

Frequency	Field/strength (volts per meter)	
	Peak	Average
8 GHz–12 GHz .....	3000	300
12 GHz–18 GHz ...	2000	200
18 GHz–40 GHz ...	600	200

The field strengths are expressed in terms of peak of the root-mean-square (rms) over the complete modulation period.

The threat levels identified above are the result of an FAA review of existing studies on the subject of HIRF, in light of the ongoing work of the Electromagnetic Effects Harmonization Working Group of the Aviation Rulemaking Advisory Committee.

### Applicability

As discussed above, these special conditions are applicable to the Cessna Aircraft Company Model 501 and 551 series airplanes. Should Shadin Company, Inc. apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A27CEU to incorporate the same or similar novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101.

### Conclusion

This action affects only certain novel or unusual design features on the Cessna Model 501 and 551 series airplanes modified by Shadin Company, Inc. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of the special conditions for these airplanes has been subjected to the notice and comment procedure in several prior instances and has been derived without substantive change from those previously issued. Because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

### List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

■ The authority citation for these special conditions is as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

### The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the supplemental type certification basis for the Cessna Aircraft Company Model 501 and 551 series airplanes modified by Shadin Company, Inc.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF)*. Each electronic and electrical system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high intensity radiated fields.

2. For the purpose of these special conditions, the following definition applies:

*Critical Functions:* Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on January 12, 2005.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 05–1156 Filed 1–19–05; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF THE TREASURY

### Fiscal Service

#### 31 CFR Part 285

**RIN 1510-AA65**

### Centralized Offset of Federal Payments To Collect Nontax Debts Owed to the United States

**AGENCY:** Financial Management Service, Fiscal Service, Treasury.

**ACTION:** Final rule.

**SUMMARY:** This final rule describes the general rules and procedures applicable to the collection, through the Treasury Offset Program (TOP), of delinquent, nontax debts owed to Federal agencies. TOP is a program administered by the Financial Management Service (FMS), a bureau of the Treasury Department.

**DATES:** This rule is effective January 21, 2005.

**FOR FURTHER INFORMATION CONTACT:** Gerry Isenberg, Financial Program Specialist, at (202) 874–6660; Tricia

Long, Attorney-Advisor, at (202) 874–6680. A copy of this final rule is being made available for downloading from the Financial Management Service Web site at the following address: <http://www.fms.treas.gov/debt>.

### SUPPLEMENTARY INFORMATION:

#### Background

On December 26, 2002, FMS published an interim rule with request for comments (“Interim Rule”) describing the general rules and procedures applicable to the collection of delinquent, nontax debts owed to Federal agencies by the centralized offset of Federal payments. See 67 FR 78936.

FMS established TOP in order to implement provisions of various Federal laws affecting offset, including the Debt Collection Improvement Act of 1996 (Pub. L. 104–134, 110 Stat. 1321–358 (April 26, 1996)) (“DCIA”), which directed Treasury to provide a centralized process for withholding or reducing eligible Federal payments to pay the payee’s delinquent debt owed to the United States. See 31 U.S.C. 3716(c) and 3720A.

#### Discussion of Comments

##### General

FMS received comments from a Federal agency and a State comptroller’s office in response to the publishing of the Interim Rule. In response to the comments, FMS has made the revisions reflected in this final rule. In addition, FMS has corrected the citation to Executive Order 13019 in the list of authorities for 31 CFR Part 285 and has made minor editorial changes for purposes of consistency.

#### Comment Analysis

##### Interim Rule § 285.5(a) Scope

One commenter noted that the rule does not address how TOP processes offsets to collect debts for which two or more debtors are jointly and severally liable. FMS has not made any changes in response to this comment. TOP has been developed to comply with existing laws regarding the liability of debtors who are jointly and severally liable for debts, and therefore, no change to the rule is required.

