

in order to comply with the garnishment order.

The DCIA prohibits employers from taking disciplinary actions against the debtor based on the fact that the debtor's wages are subject to administrative garnishment. In addition, the DCIA authorizes GSA to sue an employer for amounts not properly withheld from the wages payable to the debtor.

*Discussion of Comments.* In response to its Notice of Proposed Rule (NPR) concerning Administrative Wage Garnishment (68 FR 41290, July 11, 2003), GSA received one internal comment and one from another agency. A review of the comments is provided in the following comment analysis, including a discussion of GSA's determination whether to incorporate specific suggestions in the final rule. The comment analysis is organized by reference to the paragraph in the NPR.

*NPR Sec. 105-57.005, Hearing.* One commenter suggested that transcripts taken during the course of oral hearing proceedings be arranged by the hearing official and all charges associated with the taking of the transcript be the responsibility of GSA. The final rule incorporates this suggestion.

*NPR Sec. 105-57.008, Amounts withheld.* One commenter questioned if the NPR has the same net base rule as the current Consumer Credit Protection Act (CCPA) limitation of 15 percent of an eligible employee's disposable earnings, but not below \$154.50 net per week. Under the NPR and the final rule, the amount of garnishment is the lesser of the amount indicated on the garnishment order up to 15 percent of the debtor's disposable pay or the amount set forth in 15 U.S.C. 1673(a)(2), which is the amount by which a debtor's disposable pay exceeds an amount equal to thirty times the minimum wage. The current minimum wage is \$5.15 per hour, times thirty equals \$154.50.

#### **B. Executive Order 12866**

This rule is not a significant regulatory action as defined in Executive Order 12866. It is hereby certified this regulation, including the certification referenced in this final rule (see § 105-57.007 of this part), will not have a significant economic impact on a substantial number of small entities. 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 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.

#### **C. Regulatory Flexibility Act**

It is hereby certified this regulation will not have a significant economic impact on a substantial number of small entities because the regulation either (1) results in greater flexibility for GSA to streamline debt collection regulations, or (2) reflects the statutory language contained in the DCIA. Accordingly, a Regulatory Flexibility Analysis is not required.

#### **D. Executive Order 13132**

This regulation will not have a substantial direct effect on the states, on the relationship between the national government and the states, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined this regulation does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### **E. Unfunded Mandates Reform Act of 1995**

This regulation will not result in the expenditure by state, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one (1) year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### **F. Small Business Regulatory Enforcement Fairness Act of 1996**

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Act, 5 U.S.C. § 804. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-

based companies in domestic or export markets.

#### **G. Paperwork Reduction Act**

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3507 *et seq.*

#### **List of Subjects in 41 CFR Part 105-57**

Claims, Government public contracts and property management, Income taxes.

Dated: December 2, 2003.

**Stephen A. Perry,**  
*Administrator of General Services.*

For the reasons set out in the preamble, GSA amends 41 CFR chapter 105 as follows:

#### **CHAPTER 105 [Amended]**

1. Revise Part 105-57 to read as follows:

#### **PART 105-57—ADMINISTRATION WAGE GARNISHMENT**

Sec.	
105-57.001	Purpose, authority and scope.
105-57.002	Definitions.
105-57.003	General rule.
105-57.004	Notice requirements.
105-57.005	Hearing.
105-57.006	Wage garnishment order.
105-57.007	Certification by employer.
105-57.008	Amounts withheld.
105-57.009	Exclusions from garnishment.
105-57.010	Financial hardship.
105-57.011	Ending garnishment.
105-57.012	Actions prohibited by the employer.
105-57.013	Refunds.
105-57.014	Right of action.

**Authority:** 5 U.S.C. §§ 552-553, 31 U.S.C. § 3720D, 31 CFR part 285.11.

#### **§ 105-57.001 Purpose, authority and scope.**

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

(b) 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 Department of the Treasury Wage Garnishment Regulations at 31 CFR 285.11.

(c) *Scope.* (1) This part applies to any GSA program that gives rise to a delinquent non-tax debt owed to the United States and that pursues recovery of such debt.