

acceptable for compliance with the corresponding action, paragraph (g) of this AD.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Marcia Smith, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM-150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 917-6484; fax (425) 917-6590. Or, e-mail information to 9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

Material Incorporated by Reference

(j) You must use Boeing Alert Service Bulletin 747-25A3431, dated March 6, 2008; and Boeing Service Bulletin 747-25A3430, Revision 1, dated October 9, 2008; as applicable; to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H-65, Seattle, Washington 98124-2207; telephone 206-544-5000, extension 1, fax 206-766-5680; e-mail me.boecom@boeing.com; Internet <https://www.myboeingfleet.com>.

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425-227-1221 or 425-227-1152.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Issued in Renton, Washington, on October 19, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate,
Aircraft Certification Service.

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DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 285

RIN 1510-AB23

Administrative Offset Under Reciprocal Agreements With States

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: This final rule describes the rules applicable to the offset of Federal nontax payments to collect delinquent debts owed to States pursuant to reciprocal agreements between the Secretary of the Treasury and the States. In addition to providing for the offset of Federal nontax payments, the reciprocal agreements provide for the offset of State payments to collect delinquent, nontax Federal debts. The offsets described in this rule are processed by the Treasury Offset Program (TOP), which the Department of the Treasury's Financial Management Service (FMS) established to centralize the process by which Federal payments are withheld or reduced (in other words, offset) to collect delinquent debts.

DATES: This rule is effective November 3, 2009.

FOR FURTHER INFORMATION CONTACT: Thomas Dungan, Senior Policy Analyst, at (202) 874-6660, or Tricia Long, Senior Counsel, at (202) 874-6680.

SUPPLEMENTARY INFORMATION:

I. Background

The Debt Collection Improvement Act of 1996 (DCIA), Public Law 104-134, 110 Stat. 1321-358 *et seq.* (April 26, 1996), authorized Federal disbursing officials to withhold or reduce eligible Federal payments to pay the payee's delinquent debt owed to the United States. See 31 U.S.C. 3716(c). This process is known as "administrative offset" or "offset." The DCIA also provided that Federal payments may be offset to collect delinquent debts owed to States provided that the States enter into reciprocal agreements with the Secretary of the Treasury and meet certain other qualifications. See 31 U.S.C. 3716(h). Section 3716(h) authorizes the Secretary of the Treasury to allow States to participate in administrative offset to collect delinquent State debts so long as the States meet the requirements of 31 U.S.C. 3716(h), including entering into reciprocal agreements with the Secretary of the Treasury. Such reciprocal agreements shall contain any

requirements that the Secretary considers appropriate, to facilitate offset and prevent duplicative efforts.

On January 11, 2007, FMS issued an interim rule with request for comments that established the reciprocal offset program with States through TOP. See 72 FR 1283. In that interim rule, FMS also described the pilot program that was initiated in June 2007. The purpose of the pilot program was to determine if it is in the best interests of the United States and the States to fully implement reciprocal offsets under this section. FMS invited the States to participate in the pilot program, and two States participated. The purposes of the pilot were to test offset systems and procedures and to evaluate whether the benefits of the program outweigh the costs. In the interim rule, FMS indicated it would consider information gained from the operation of the pilot, in addition to comments received on the interim rule, before issuing a final rule.

Based upon the results of the pilot program, FMS has determined that it is in the best interests of the United States to continue with the reciprocal offset program with the States with some changes set forth in this final rule.

II. Discussion of Comments and Results of the Pilot Public Comments

FMS received comments from one association of auditors, comptrollers, and treasurers. Following is a discussion of the substantive issues raised in the comments.

1. Limitations on Payments Available for Offset To Collect State Debts

The commenter noted that TOP processes offsets of many payments that are not available for offset to collect State debts. Among those payments are federal tax refunds, social security payments, and federal salary payments. The statute authorizing reciprocal offsets under this section expressly excludes offset of federal tax refunds and social security benefit payments. See 31 U.S.C. 5 3701(d)(1) and 3716(h)(3), respectively. Therefore, offset of those payments is beyond the scope of this rule. In addition, as noted in the interim rule, there are many statutes and regulations that affect federal salary offset, including statutes administered by other federal agencies such as the Office of Personnel Management. See 72 FR 1284. Such laws contain additional requirements for offset of federal salary payments, including the requirement that federal employees have an opportunity for a hearing by an authority not under the control of the creditor agency. See 5 CFR 550.1104(d)(7). The additional legal

requirements also have an impact on operations of both the States and the Federal Government. For these reasons, FMS decided not to include administrative offset of federal salary payments in this rule.