One commenter asked for clarification as to whether past-due support debts and other debts owed to a State are covered by the rule. The commenter noted that paragraph (f)(3) of this section sets forth the priority of collection when multiple debts (including support and other debts owed to States) match with the same payment. This final rule applies only to

offsets made through TOP to collect delinquent, nontax debts owed to the United States. Past-due support debts and debts owed to States are not within the scope of this rule (although nontax debts owed by States are covered by this rule). TOP does, however, process offsets and levies to collect debts pursuant to several laws and regulations. Paragraph (f)(3) was intended to explain what will occur if a debt within the scope of this rule matches with a payment at the same time as a debt that is not covered by this rule. We have revised the wording in (f)(3)(ii) and (f)(3)(ii)(B) for clarification.

#### *Interim Rule § 285.5(b) Definitions*

One commenter suggested deleting the example in the definition of “legally enforceable” in paragraph (b) regarding debts under appeal. The commenter questioned whether a debt may ever be considered final, and therefore legally enforceable, when there is a pending administrative review process with respect to the debt. FMS has determined that deleting the example is not necessary. Statutes, regulations and agency guidance applicable to particular debts may provide for appeals after a final agency decision on any matter related to the debt.

One commenter remarked that the definition of “match” allows for payments due to one State agency to be offset to collect delinquent debts incurred by another agency of the same State. This is possible because each State has one TIN for all its agencies. The commenter suggested that one State agency’s payments should not be affected by another agency’s debts, and that FMS should put in controls, such as using different identifiers for payment programs, in order to avoid such offsets. FMS disagrees. For purposes of offset, the debtor is the State, not the individual agency. This is also the case for corporations and other entities that share a TIN with subsidiaries. Two components of an entity using the same TIN are generally considered to be one legal entity responsible for debts incurred by either component. As a result, payments made to one component of such an entity are eligible for offset to collect debts owed by another component of the same entity. FMS realizes that States and other organizations have a need internally to identify components which have incurred delinquent debts, and FMS will work with such organizations to assist such communications to the extent possible.

#### *Interim Rule § 285.5(d)(5) Delinquent Debt Information Requirements*

One commenter suggested that creditor agencies be required to supply the address and phone number of the primary contact within the agency who will respond to inquiries about the debt. The commenter also suggested that this information be included in the offset notice described in paragraph (g)(3). This suggestion is consistent with the applicable portions of the Federal Claims Collection Standards as set forth in 31 CFR 901.2, and this final rule incorporates that suggestion in (d)(5)(iv) and (g)(3)(iii).

The commenter also suggested that FMS require creditor agencies to supply the nature of the debt to FMS, so such information could be included in offset and warning notices. FMS does not believe that such a requirement is appropriate or necessary. The debtor can ascertain information about the nature of the debt and other information pertaining to the debt by contacting the creditor agency using the contact information provided in the notices. Also, FMS does not need this information to facilitate offset. The nature of the debt is not relevant to its legal enforceability, nor is it necessary for TOP to match the debt with the payment. For these reasons, FMS has not included this requirement in this final rule.

#### *Interim Rule § 285.5(d)(6) Creditor Agency Certification*

As described in paragraph (ii)(A), the creditor agency must certify that it has sent written notice regarding the debt to the debtor’s most current address known to the agency. One commenter requested that, when the debtor is a State agency, the rule require that copies of these notices (as well as those sent by disbursing officials pursuant to paragraph (g)(3)) be sent to the State comptroller or treasurer, in order to facilitate communications among State agencies. FMS believes that such a requirement would create an undue burden on Federal agencies to ascertain the central point of contact for each State entity with which it does business. With respect to the creditor agency’s obligation to notify the debtor of the debt, the legal requirement is to send written notice to the last known address. The last known address generally is the one supplied by the debtor to the creditor agency, unless the creditor agency has obtained an updated address through its independent research. The State has the option of supplying its comptroller’s or treasurer’s address to each Federal agency with

which it does business, as the official address for sending such notices. With respect to the disbursing official’s obligation to send notices regarding the offset of a payment, the disbursing official sends such notice to the address to which the payment would have been sent, if a payment address is available. In the case of payments made by electronic funds transfer, payment addresses are generally not available, and notices are therefore sent to the address for the debtor, which is supplied by the creditor agency. For these reasons, this final rule does not require creditor agencies or disbursing officials to send additional copies of notices to a central point of contact within a State.

