

*Executive Order 13175—Consultation and Coordination With Indian Tribal Governments*

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. The basis for this determination is our decision on a State regulatory program and does not involve a Federal regulation involving Indian lands.

*Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy*

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

*National Environmental Policy Act*

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the

National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

*Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

*Regulatory Flexibility Act*

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

*Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete

with foreign-based enterprises. This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

*Unfunded Mandates*

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

**List of Subjects in 30 CFR Part 917**

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 17, 2005.

**Brent Wahlquist,**

*Regional Director, Appalachian Regional Coordinating Center.*

**PART 917—KENTUCKY**

■ 1. The authority citation for part 917 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

■ 2. Section 917.15 is amended in the table by adding a new entry in chronological order by the “Date of Final Publication” to read as follows:

**§ 917.15 Approval of Kentucky regulatory program amendments.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
* * * * *	* * * * *	* * * * *
June 28, 1991 with record material submitted July 29, 2004.	May 3, 2005 .....	405 KAR 16:200 Section 1(7)(a) and (7)(d) and 405 KAR 18:200 Section 1 (7)(a) and (7)(d).

**§ 917.16 Required regulatory program amendments.**

■ 3. Section 917.16 is amended by removing and reserving paragraph (i).  
[FR Doc. 05–8731 Filed 5–2–05; 8:45 am]

BILLING CODE 4310–05–P

**DEPARTMENT OF THE TREASURY**

**Fiscal Service**

**31 CFR Part 285**

**RIN 1510–AA70**

**Salary Offset**

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

**ACTION:** Final rule.

**SUMMARY:** This final rule describes the rules and procedures applicable to the centralized offset of Federal salary payments to collect delinquent nontax debts owed by Federal employees to the United States. The Financial Management Service (FMS), a bureau of the U.S. Department of the Treasury, administers centralized salary offset through the Treasury Offset Program (TOP).

**DATES:** This rule is effective May 3, 2005.

**FOR FURTHER INFORMATION CONTACT:**

Gerry Isenberg, Financial Program Specialist, at (202) 874-6660; or Tricia Long, Attorney, at (202) 874-6680.

**SUPPLEMENTARY INFORMATION:**

**Background**

A major purpose of the Debt Collection Improvement Act of 1996 (DCIA), Pub. L. 104-134, 110 Stat. 1321-358 *et seq.* (April 26, 1996), is to increase the collection of delinquent nontax debts owed to the Federal Government. Among other things, the DCIA established a centralized process for withholding or reducing eligible Federal payments, including Federal salary payments, to pay the payees' delinquent debts owed to the United States. This process is known as "centralized administrative offset." The DCIA also established a requirement that Federal agencies match their delinquent debtor records with records of Federal employees, at least annually, to identify Federal employees who owe delinquent debt to the Federal Government. This rule establishes centralized procedures for matching information about delinquent debts with information about Federal salary payments for the purpose of offsetting a debtor's Federal salary payments to satisfy the debt.

On April 28, 1998, FMS issued an interim rule with request for comments that established the centralized salary offset program operated by FMS through TOP. See 63 FR 23354. We did not receive comments from any individuals or entities outside the Federal government. However, we received comments from three Federal agencies, many of which were operational in nature and, therefore, not appropriate for a regulatory rulemaking. Since the time of the publication of the interim rule, FMS has worked with Federal agencies—including the three commenters—to develop systems and procedures that addressed their operational concerns. Therefore, we have not addressed those operational comments in this rulemaking.

**Discussion of Comments**

*General*

As indicated above, FMS received comments from three Federal agencies. The comments to the rule that were regulatory in nature are discussed in this final rule. In addition, FMS has corrected the list of authorities to include 31 U.S.C. 3720B and 42 U.S.C. 664, which were inadvertently deleted in previous amendments to this Part

285, and has made minor editorial changes for purposes of clarity and consistency.

*Comment Analysis*

Interim Rule § 285.7(a), Purpose and Scope

One commenter recommended that paragraph (a)(1) expressly state that this section applies only to the collection of nontax debts. FMS agrees that such clarification would be beneficial and has made this change to paragraph (a)(1).