2. Fees

The commenter noted that the rule provides for FMS to charge a fee to the States to recoup FMS's administrative costs, while not providing for the States to charge 5515 for their administrative costs. The commenter encouraged FMS to include a provision for the States to charge a fee in the reciprocal agreements. The DCIA authorizes FMS to charge creditor agencies a fee sufficient to cover the full cost of implementing administrative offsets. See 31 U.S.C. 3716(c)(4). There is no authority for States to charge FMS a fee or for FMS to pay a fee to the States. Therefore, it would be beyond FMS's authority to include a provision for a fee in this rule or in the reciprocal agreements.

3. State Legislation

The commenter noted that States may have to pass legislation to allow officials other than the governor to sign a reciprocal agreement and to authorize offset of State payments to collect delinquent federal debts. FMS anticipates that all States wishing to participate in the program authorized by this rule will have to enact legislation. Both of the States participating in the pilot program passed legislation in order to implement the program. FMS worked closely with those States to ensure that the legislative language would be sufficient. FMS will continue to assist participating States in that effort.

4. Requirement for a Reciprocal Agreement

The commenter expressed concern that use of the program may be hindered by the need for a reciprocal agreement in States where debt collection is not centralized. A reciprocal agreement with the State is a statutory requirement. See 31 U.S.C. 3716(h)(1)(B). This rule, therefore, is only repeating the requirement contained in the statute. To the extent this comment is intended to address any requirements in the reciprocal agreements that the States centralize offset operations, such issues are not within the scope of this rule. Section 3716(h)(1)(B) authorizes FMS to include in the reciprocal agreements any requirements which it considers appropriate to facilitate the offset and prevent duplicative efforts. FMS has chosen not to include the detailed

operational requirements of the reciprocal agreements in this rule, thus preserving the flexibility to prescribe such terms as may be deemed appropriate in the future. This rule, therefore, only sets forth the basic parameters for the reciprocal agreements between FMS and the States.

Results of the Pilot Program

The pilot commenced in June 2007. Two States—Maryland and New Jersey—participated. Collection results indicate that the program benefited the States as well as the federal agencies. The implementation costs for each of the two participating States were approximately \$1 million. As of July 31, 2008, Maryland had collected over \$19 million, and New Jersey had collected over \$14 million.

The estimated implementation costs for TOP were \$230,000 and for the federal agencies were \$100,000. As of July 31, 2008, TOP had collected a total of \$5,495,163.28 of federal nontax debts from the payments made by Maryland and New Jersey.

While the benefit to the States greatly exceeds the benefits to the Federal government, the program is nonetheless a beneficial collection tool for federal agencies. FMS has, therefore, determined that the program should continue.

In addition to evaluating the financial benefits of the reciprocal offset program, FMS analyzed the legal requirements for participation in the program. In the interim rule, FMS imposed an extra due process requirement on the States for debts they had submitted for offset under section 285.8 of this part. See paragraph (f) of this section, "Debts previously submitted by States for tax refund offset." Prior to the pilot, if a State had already submitted a debt to TOP for purposes of federal tax refund offset, the State was not required to send out another advance due process notice informing the debtor that additional federal payments would be subject to offset to collect that debt. However, under the interim rule, a State was required to send out a post-offset due process notice if a federal payment was offset under this section. A comparable requirement for post-offset notice was imposed on federal agencies, under the reciprocal agreements, if a State payment was offset to collect a federal debt that had been submitted for offset prior to promulgation of the interim rule.

The extra notice required by paragraph (f) of the interim rule is not required by statute. FMS imposed this additional notice requirement solely because the program was new, and it

was unknown if there might be significant numbers of debtors who would claim that they would have availed themselves of their due process rights earlier if they had known that State payments would be subject to offset. Such claims did not emerge during the pilot, and the post-offset notice requirement places an unnecessary administrative obligation on States without any resulting benefit to debtors. FMS has therefore determined that this additional notice is no longer necessary. Accordingly, paragraph (f) has been modified to delete the requirement for any post-offset due process notice.

III. Procedural Analysis

Administrative Procedures Act

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. This final rule makes only minor changes to the currently effective interim final rule and provides guidance that is expected to facilitate States' participation in the reciprocal 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.

Regulatory Planning and Review

The rule does not meet the criteria for a "significant regulatory action" as defined in Executive Order 12866. Therefore, the regulatory review procedures contained therein do not apply.

Regulatory Flexibility Act

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.

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.

■ 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 continues 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. Revise § 285.6, paragraph (f), to read as follows:

285.6 Administrative offset under reciprocal agreements with states.

* * * * *

(f) *State debts submitted to FMS for tax refund offset.* A State shall be deemed to have complied with the requirements of paragraph (e)(2) of this section with respect to any State debt that the State certified to Treasury for collection pursuant to § 285.8 of this part.

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Dated: October 23, 2009.