#### *Interim Rule § 285.5(d)(10) Correcting and Updating Debt Information*

One commenter suggested that FMS revise paragraph (v) to state that it does not apply to offsets when the paying agency is also the creditor agency. The commenter asserted that FMS would be notified in such cases by the creditor agency’s compliance with paragraphs (d)(10)(i) through (d)(10)(iv). FMS requires that creditor agencies notify FMS if they have refunded monies to the debtor in order to assure that FMS’s debt and accounting records are accurate. The fact that the creditor agency is also the paying agency does not necessarily result in FMS being notified of the refund through other means. Additionally, it is noted that paragraphs (d)(10)(i) through (d)(10)(iv) do not require agencies to specify whether the collections they credit pursuant to those paragraphs are due to refunds or other types of collections.

In reviewing (d)(10)(v) to respond to the commenter’s suggestion, we determined that this paragraph should be clarified to indicate that the creditor agency must notify FMS any time the creditor agency refunds money to the debtor/payee, in accordance with paragraph (i)(3). Accordingly, we have incorporated this clarification in the final rule in both paragraphs (d)(10)(v) and (i)(3).

#### *Interim Rule § 285.5(d)(11) Debts at FMS, a Debt Collection Center, or the Department of Justice*

One commenter suggested that paragraph (d)(11) be changed to clarify that creditor agencies may opt to send debts to TOP directly, even if those debts are already at FMS or a designated debt collection center for cross-servicing. FMS has not made any changes to the rule in response to this comment. The rule states that FMS or a designated debt collection center may

fulfill the agency's requirement to refer debts to TOP. While direct referral to TOP is not the preferred practice, the rule, as written, does not prohibit creditor agencies from sending debts directly to TOP. If the creditor agency wishes to fulfill its obligation by sending debts directly, such intention should be stated clearly in any agreement between the creditor agency and the entity performing its cross-servicing.

*Interim Rule § 285.5(e)(2) Payments Excluded From Offset Under This Section*

One commenter suggested that claims on certain types of benefits should be exempted payments under the rule. The comment focused on whether the State or an individual is actually liable for the debt being collected from such payments. Paragraph (e)(2) addresses which classes of payments are excluded from offset. It does not address who is liable for the debt. The determination as to who is liable for a debt is made solely by the creditor agency based upon the laws and regulations applicable to the program under which the debt arose. Such determination is beyond the scope of this rule. Therefore, no change has been made to this provision in the rule.

*Interim Rule § 285.5(e)(7) Payment Agency Requests for Exemptions From Centralized Offset Pursuant to 31 U.S.C. 3716(c)(3)(B)*

One commenter suggested that the rule require FMS to consult with creditor agencies prior to granting a debtor-specific payment exemption. Such consultation is not necessary, because only classes of payments may be exempted from centralized offset, not classes of debts or debtors.

*Interim Rule § 285.5(g) Notices*

One commenter suggested that disbursing officials and creditor agencies send notices electronically. As of this writing, FMS is exploring the legal and operational issues of sending its notices electronically. Creditor agencies may also explore this possibility. At this time, FMS is not contemplating a rule that would mandate that any notices be sent electronically.

The commenter also suggested that the rule specify that disbursing officials send notices to the address of the payee (rather than the debtor). The rule currently does not specify an address. When a payment voucher contains the address of the payee, FMS uses that address. In the case of payments made by electronic funds transfer, the payment agency does not supply an

address to FMS on the payment voucher. Therefore, the only address available to TOP is the debtor address supplied by the creditor agency. No change has been made to this final rule in response to the comment.

The commenter also suggested that the warning notice described in (g)(1) be sent for all types of payments where more than one payment to a payee is contemplated, not just recurring payments. Warning notices are a courtesy that disbursing officials can provide, because the debt will eventually be collected in full from recurring payments. When a warning notice is sent, the disbursing official loses the opportunity to offset a payment for one payment cycle. Disbursing officials do not have any way of knowing what other types of payments may be made on a recurring basis. If a payment is not expected to be made on a recurring basis, there is no reasonable certainty that the debt will be collected in full. Therefore, in situations of non-recurring payments, TOP cannot forego collection during a payment cycle before collecting a debt while granting the debtor an additional warning. The rule will not be changed to provide for warning notices on additional payments.

