§ 513.31 What notice will the Commission, as the creditor agency, give a debtor that salary offset will occur?

(a) Deductions from a debtor’s salary will not be made unless the Commission sends the debtor a written Notice of Intent at least 30 calendar days before the salary offset is initiated.

(b) The Notice of Intent will include the following:

1. Notice that the Commission has reviewed the records relating to the debt and has determined that the employee owes the debt;
2. Notice that, after a 30-day period, the Commission will begin to collect the debt by deductions from the employee’s current disposable pay account and the date on which deductions from salary will start;
3. The amount of the debt and the facts giving rise to it;
4. The frequency and the amount of the intended deduction stated as a fixed dollar amount or as a percentage of pay not to exceed 15 percent of the disposable pay, and the intention to continue the deductions until the debt and all accumulated interest are paid in full or resolved;
5. The name, address, and telephone number of the person to whom the debtor may propose a written alternative schedule for voluntary repayment in lieu of salary offset. The debtor must include a justification for the alternative schedule in the proposal;
6. The Commission’s policy concerning interest, penalties, and administrative costs, set out at § 513.5, and a statement that assessments will be made unless excused in accordance with the FCCS;
7. Notice of the employee’s right to inspect and copy all Commission records pertaining to the debt and the name, address, and telephone number of the Commission employee to whom requests for access must be made;
8. Notice of the employee’s opportunity to a hearing conducted by an individual who does not work for the Commission on the Commission’s determination of the existence or amount of the debt and the terms of the repayment schedule;
9. Notice that filing a request for a hearing on or before the 15th calendar day following the debtor’s receiving the Notice of Intent will stay collection proceedings and that a final decision will be issued at the earliest practical date, but not later than 60 days after the filing of the petition for hearing, unless the employee requests, and a hearing official grants, a delay in proceedings;
10. An explanation of the effect of submitting knowingly false or frivolous statements; and
11. Notice that amounts paid on or deducted from debts that are later waived or found not to be owed will be promptly refunded to the employee.

§ 513.32 What are the hearing procedures when the Commission is the creditor agency?

(a) To request a hearing, the debtor must file, within 15 days of receiving the Commission’s notice of intent to offset, a written petition signed by the debtor and addressed to the Commission stating why the debtor believes the Commission’s determination of the existence or amount of the debt is in error. The Commission may waive the 15-day time limit for filing a request for hearing if the employee shows that the delay was due to circumstances beyond his or her control or because the employee did not receive notice of the 15-day time limit. A debtor who has previously obtained a hearing to contest a debt that arose from a notice of violation or proposed civil fine assessment matters under 25 CFR part 577 may not re-litigate matters that were at issue in that hearing.

(b) Regardless of whether the debtor is a Commission employee, the Commission will provide a prompt and appropriate hearing before a hearing official who is not from the Commission.

(c) The hearing will be conducted according to the FCCS review requirements at 31 CFR 901.3(e).

(d) Unless the employee requests, and a hearing official grants, a delay in proceedings, within 60 days after the petition for hearing the hearing official will issue a written decision on:

1. The determination of the creditor agency concerning the existence or amount of the debt; and
(2) The repayment schedule, if a schedule was not established by written agreement between the employee and the creditor agency.

(e) If the hearing official determines that a debt may not be collected by salary offset but the Commission has determined that the debt is valid, the Commission may seek collection of the debt through other means in accordance with applicable law and regulations.

(f) The form of hearings, written responses, and final decisions will be according to the Commission’s review requirements at §513.7. Written decisions regarding salary offset that are provided after a request for hearing must state: The facts purported to evidence the nature and origin of the alleged debt; the hearing official’s analysis, findings, and conclusions as to the employee’s or creditor agency’s grounds; the amount and validity of the alleged debt; and, where applicable, the repayment schedule.

§513.33 Will the Commission issue a certification when the Commission is the creditor agency?

Yes. Upon completion of the procedures established in this subpart and pursuant to 5 U.S.C. 5514, the Commission will submit a certification to Treasury or to a paying agency in the form prescribed by the paying agency.

§513.34 What opportunity is there for a voluntary repayment agreement when the Commission is the creditor agency?

(a) In response to a Notice of Intent, an employee may propose to repay the debt voluntarily in lieu of salary offset by submitting a written proposed repayment schedule to the Commission. A proposal must be received by the Commission within 15 calendar days after the employee is sent the Notice of Intent.

(b) The Commission will notify the employee whether, within the Commission’s discretion, the proposed repayment schedule is acceptable.

(c) If the proposed repayment schedule is unacceptable, the employee will have 15 calendar days from the date the notice of the decision is received in which to file a request for a hearing.

(d) If the proposed repayment schedule is acceptable or the employee agrees to a modification proposed by the Commission, the agreement will be put in writing and signed by the employee and the Commission.

§513.35 What special review is available when the Commission is the creditor agency?

(a)(1) An employee subject to salary offset or a voluntary repayment agreement may, at any time, request a special review by the Commission of the amount of the salary offset or voluntary repayment, based on materially changed circumstances, including, but not limited to, catastrophic illness, divorce, death, or disability.

(2) The request for special review must include an alternative proposed offset or payment schedule and a detailed statement, with supporting documents, that shows why the current salary offset or payment results in extreme financial hardship to the employee, spouse, or dependents. The statement must indicate:

(i) Income from all sources;
(ii) Assets;
(iii) Liabilities;
(iv) Number of dependents;
(v) Expenses for food, housing, clothing, and transportation;
(vi) Medical expenses; and
(vii) Exceptional expenses, if any.

(b) The Commission will evaluate the statement and documentation and determine whether the current offset or repayment schedule imposes extreme financial hardship on the employee. The Commission will notify the employee in writing within 30 calendar days of its determination, including, if appropriate, a revised offset or payment schedule. If the special review results in a revised offset or repayment schedule, the Commission will provide a new certification to the paying agency.

§513.36 Under what conditions will the Commission refund amounts collected by salary offset?

(a) As the creditor agency, the Commission will promptly refund any amount deducted under the authority of 5 U.S.C. 5514, when:

(1) The Commission determines that the debt is not owed; or