Richard L. Gregg,

Acting Fiscal Assistant Secretary.

[FR Doc. E9-26303 Filed 11-2-09; 8:45 am]

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**ENVIRONMENTAL PROTECTION
AGENCY**

40 CFR Parts 51 and 52

[EPA-HQ-OAR-2009-0021; FRL-8972-7]

RIN 2060-AP46

**Administrative Stay of Clean Air
Interstate Rule for Minnesota;
Administrative Stay of Federal
Implementation Plan To Reduce
Interstate Transport of Fine Particulate
Matter and Ozone for Minnesota**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule administratively stays the effectiveness, for Minnesota and Minnesota sources only, of two rules issued under section 110 of the Clean Air Act (CAA) related to the interstate transport of pollutants. On May 12, 2005, EPA issued the Clean Air Interstate Rule (CAIR) requiring Minnesota and other states in the eastern U.S. to submit State Implementation Plan (SIP) revisions to limit sulfur dioxide (SO₂) and nitrogen

oxides (NO_x) emissions in order to eliminate the significant contribution of these states to nonattainment for fine particulate matter (PM_{2.5}) and/or ozone, and eliminates interference with maintenance of attainment, in downwind states. On April 28, 2006, EPA issued Federal Implementation Plans (CAIR FIPs) to serve as a backstop until replaced by approved SIPs. Subsequently, the U.S. Court of Appeals for the District of Columbia Circuit reversed and remanded CAIR. Among other things, the Court held that EPA had not properly addressed possible errors in analysis supporting the inclusion of Minnesota in CAIR for fine particulate matter. In this final rule, EPA is administratively staying the effectiveness of CAIR and the CAIR FIP with respect to Minnesota and sources in Minnesota only, pending further rulemaking in response to the remand.

DATES: The effective date of this final rule is December 3, 2009.

ADDRESSES: *Docket:* EPA has established a docket for this final rule under Docket ID No. EPA-HQ-OAR-2009-0021. All documents in the docket are listed on the www.regulations.gov Web site. Although listed in the index, some information is not publicly available, e.g., confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at www.regulations.gov or in hard copy at the EPA Docket Center EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT: Jeb Stenhouse, Program Development Branch, Clean Air Markets Division, Office of Atmospheric Programs, Mail Code 6204J, Environmental Protection Agency, Washington, DC 20460, telephone number 202-343-9781, fax number 202-343-2359, and e-mail address stenhouse.jeb@epa.gov.

SUPPLEMENTARY INFORMATION:

Outline

- I. Background
- II. What Is the Scope of this Final Rule?
- III. Statutory and Executive Order Reviews
 - A. Executive Order 12866: Regulatory Planning and Review
 - B. Paperwork Reduction Act

- C. Regulatory Flexibility Act (RFA)
- D. Unfunded Mandates Reform Act
- E. Executive Order 13132: Federalism
- F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
- G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
- H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
- I. National Technology Transfer Advancement Act
- J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
- K. Congressional Review Act
- L. Judicial Review

I. Background

Section 110(a)(2)(D)(i)(I) of the CAA requires that a state's SIP prohibit emissions by any source or other type of emissions activity in the state that will "contribute significantly to nonattainment in, or interfere with maintenance by, any other State" with respect to any national ambient air quality standard (NAAQS). 42 U.S.C. 7410(a)(2)(D)(i)(I). On May 12, 2005, EPA issued CAIR (70 FR 25162, May 12, 2005). In that rule, EPA found that 28 states and Washington, DC contribute significantly to nonattainment, and interfere with maintenance, of the NAAQS for fine particulate matter and/or ozone in downwind states. CAIR required these upwind states to revise their SIPs to include control measures to reduce emissions of SO₂ and/or NO_x and thereby meet the requirements of section 110(a)(2)(D)(i)(I). One of the states included in CAIR for fine particulate matter, but not for ozone, was the State of Minnesota. Minnesota was thus required to reduce annual SO₂ and annual NO_x emissions in accordance with the requirements of the rule. Further, in CAIR, EPA offered to administer, as a remedy through which states could comply with CAIR, SO₂ annual, NO_x annual, and NO_x ozone season trading programs that states could choose to incorporate in their SIPs. CAIR included model rules for these trading programs and provided that states could adopt the model rules in their SIPs and thereby incorporate the trading programs in the SIPs.

On April 28, 2006, EPA issued the CAIR FIPs (71 FR 25330, April 28 2006). In the April 28, 2006, notice, EPA promulgated FIPs to implement the emission reduction requirements of CAIR in each state covered by CAIR until the FIP is replaced by an approved SIP. EPA issued the CAIR FIPs to provide a federal backstop for CAIR. EPA decided to adopt as the FIP for