities of, or referred or transferred for collection services to, that agency, except where otherwise authorized or required by law.

#### **§ 3.20 Standards for suspending or terminating collection activities.**

An agency shall follow the standards set forth in 31 CFR part 903 for the suspension or termination of collection

### § 3.21

activity pursuant to 31 U.S.C. 3711, except where otherwise authorized or required by law.

#### § 3.21 Referrals of Debts to Justice.

An agency shall promptly refer to Justice for litigation debts on which aggressive collection activity has been taken in accordance with this part, and that cannot be compromised by the agency or on which collection activity cannot be suspended or terminated in accordance with 31 CFR parts 902 and 903. Agencies shall follow the procedures set forth in 31 CFR part 904 in making such referrals.

### Subpart C—Referral of Debts to Treasury

SOURCE: 73 FR 4, Jan. 2, 2008, unless otherwise noted.

#### § 3.30 General requirements.

(a) Agencies are required by law to transfer delinquent, nontax, legally enforceable debts to Treasury for collection through cross-servicing and through centralized administrative offset. Additionally, USDA has chosen to transfer debts to Treasury for collection through administrative wage garnishment. Agencies need not make duplicate referrals to Treasury for all these purposes; a debt may be referred simultaneously for purposes of collection by cross-servicing, centralized administrative offset, and administrative wage garnishment where applicable. However, in some instances a debt exempt from collection via cross-servicing may be subject to collection by centralized administrative offset so simultaneous referrals are not always the norm. This subpart sets forth rules applicable to the transfer of debts to Treasury for collection by cross-servicing. Rules for transfer to Treasury for centralized administrative offset are set forth in subpart D, and for administrative wage garnishment in subpart E.

(b) When debts are referred or transferred to Treasury, or Treasury-designated debt collection centers under the authority of 31 U.S.C. 3711(g), Treasury shall service, collect, or compromise the debts, or Treasury will suspend or terminate the collection ac-

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tion, in accordance with the statutory requirements and authorities applicable to the collection of such debts.

#### § 3.31 Mandatory referral for cross-servicing.

(a) Agencies shall transfer to Treasury any legally enforceable nontax debt in excess of \$25, or combination of debts less than \$25 that exceeds \$25 (in the case of a debtor whose taxpayer identification number (TIN) is unknown the applicable threshold is \$100), that has or have been delinquent for a period of 180 days in accordance with 31 CFR 285.12 so that Treasury may take appropriate action on behalf of the creditor agency to collect or compromise, or to suspend or terminate collection, of the debt, including use of debt collection centers and private collection contractors to collect the debt or terminate collection action.

(b) The requirement of paragraph (a) of this section does not apply to any debt that:

(1) Is in litigation or foreclosure (*see* 31 CFR 385.12 (d)(2) for definition);

(2) Will be disposed of under an approved asset sale program (*see* 31 CFR 285.12(d)(3)(i) for definition);

(3) Has been referred to a private collection contractor for a period of time acceptable to Treasury;

(4) Is at a debt collection center for a period of time acceptable to Treasury;

(5) Will be collected under internal offset procedures within three years after the debt first became delinquent;

(6) Is exempt from this requirement based on a determination by the Secretary of the Treasury that exemption for a certain class of debt is in the best interest of the United States. Federal agencies may request that the Secretary of the Treasury exempt specific classes of debts. Any such request by an agency must be sent to the Fiscal Assistant Secretary of the Treasury by the USDA CFO.

(c) A debt is considered 180 days delinquent for purposes of this section if it is 180 days past due and is legally enforceable. A debt is past due if it has not been paid by the date specified in the agency's initial written demand for payment or applicable agreement or instrument (including a post-delinquency