While reviewing comments received on the requirements for warning notices, FMS determined that the rule should be clarified to reflect that failure to send out a warning notice does not affect the validity of an offset. Disbursing officials send warning notices as a courtesy only. They are not part of any required due process. FMS has added language at the end of (g)(1) to provide such clarification.

One commenter suggested that the offset notice include the amount of debt collection fees and penalties assessed by the federal creditor agency. Disbursing officials do not have this information. Creditor agencies have differing rules and policies about recouping fees and costs from the debtor. Additionally, disbursing officials have no knowledge of penalties that a creditor agency may assess. Therefore, it would be operationally impractical to include such information on a notice. Further, the debtor can always obtain this information from the creditor agency. The due process letter that the creditor agency sends the debtor (as described in (d)(5)) contains information about the interest, costs and fees that may be charged to the debtor. The debtor may also contact the creditor agency to determine what fees and penalties have been added to the debt balance.

*Interim Rule § 285.5(j) Fees*

One commenter stated that collection of fees to recoup costs would be a burden on State debtors and suggested that there should be a cap on fees paid by States. Disbursing officials are authorized by 31 U.S.C. 3716 to cover the costs of delinquent debt collection through the imposition of fees. Disbursing officials charge these fees to the creditor agencies, and the amount of fees are capped at the cost of collection. The creditor agencies decide, based upon applicable laws and policies, whether to charge the cost of such fees to debtors. Based on this, FMS has decided not to impose a cap on fees paid by States. As stated above, FMS will, however, work with States to assist with communications issues that delay resolution of delinquent debts and which may result in additional fees.

**Regulatory Analysis**

This final rule is not a significant regulatory action as defined in Executive Order 12866. Because no notice of proposed rulemaking was required for this rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

**Special Analysis**

FMS has determined that good cause exists to make this final rule effective upon publication without providing the 30-day period between publication and the effective date contemplated by 5 U.S.C. 553(d). The purpose of a delayed effective date is to afford persons affected by a rule a reasonable time to prepare for compliance. However, in this case, Treasury has been collecting delinquent nontax debt pursuant to the Debt Collection Improvement Act of 1996 since its passage. Moreover, this final rule makes only minor clarifications to the currently effective interim final rule and provides guidance that is expected to facilitate Federal agencies' participation in the centralized offset program.

**List of Subjects in 31 CFR Part 285**

Administrative practice and procedure, Black lung benefits, Child support, Claims, Credit, Debts, Disability benefits, Federal employees, Garnishment of wages, Hearing and appeal procedures, Loan programs, Privacy, Railroad retirement, Railroad unemployment insurance, Salaries, Social Security benefits, Supplemental Security Income (SSI), Taxes, Veteran's benefits, Wages.

**Authority and Issuance**

■ For the reasons set forth in the preamble, 31 CFR part 285 is amended as follows:

**PART 285—DEBT COLLECTION AUTHORITIES UNDER THE DEBT COLLECTION IMPROVEMENT ACT OF 1996**

■ 1. The authority citation for part 285 is revised to read as follows:

**Authority:** 5 U.S.C. 5514; 26 U.S.C. 6402; 31 U.S.C. 321, 3701, 3711, 3716, 3719, 3720A, 3720D; E.O. 13019, 61 FR 51763, 3 CFR, 1996 Comp., p. 216.

■ 2. Section 285.5 is amended to revise the section heading, and paragraphs (d)(5)(iv), (d)(10)(v), (f)(3), (g)(1), (g)(3)(iii), and (i)(3) to read as follows:

**§ 285.5 Centralized offset of Federal payments to collect nontax debts owed to the United States.**

\* \* \* \* \*

(d) \* \* \*

(5) \* \* \*

(iv) The address and telephone number of the contact point within the creditor agency who will handle questions, concerns or communications regarding the debt;

\* \* \* \* \*

(10) \* \* \*

(v) The creditor agency shall notify FMS if it has returned any monies to the debtor/payee.

\* \* \* \* \*

(f) \* \* \*

(3) *Priorities for collecting multiple debts owed by the payee.* (i) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over deductions under this section.