It was also brought to FMS's attention that the rule does not expressly state that the centralized offset of final salary payments and any final, lump-sum payment made to an employee after the employee leaves Federal service is governed by the provisions of 31 U.S.C. 3716 and implementing regulations found at 31 CFR 285.5, rather than this rule. FMS has, therefore, added a new paragraph (a)(6) to clarify that this rule does not apply to the offset of final salary payments or final, lump-sum payments made to former employees. Among other things, this means that a disbursing official may offset up to 100% of a former employee's final payment, whereas for current employees, the offset amount is limited to 15% of disposable pay. This new provision is consistent with the salary offset provisions promulgated by the Office of Personnel Management in Subpart K of 5 CFR part 550. See 5 CFR 550.1104(l), *Liquidation from final check*.

Interim Rule § 285.7(b), Definitions

One commenter suggested that FMS expand the definition of "Federal employee records" to include Federal payroll records and employment records in order to facilitate the matching process for salary offset. FMS has not amended the definition of "Federal employee records" in response to this comment, but it has deleted the reference to Federal employee records in paragraph (a)(4) and revised paragraph (f) to clarify that Federal employee records are only those records required for identifying Federal employees who owe delinquent Federal debts. For purposes of this rule, "Federal employee records" are records of Federal salary payments that a paying agency has certified to a disbursing official for disbursement. Such records are sufficient for the disbursing official to identify Federal employees who owe delinquent debts. Paying agencies, however, may require additional types of records to calculate the amount of disposable pay due to a Federal

employee for purposes of paragraph (f) of this section. Paragraph (f) authorizes paying agencies to deduct the offset amount from disposable pay before certifying a salary payment to a disbursing official. Paying agencies may use such records as are necessary to calculate disposable pay in accordance with 5 CFR part 550, which governs the calculation of disposable pay.

Interim Rule § 285.7(d), Creditor Agency Participation

One commenter recommended that the rule specify that notifying Treasury of all past-due, legally enforceable debts for purposes of administrative offset relieves agencies of the need to enter into computer matching agreements with other Federal disbursing officials to satisfy the statutory salary offset requirement set forth in 5 U.S.C. 5514. The commenter noted that the Supplementary Information portion of the interim rule indicated that compliance with this section would mean that the agency was also in compliance with the statutory requirement. In response to this comment, FMS has revised paragraph (d)(1) to state expressly that creditor agencies that notify FMS of all past-due legally enforceable debts for purposes of administrative offset have complied with the statutory requirement set forth in 5 U.S.C. 5514. Notwithstanding this change, FMS encourages agencies to maintain matching agreements with any salary paying agencies that have not yet participated in the interagency consortium established under 285.7(c) to implement centralized salary offset computer matching. Such matching helps maximize the Government's collection of delinquent nontax debt. FMS has therefore declined to put a provision in the rule that states that creditor agencies do not need to enter into computer matching agreements with other Federal agencies.

Two commenters suggested that FMS eliminate the waiver requirement in paragraph (d)(4) of the interim rule. FMS has made the suggested change. Paragraph (d)(4) required a waiver from Treasury before a creditor agency could submit a debt to TOP without first certifying that the creditor agency has complied with the salary offset due process requirements of 5 U.S.C. 5514. See paragraph (d)(3)(iv) of this section. Such certification is referred to informally as a "partial certification," because the creditor agency is not relieved from the requirement to certify its compliance with those due process pre-requisites applicable to the offset of non-salary payments. See 31 CFR 285.5(d)(6), *Creditor agency*

*certification*. With a partial certification, TOP compares debtor information with Federal salary payment information to determine if the debtor receives a Federal salary and informs the creditor agency if there is a match. Such matching affords the creditor agency time to perform the necessary due process prior to submitting the completed certification that all due process requirements of 5 U.S.C. 5514 have been met. An offset will only occur after the creditor agency submits the completed certification. The creditor agency may only submit a debt to TOP with a partial certification if it uses the match information for offset purposes—that is to complete due process and resubmit the debt to TOP with the completed certification.

FMS agrees that it is appropriate to allow creditor agencies to submit debts with the partial certification without an express waiver from Treasury. FMS's experience since the publication of the interim rule is that the partial certification process works well to allow agencies time to complete due process, and that an express waiver is no longer necessary. Therefore, paragraph (d)(4) has been amended to remove the requirement for a waiver from Treasury prior to submitting a partial certification. Paragraph (d)(4) has also been amended to add a provision to make clear that such partial certification is only permitted when the creditor agency intends to use the Federal salary information to provide due process for offset under this section and fully certify the debt in the future.

#### Interim Rule § 285.7(g)(1), Offset Amount

One commenter suggested that paragraph (g)(1) be amended to clarify that when a debtor is receiving more than one Federal salary at the same time (e.g., when a person receives both civilian and military reserve pay), that the offset amount is 15% of each of those payments. FMS has not made a change to the rule in response to this comment, because the current language of (g)(1) refers to disposable pay, and disposable pay is defined as having the same meaning as that term is defined in 5 CFR 550.1103. Section 550.1103 makes clear that disposable pay includes any pay to a Federal employee. Paragraph (g)(1), therefore, allows the Government to offset up to 15% of all Federal salaries paid to the debtor.

#### Interim Rule § 287.7(h), Priorities

One commenter recommended that Treasury require that tax levies imposed by the Internal Revenue Service (IRS) be served directly on FMS, rather than on

Federal agencies directly. FMS has not changed this rule in response to this comment. This rule applies only to the collection of nontax debts. Moreover, service of IRS levies is governed by the Internal Revenue Code, which is administered solely by the IRS. Service of levies to collect delinquent tax obligations is therefore outside the scope of this rule.

#### 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, the agencies affected by this rule have already been accomplishing centralized salary offset in accordance with the terms of this rule, and procedures affecting debtors remain unchanged in this rule. Moreover, this final rule makes only minor changes to the currently effective interim final rule and provides guidance that is expected to facilitate Federal agencies' participation in the centralized offset program. Therefore, FMS believes that good cause exists, and that it is in the public interest, to make this final rule effective upon publication.

#### 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, 3720B, 3720D; 42 U.S.C. 664; E.O. 13019, 61 FR 51763, 3 CFR, 1996 Comp., p. 216.

■ 2. Amend § 285.7 as follows:

- a. Revise paragraph (a)(1);
- b. Remove the last sentence of paragraph (a)(4);
- c. Add a new paragraph (a)(6);
- d. Revise paragraph (d)(1);
- e. Revise paragraph (d)(4); and
- f. Add a new sentence to the end of paragraph (f).

The revisions and additions read as follows:

#### § 285.7 Salary offset.

(a) *Purpose and scope.* (1) This section establishes FMS's procedures for the centralized offset of Federal salary payments to collect delinquent nontax debts owed to the United States. This process is known as centralized salary offset. Rules issued by the Office of Personnel Management contain the requirements Federal agencies must follow prior to conducting centralized or non-centralized salary offset and the procedures for requesting offsets directly from a paying agency, rather than through TOP. See 5 CFR 550.1101 through 550.1108.

\* \* \* \* \*

(6) This section does not govern the centralized offset of final salary payments or lump-sum payments made to employees who have left an agency's employ. The centralized offset of such payments is governed by § 285.5 of this part.

\* \* \* \* \*

(d) *Creditor agency participation.* (1) As required under 5 U.S.C. 5514(a)(1), creditor agencies shall participate at least annually in centralized salary offset computer matching. By notifying FMS of all past-due, legally enforceable debts delinquent for more than 180 days for purposes of 31 U.S.C. 3716(c)(6), creditor agencies shall have met the requirement set forth in 5 U.S.C. 5514(a)(1). Additionally, creditor agencies may notify FMS of past-due, legally enforceable debts delinquent for less than 180 days for purposes of centralized offset.

\* \* \* \* \*

(4) The creditor agency is not required to submit the certification set forth in paragraph (d)(3)(iv) of this section prior

to submitting a debt to FMS. However, if the creditor agency does not provide such certification initially, the creditor agency shall provide the Federal employee with the notices and opportunity for a hearing, as required by 5 U.S.C. 5514 and applicable regulations, and shall make the necessary certification before the disbursing official offsets a salary payment pursuant to this section. A creditor agency may submit a debt without the requirement set forth in paragraph (d)(3)(iv) of this section, only if the creditor agency intends to complete the certification after complying with the provisions of 5 U.S.C. 5514 and applicable regulations.

\* \* \* \* \*

(f) *Salary offset.* \* \* \* The salary paying agency shall use such records as it deems necessary to accurately calculate disposable pay in accordance with 5 CFR 550.1103.

\* \* \* \* \*

Dated: April 22, 2005.

Richard L. Gregg,

Commissioner.

[FR Doc. 05-8640 Filed 5-2-05; 8:45 am]

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[CGD13-05-008]

RIN 1625-AA00

**Safety Zones; Annual Fireworks Events in the Captain of the Port, Portland Zone**

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement.

**SUMMARY:** The Captain of the Port, Portland, Oregon, will enforce the safety zones established for the Cinco de Mayo Fireworks Display and the Portland Rose Festival Fireworks Display on the waters of the Willamette River on May 6, 2005 and June 3, 2005 respectively. The Captain of the Port, Portland, Oregon, is taking this action to safeguard watercraft and their occupants from safety hazards associated with the display of fireworks. Entry into these safety zones is prohibited unless authorized by the Captain of the Port.

