

the debt through deductions from the debtor's disposable pay, and the debtors rights regarding the proposed action.

2. Providing the debtor with an opportunity to inspect and copy Department records relating to the debt, to enter into a repayment agreement with the Department, and to receive a hearing concerning the existence or amount of the debt and the terms of a repayment schedule.

3. Conducting a hearing prior to the issuance of a withholding order, if the debtors request for a hearing is timely received by HHS. When a debtor's request for a hearing is not received within the time period specified, HHS will not delay issuance of a withholding order prior to conducting the hearing.

4. Sending to the employer of a delinquent debtor a wage garnishment order directing the employer to withhold up to 15% of the debtors disposable pay and remit those amounts to the Federal government.

5. Requiring the debtor's employer to certify certain payment information about the debtor.

Analysis of and Responses to Public Comments

We published a proposed rule on this subject on December 4, 2002 (67 FR 72128-72130).

No public comments were received.

Economic Impact

We have examined the impacts of this rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review) and the Regulatory Flexibility Act (RFA) (September 19, 1980; Pub. L. 96-354), the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), and Executive Order 13132.

Executive Order 12866 (the Order) directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects (\$100 million or more in any 1 year). We have determined that this rule is consistent with the principles set forth in the Order, and we find this rule would not have an effect on the economy that exceeds \$100 million in any one year. In addition, this rule is not a major rule as defined at 5 U.S.C. 804(2). In accordance with the provisions of the Order, this regulation

was reviewed by the Office of Management and Budget.

It is hereby certified under the RFA that this regulation, including the certification referenced in this rulemaking (see § 32.7), will not have a significant economic impact on a substantial number of small entities. This rule applies only to individuals, as well as employers of such individuals, with delinquent debts owed to the United States. Although a substantial number of small entities will be subject to this regulation and to the certification requirement in this rule, the requirements will not have a significant economic impact on these entities. Employers of delinquent debtors must certify certain information about the debtor such as the debtor's employment status and earnings. This information is contained in the employer's payroll records. Therefore, it will not take a significant amount of time or result in a significant cost for an employer to complete the certification form. Even if an employer is served with withholding orders on several employees over the course of a year, the cost imposed on the employer to complete the certifications would not have a significant economic impact on that entity. Employers are not required to vary their normal pay cycles in order to comply with a withholding order issued pursuant to this rule.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditure in any 1 year by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million. As noted above, we find that this rule would not have an effect of this magnitude on the economy.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has federalism implications. We have reviewed this rule under the threshold criteria of Executive Order 13132, Federalism, and have determined that this rule would not have substantial direct effect on the States, on the relationship between the national government and States, or on the distribution of power and responsibilities among the various levels of government. As there are no federalism implications, a federalism impact statement is not required.

For purposes of the Paperwork Reduction Act, 44 U.S.C. chapter 35, this rule will impose no new reporting

or record-keeping requirements on employers. As noted above, although an employer of a delinquent debtor must certify certain information about the debtor, the employer's payroll records already contain this information, and, even if an employer receives withholding orders on several employers, the burden of completing the certification would not be significant. Furthermore, we believe that these reporting requirements fall within the "administrative action" exemption in § 1320.4(a)(2) of the Paperwork Reduction Act.

Provisions of the Final Regulations

This final rule incorporates the provisions of the proposed rule. There are no provisions in this final rule that differ from the proposed rule.

List of Subjects in 45 CFR Part 32

Administrative practice and procedure, Claims, Debts, Garnishment of wages, Hearings and appeal procedures, Salaries, Wages.

■ For the reasons set forth in the preamble, HHS amends 45 CFR subtitle A by adding part 32 to read as follows:

PART 32—ADMINISTRATIVE WAGE GARNISHMENT

Sec.

- 32.1 Purpose and scope.
- 32.2 Definitions.
- 32.3 General rule.
- 32.4 Notice.
- 32.5 Hearing.
- 32.6 Withholding order.
- 32.7 Certification by employer.
- 32.8 Amounts withheld.
- 32.9 Financial hardship.
- 32.10 Refunds.
- 32.11 Ending garnishment.
- 32.12 Right of action.

Authority: 31 U.S.C. 3720D, 5 U.S.C. 552, 553, E.O. 12866, 12988, 13808.

§ 32.1 Purpose and scope.

(a) *Purpose.* This part prescribes the standards and procedures for the Department to collect money from a debtor's disposable pay by means of administrative wage garnishment to satisfy delinquent non-tax debts owed to the United States.

(b) *Authority.* These standards and procedures are authorized under the wage garnishment provisions of the Debt Collection Improvement Act of 1996, codified at 31 U.S.C. 3720D, and the Department of the Treasury Administrative Wage Garnishment Regulations at 31 CFR 285.11.

(c) *Scope.* (1) This part applies to all Departmental Operating Divisions and Regional Offices that administer a program that gives rise to a delinquent