(ii) When a payment may be offset to collect more than one debt, amounts offset will be applied:

(A) First, to satisfy any past due support debts assigned to a State pursuant to sections 402(a)(26) and 471(a)(17) of the Social Security Act (*see* 26 U.S.C. 6402(c) and §§ 285.1 and 285.3 of this part);

(B) Second, to satisfy any debts owed to Federal agencies, as described in this § 285.5;

(C) Third, to satisfy any qualifying past-due support claims not assigned to a State (*see* 26 U.S.C. 6402(c) and §§ 285.1 and 285.3 of this part); and

(D) Fourth, to any debts owed to States for debts other than past-due support (*see* § 285.8 of this part).

\* \* \* \* \*

(g) *Notices*—(1) *Warning notice by disbursing official to payee/debtor.* Before offsetting a recurring payment, the disbursing official, or FMS on behalf

of the disbursing official, will notify the payee in writing when offsets will begin (which may be stated as a number of days or number of payments from the time of the notice) and the anticipated amount of such offset (which may be stated as a percentage of the payment). Such notice shall also provide the information contained in paragraph (g)(3) of this section. Failure to send such notice does not affect the validity of the offset.

\* \* \* \* \*

(3) \* \* \*

(iii) The address and telephone number of the contact point within the creditor agency who will handle concerns regarding the offset.

\* \* \* \* \*

(i) \* \* \*

(3) Generally, the disbursing official is not responsible for refunding money to debtors. The creditor agency shall notify FMS any time the creditor agency returns all or any part of an offset payment to an affected payee. *See* paragraph (d)(10)(v) of this section. FMS and the creditor agency shall adjust the debtor records appropriately.

\* \* \* \* \*

**Richard L. Gregg,**

*Commissioner.*

[FR Doc. 05-1051 Filed 1-19-05; 8:45 am]

**BILLING CODE 4810-35-P**

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165**

[CGD09-04-140]

**RIN 1625-AA00**

**Safety Zones; Captain of the Port Buffalo Zone**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing permanent safety zones on a portion of Lake Ontario. These safety zones are necessary to ensure the safety of spectators and vessels from the hazards associated with fireworks displays. These safety zones restrict vessel traffic from portions of Lake Ontario, New York, during annual fireworks displays.

**DATES:** This rule is effective February 22, 2005.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as

being available in the docket, are part of docket CGD09-02-009 and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Buffalo, 1 Fuhrmann Blvd., Buffalo, NY 14203 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Craig A. Wyatt, U.S. Coast Guard MSO Buffalo, (716) 843-9570.

**SUPPLEMENTARY INFORMATION:****Regulatory Information**

On May 10, 2002, the Coast Guard published an NPRM in the **Federal Register** proposing 14 safety zones for annual firework displays in the Captain of the Port Buffalo zone (67 FR 31747). We received no comments on the proposal. No public hearing was requested, and none held.

**Background and Purpose**

On May 10, 2002, the Coast Guard published an NPRM in the **Federal Register** proposing 14 safety zones for annual firework displays in the Captain of the Port Buffalo zone (67 FR 31747). We proposed these safety zones to control vessel traffic within the immediate location of the fireworks launching area during annual fireworks displays. The Coast Guard received no comments in response to this NPRM.

On May 3, 2004, the Coast Guard published a supplement to the proposed regulation (69 FR 24112-1), which removed twelve events that were proposed in the NPRM, added four new events (Ontario Memorial Day Fireworks, Ontario, NY; Olcott Fireworks, Olcott, NY; Harbor Sound and Light Festival, Sackets Harbor, NY; Village of Sackets Harbor July 4 Display, Sackets Harbor, NY), and revised the location and time of two events (Oswego Independence Day Fireworks, and Oswego Harborfest Fireworks Display). This final rule establishes 6 permanent safety zones that will be enforced for marine events occurring annually at the same location.

Based on recent accidents that have occurred in other Captain of the Port zones, and the explosive hazard associated with these events, the Captain of the Port has determined that fireworks launched in close proximity to watercraft pose a significant risk to public safety and property. The likely combination of large numbers of inexperienced recreational boaters, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement