

use of that authority may ever be appropriate, USDA has reserved the right to collect, compromise, suspend, or terminate the collection of debts as otherwise authorized by law in “ 3.1(a)(2) of the proposed rule.

Subpart A of the proposed rule provides the purpose and scope of the rule, authority, definitions, and delegation of authority to USDA agency heads to exercise any of the functions provided by this part, except as otherwise provided.

Subpart B sets forth the standards for the administrative collection and compromise of claims. This subpart is an adaption of the language of the corresponding portion of the FCCS, 31 CFR part 901, regarding the administrative collection of claims. For the compromise of claims, suspension or termination of collection activities, and referrals to the Department of Justice (DOJ), §§ 3.19 to 3.21 direct USDA agencies to follow the procedures provided in the FCCS, 31 CFR parts 902–904. It also includes provisions for the reporting of debts to consumer or commercial credit reporting agencies; suspension or revocation of eligibility for loans and loan guarantees, licenses, permits, or privileges; liquidation of collateral; collection in installments; assessment of interest, penalties, and administrative costs; and use and disclosure of mailing addresses.

With respect to the collection of claims, the intent of this revision of 7 CFR part 3 is to encourage USDA agencies to issue demand letters for payment of a delinquent debt that notifies the debtor of all options the USDA agency has for collection of the debt, including discussions for alternative methods of payment, reporting to credit bureaus, collection through collection agencies, administrative offset, administrative wage garnishment, Federal salary offset (where applicable), tax refund offset, referral to the Department of the Treasury (Treasury) for collection through the Treasury Offset Program (TOP) or through cross-servicing, and litigation. Demand letters will provide debtors with notice of their rights to review the records related to the debt and request administrative review of the debt.

Subpart F of the proposed rule provides a consolidated administrative review process to review the validity and existence of the debt for all debt collection action authorized by DCIA for which DCIA requires due process prior to collection. The intent here is to provide agencies with the authority to have one notice and one administrative review as to the existence and validity

of the debt for all debt collection tools, whether the debt is collected internally by USDA or prior to referral of the debt to Treasury for collection. This does not preclude a prior hearing on a substantive program matter that may have given rise to the claim owed to USDA. Additionally, for purposes of administrative wage garnishment, the administrative review will concern only the validity and existence of the debt prior to referral to Treasury. Treasury, or its contractors, will service and issue USDA administrative wage garnishment orders, including establishment of repayment schedules, for which Treasury will provide debtors with an additional opportunity to seek USDA review of the current status of the debt and the burden of the proposed repayment schedule upon notice to the debtor of the proposed garnishment order itself.

Subpart C of the proposed rule describes the requirements for referral of debt to Treasury, and sets forth specific rules for referral to Treasury for cross-servicing. Under cross-servicing, Treasury acts on behalf of other Federal agencies to pursue collection of debts using a variety of means. All debts may be referred to Treasury for cross-servicing, including those that arise as a result of default under an instrument or agreement for which no further demand letter or due process review is required prior to initiating collection.

Subpart D of the proposed rule provides procedures for administrative offset through the mandatory TOP program and through non-centralized offset with other Federal agencies or by internal administrative offset within USDA. The existing Farm Service Agency (FSA) and CCC debt collection regulations include a provision that authorizes those agencies, upon receipt of a request for an offset of a FSA or CCC payment to satisfy a debt owed a creditor agency, to take a debtor's pro rata share of a payment to an entity (such as a partnership or corporation) of which the debtor is a part. The proposed rule would authorize each agency of USDA to take pro rata shares of payments to entities in order to satisfy an offset request received from Federal or USDA creditor agency provided that the entity received notice of the proposed offset from the creditor agency.

USDA will accomplish the administrative offset of tax refunds through referral to Treasury under TOP. Accordingly, to meet the 60-day notice and opportunity for review period required by law prior to offset of tax refunds, this rule provides that referrals to TOP will not be made until 60 days

after notice of the administrative offset is sent to the debtor, or until after completion of a review under subpart F if that occurs later. However, USDA internal administrative offsets shall be made 31 days after the date the notice of administrative offset is sent if no request for review under subpart F is received.

Subpart E of the proposed rule outlines the process USDA will use to collect debts using administrative wage garnishment. In demand letters sent to debtors, or separately, USDA will advise debtors that it will refer the debt to Treasury for collection through administrative wage garnishment if other sources for satisfaction of the debt are not available. Treasury requires that all debts referred to it for collection, using whatever collection tool, be legally enforceable. Accordingly, debtors will have the opportunity at this stage to seek review of the debt for purposes of assuring legal enforceability prior to referral to Treasury for administrative wage garnishment, administrative offset, tax refund offset, etc.

Once at Treasury, if Treasury or its designee determines that administrative wage garnishment is appropriate, Treasury or its designee will issue a proposed garnishment order to the debtor and provide the debtor with the opportunity to request review of the debt and repayment schedule in accordance with the administrative wage garnishment hearing procedures in 31 CFR 285.11. If the debtor requests such a hearing, Treasury will refer the request to the USDA creditor agency to which the debt is owed and the creditor agency will contact OCFO for designation of a hearing official. In consultation with the USDA creditor agency to which the debt is owed, OCFO will designate a hearing official. OCFO will forward the final determination of the hearing official to Treasury for implementation with respect to the subject garnishment order.

As discussed above, subpart F establishes procedures for a review or hearing on the validity and existence of the debt, if requested by the debtor upon receipt of a demand letter or notice to collect by one of the administrative mechanisms. For debt collection proceedings related to domestic programs initiated by FSA, CCC, the Rural Housing Service, the Rural Business-Cooperative Service, the Risk Management Agency, the Federal Crop Insurance Corporation, the Natural Resources Conservation Service, Rural Development, and the Rural Utilities Service (but not for programs authorized by the Rural Electrification Act of 1936