

showing such things as payment of all or part of the claim, or other circumstances which would prevent collection. Second, unless the State agency receives such documentation within 30 calendar days of the date of the advance notice and the documentation clearly shows that the claim has been paid or is not legally collectible, the State agency would refer the claim to FCS for collection from the debtor's salary. Third, State agencies would notify debtors in writing when claims will not be referred for collection from salaries. Fourth, the advance notice would state that debtors have the right to a formal appeal to FCS, and that notification about how to make such an appeal is required and will be provided to debtors before any collection action from salaries is taken. (See § 273.18(g)(6)(iii)(C)(5).)

*d. State agency retention and reporting of collections.* For purposes of calculating amounts of collections which State agencies retain, this rule proposes at § 273.18(g)(6)(iv)(A) that all claims collected under the salary offset provisions of this rule would be treated as if they were collected by the State agency. Specifically, this rule would provide that, for recipient claims paid voluntarily and through salary offsets, State agencies would retain collections at the rates specified at 7 CFR 273.18(h) for the appropriate reporting period for Form FCS-209, Status of Claims Against Households. The rule would also provide at § 273.18(g)(6)(iv)(A) that from time to time as volume warrants, FCS will provide reports and also transfer amounts collected from salaries to State agencies. State agencies would include the collections on the appropriate FCS-209 report. This rule would not require that collections on salary offset claims be identified separately on the FCS-209 from other collections of recipient claims. The Department can determine the levels of such collections based on the number and dollar values of claims which FCS refers to State agencies and the number and dollar values of claims which State agencies refer back to FCS because debtors do not respond or respond inadequately to advance notices.

In this regard, the rule proposes at § 273.18(g)(6)(iv)(B) that if a debtor fails to make an installment payment, within 60 days of the date the payment was due, State agencies would refer the claim to FCS, reporting the default, the dollar amount collected and the balance due. In the August 1994 General Notice initiating the test of salary offset, this period is 90 days. The Department believes that 60 days should be adequate for State agencies to refer

claims to FCS when Federal employees default on payments of them.

*e. FCS Actions on Claims Referred by State Agencies.* This rule proposes at § 273.18(g)(6)(v) that, subject to certain modifications described below, Departmental procedures at 7 CFR 3.51-3.68 will apply to claims referred by State agencies to FCS for salary offset.

Three additions would be made to the definitions set forth at 7 CFR 3.52. The term "debts" would be further defined to include recipient claims established according to 7 CFR 273.18, and the terms "State agency" and "FCS" would be defined as set forth in 7 CFR 271.2. (See section 273.18(g)(6)(v)(A).)

The Departmental rules require that, using the Notice of Intent to Offset Salary (notice of intent) set forth at 7 CFR 3.55, the Department provide notice to the debtor 30 days prior to offsetting the debtor's salary. This rule proposes at § 273.18(g)(6)(v)(E) that this procedure and the notice of intent specified at 7 CFR 3.55 be used for FSP recipient claims as described below.

The provisions of the notice of intent are largely self-explanatory. The notice of intent sets forth the amount of the debt and the facts which gave rise to it, and describes how the actual offset will be conducted, including the frequency and amount of salary deductions. The notice of intent advises the debtor about the method and time period for requesting a hearing and that a timely hearing request will stay the collection proceedings. The notice of intent also advises how the hearing will be conducted and the time frame for issuance of decisions. It also advises the debtor of the penalties for making or submitting any knowingly false or frivolous statements, representations or evidence.

The rule proposes at § 273.18(g)(6)(v)(B), (C), and (D) to modify three sections of the notice of intent in order to apply that notice to FSP recipient claims. First, 7 CFR 3.55(d) requires that the notice of intent explain the Department's requirements regarding payments of interest, penalties and administrative costs, unless such payments are waived in accordance with 31 U.S.C. 3717 and 7 CFR 3.34. These charges would be waived as explained in detail below. Accordingly, the notice of intent for FSP recipient claims would not include an explanation of these charges. Second, 7 CFR 3.55(e) requires that the notice of intent explain the debtor's right to inspect and copy Department records relating to the debt. As explained below, for FSP recipient claims, the notice of intent would also include an explanation of the right to request and

receive copies of the records from the Department, and a statement of the time for making such a request which is established under 7 CFR 3.60(a). Third, 7 CFR 3.55(f) requires that the Department's notice of intent advise the debtor of the procedures for proposing a repayment agreement in lieu of salary offset. As explained below, this explanation and procedure would not be included in the FSP notice of intent.

Departmental regulations at 7 CFR 3.65 and 3.55(d) set forth the procedures for charging interest, penalties, and administrative costs for salary offset. As discussed above, this rule proposes at § 273.18(g)(5)(iv)(C) that the offset fee assessed by the IRS for collections under FTROP be paid by the debtor out of funds collected through FTROP. Other than in this proposed regulation, FSP regulations do not authorize collection of interest, penalties or administrative costs for FSP recipient claims. Accordingly, there are no administrative mechanisms in place for the assessment and notice of such charges. The Department believes that it would not be administratively cost effective or feasible to establish such mechanisms at this time but may consider them at some future date. Therefore, pursuant to 7 CFR 3.34(c)(4), the Secretary has determined that collection of such charges is not in the best interests of the United States, and the rule proposes to waive collection of such charges. Accordingly, as noted above, the FSP notice of intent would not include an explanation of interest and related charges.

Departmental regulations at 7 CFR 3.60 set forth procedures for the review of Departmental records relating to debts to be collected by salary offset and provide that, upon a timely request, the Department will permit debtors to inspect and copy those records. This rule proposes at § 273.18(g)(6)(v)(E)(I) that, for purposes of FSP salary offset, the debtor may also request that the Department provide copies of the records. The Department believes that this offer is appropriate because these records will be located at the FCS National Office while debtors are located throughout the country. The rule proposes that, for their requests to be considered timely as provided in 7 CFR 3.60(a), FCS must receive a letter requesting copies of the records (or requesting an opportunity to inspect or copy the records) within 30 calendar days of the date of the FSP notice of intent. As stated above, the notice of intent would advise debtors of these procedures and deadlines.

Departmental salary offset regulations at 7 CFR 3.61 provide debtors the