

opportunity to propose a written repayment agreement in lieu of salary offset, subject to approval by the Secretary. OPM regulations at 5 CFR 550.1104(d)(6) provide that this opportunity is not required if the debtor was previously provided such an opportunity. Current FSP regulations at 7 CFR 273.18(g)(2) provide that opportunity at the time of the initial demand letter on the recipient claim. The State agency advance notice of salary offset would offer a second such opportunity. Accordingly, this rule proposes at § 273.18(g)(6)(v)(E)(2) that the FSP notice of intent not offer debtors an opportunity to enter into a written agreement to repay the debt.

The remaining FSP salary offset procedures relate primarily to hearings which debtors may request and to the procedures for the actual offsets from salaries. These procedures would operate as set forth in the Departmental regulations, and they are briefly described below.

The Departmental regulation at 7 CFR 3.56 provides that debtors have 30 days to request a hearing on the existence or amount of the claim, or on the proposed offset schedule (rate and frequency of offset). The notice of intent advises the debtor what information should be included in the request for a hearing, and states the basis for accepting a late request. Section 3.57 provides that a hearing will not be granted if the employee fails to request one as prescribed or fails to appear at the hearing. Section 3.58 describes how hearings will be conducted, and Section 3.59 specifies the format of written hearing decisions.

The Departmental regulation at 7 CFR 3.62 provides that deductions will begin either: (1) As stated in the notice of intent; (2) if a hearing is requested, after a decision in favor of the Secretary; or (3) through administrative offset upon the employee's retirement or resignation as provided by 7 CFR 3.21 through 3.36. Section 3.63 provides that collections will be made in a lump sum or installments, and will be by installments if the debtor cannot repay the debt in one payment or the debt exceeds 15 percent of disposable pay for a pay period. Section 3.64 provides that installments will be at established pay intervals, bear a reasonable relationship to the size of the debt, up to a maximum of 15 percent of disposable pay, and specifies the types of pay (basic pay, incentive pay, etc.) which can be offset. Section 3.66 provides that payment by salary offset will not be interpreted as a waiver of any rights the debtor may have under 5 U.S.C. 5514. Section 3.67 provides for the refund of amounts

erroneously offset from salaries under certain conditions such as an administrative or judicial order.

Effective Date

It is proposed that this rule would become effective 30 days after publication of the final rule except that State agencies currently participating in FTROP would be required to submit the amendment to the Plan of Operation required at 7 CFR 272.2(d)(1)(xii) no later than 90 days after publication of that rule.

List of Subjects

7 CFR Part 271

Administrative practice and procedures, Food stamps, Grant programs—social programs.

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs—social programs, Reporting and recordkeeping requirements.

7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Food stamps, Fraud, Grant programs—social programs, Penalties, Records, Reporting and recordkeeping requirements, Social Security, Students.

Accordingly, 7 CFR parts 271, 272 and 273 are proposed to be amended as follows:

PART 271—GENERAL INFORMATION AND DEFINITIONS

1. The authority citation for parts 271, 272 and 273 continues to read as follows:

Authority: 7 U.S.C. 2011–2032.

2. In § 271.2, the definition of *Offset year* is added in alphabetical order to read as follows:

§ 271.2 Definitions

Offset year means the calendar year during which offsets may be made to collect certain recipient claims from individuals' Federal income tax refunds.

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

3. In § 272.2, a new sentence is added to the end of paragraph (a)(2) and a new paragraph (d)(1)(xii) is added to read as follows:

§ 272.2 Plan of operation.

(a) *General Purpose and Content*

* * *

(2) *Content.* * * * The Plan's amendments shall also include the

commitment to conduct the optional Federal income tax refund offset program and Federal salary offset program.

* * * * *

(d) *Planning Documents.*

(1) * * *

(xii) If the State agency chooses to implement the Federal income tax refund offset program and the Federal salary offset program, the Plan's attachments shall include a statement in which the State agency states that it will comply with the provisions of § 273.18(g)(5) and (g)(6) of this chapter.

* * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

4. In § 273.18 new paragraphs (g)(5) and (g)(6) are added to read as follows:

§ 273.18 Claims against households.

* * * * *

(g) *Method of collecting payments.*

* * *

(5) *Federal income tax refund offset program.*

(i) *General requirements.* State agencies which choose to implement the Federal income tax refund offset program (FTROP) shall:

(A) Submit an amendment to their Plan of Operation as specified in § 272.2(d)(1)(xii) of this chapter stating that they will comply with the requirements for FTROP and with the requirements for the Federal salary offset program (salary offset). Such amendments shall be submitted to the appropriate FCS regional office no later than twelve months before the beginning of a State agency's first offset year.

(B) Submit data for FTROP to FCS in the record formats specified by FCS and/or the Internal Revenue Service (IRS), and according to schedules and by means of magnetic tape, electronic data transmission or other method specified by FCS.

(ii) *Claims referable for offset.* State agencies may submit for collection from Federal income tax refunds recipient claims which are past due and legally enforceable.

(A) Such claims must be:

(1) Only inadvertent household error claims or intentional Program violation claims. These claims shall be properly established according to the requirements of this section (which pertains to claims against households), including the requirement that additional demand letters be provided prior to initiating other collection actions as required by paragraph (d)(4)(iii) of this section, and the