**DATES:** The Cinco de Mayo Fireworks Display in 33 CFR 165.1315(a)(1) will be enforced on May 6, 2005. The Portland Rose Festival Fireworks in 33 CFR

165.1315(a)(2) will be enforced on June 3, 2005.

**FOR FURTHER INFORMATION CONTACT:** Petty Officer Charity Keuter, c/o Captain of the Port Portland, OR 6767 North Basin Avenue Portland, OR 97217 at (503) 240-2590 to obtain information concerning enforcement of this rule.

**SUPPLEMENTARY INFORMATION:** On May 30, 2003 the Coast Guard published a final rule (68 FR 32366) establishing regulations in 33 CFR 165.1315 to safeguard watercraft and their occupants on the waters of the Willamette, Columbia, and Coos Rivers from safety hazards associated with the display of fireworks within the AOR of the Captain of the Port, Portland, Oregon. The Coast Guard is issuing notice that the Captain of the Port, Portland, Oregon will enforce the established safety zones on the waters of the Willamette River between the Morrison and Hawthorne Bridges published in paragraphs (a)(1), Cinco de Mayo Fireworks Display, Portland, OR, and (a)(2), Portland Rose Festival Fireworks Display, Portland, OR, of 33 CFR 165.1315 on May 6, 2005 from 9 p.m. to 10:30 p.m. and June 3, 2005 from 9:20 p.m. to 10:50 p.m. respectively. Entry into these safety zones is prohibited unless otherwise exempted or excluded under the final rule or unless authorized by the Captain of the Port or his designee. The Captain of the Port may be assisted by other Federal, State, or local agencies in enforcing these safety zones.

Dated: April 20, 2005.

Daniel T. Pippenger,

Commander, U.S. Coast Guard, Alternate Captain of the Port, Portland, OR.

[FR Doc. 05-8822 Filed 5-2-05; 8:45 am]

BILLING CODE 4910-15-P

**NATIONAL ARCHIVES AND RECORDS ADMINISTRATION**

**36 CFR Part 1253**

RIN 3095-AB47

**NARA Facility Locations and Hours**

AGENCY: National Archives and Records Administration (NARA).

ACTION: Final rule.

**SUMMARY:** NARA is adding to its regulations the location of the William J. Clinton Presidential Library in Little Rock, Arkansas, and revising the location and hours for the regional archives in NARA's Southeast Region (Atlanta) in Morrow, Georgia. This final rule will affect the public.

**DATES:** *Effective Date:* June 2, 2005.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Davis Heaps at 301-837-1801.

**SUPPLEMENTARY INFORMATION:** The proposed rule was published in the February 7, 2005, **Federal Register** (70 FR 6386) for a 60-day public comment period. A copy of the proposed rule was also posted on the NARA Web site.

NARA received no comments on the proposed rule. The telephone number for the Morrow, Georgia, facility changed after the proposed rule was published. The new number is published in this final rule and there are no other changes.

This rule is not a significant regulatory action for the purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget (OMB). As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on a substantial number of small entities because this rule applies to individual researchers. This rule does not have any federalism implications.

**List of Subjects in 36 CFR Part 1253**

Archives and records.

■ For the reasons set forth in the preamble, NARA amends part 1253 of title 36, Code of Federal Regulations, as follows:

**PART 1253—LOCATIONS OF RECORDS AND HOURS OF USE**

■ 1. The authority citation for part 1253 continues to read as follows:

Authority: 44 U.S.C. 2104(a).

■ 2. Amend § 1253.3 by adding paragraph (k) to read as follows:

**§ 1253.3 Presidential Libraries.**

\* \* \* \* \*

(k) William J. Clinton Library is located at 1200 President Clinton Avenue, Little Rock, AR 72201. The phone number is 501-374-4242 and the fax number is 501-244-2883. The e-mail address is *clinton.library@nara.gov*.

■ 3. Amend § 1253.7 by revising paragraph (e) to read as follows:

**§ 1253.7 Regional Archives.**

\* \* \* \* \*

(e) NARA—Southeast Region (Atlanta) is located at 5780 Jonesboro Road, Morrow, GA 30260. The hours are 8:30 a.m. to 5 p.m., Tuesday through Saturday. The telephone number is 770-968-2100.

\* \* \* \* \*