

c. Revising redesignated paragraphs (e)(2),(e)(5), and (e)(6).

The revisions and additions read as follows:

**§ 1124.13 Producer Milk.**

\* \* \* \* \*

(e) \* \* \*

(1) Milk of a dairy farmer shall not be eligible for diversion unless at least 3 days' production of such dairy farmer's production is physically received at a pool plant during the month.

(2) Of the quantity of producer milk received during the month (including diversions, but excluding the quantity of producer milk received from a handler described in § 1000.9(c)) the handler diverts to nonpool plants not more than 80 percent.

\* \* \* \* \*

(5) Any milk diverted in excess of the limits prescribed in paragraph (e)(2) of this section shall not be producer milk. If the diverting handler or cooperative association fails to designate the dairy farmers' deliveries that are not to be producer milk, no milk diverted by the handler or cooperative association during the month to a nonpool plant shall be producer milk. In the event some of the milk of any producer is determined not to be producer milk pursuant to this paragraph, other milk delivered by such producer as producer milk during the month will not be subject to § 1124.12(b)(5).

(6) The delivery day requirement in paragraph (e)(1) of this section and the diversion percentage in paragraph (e)(2) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure the orderly marketing and efficient handling of milk in the marketing area. Before making such finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested persons if the request is made in writing at least 15 days prior to the month for which the requested revision is desired to be effective. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise the delivery day requirement or the diversion percentage must be issued in writing at least one day before the effective date.

Dated: November 8, 2002.

A. J. Yates,

*Administrator, Agricultural Marketing Service.*

[FR Doc. 02-29032 Filed 11-18-02; 8:45 am]

BILLING CODE 3410-02-P

**DEPARTMENT OF AGRICULTURE**

**Rural Housing Service**

**Rural Business-Cooperative Service**

**Rural Utilities Service**

**Farm Service Agency**

**7 CFR Parts 1951 and 3550**

**Servicing and Collections**

**AGENCIES:** Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule explains the procedures used by certain Rural Development Agencies and the Farm Service Agency, Farm Loan Programs to refer accounts to the Department of the Treasury for administrative offset (TOP) and cross-servicing as required by the Debt Collection Improvement Act (DCIA), and by the Treasury Department's rules regarding the Federal Claims Collection Standards concerning administrative offset, cross-servicing procedures, and Treasury Offset of Internal Revenue Service (IRS) tax refund payments.

**EFFECTIVE DATE:** December 19, 2002.

**FOR FURTHER INFORMATION CONTACT:** Barry G. Sykes, Chief, Program Reporting Branch, Program Management Division, Rural Development, USDA, Office of the Deputy Chief Financial Officer, P.O. Box 200011, FC-351, St. Louis, Missouri 63120-0011, Telephone (314) 539-2222.

**SUPPLEMENTARY INFORMATION:**

**Classification**

This action is not subject to the provisions of Executive Order 12866 since it involves only internal Agency management. This action is not published for prior notice and comment under the Administrative Procedure Act since it involves only internal Agency management and publication for comment is unnecessary and contrary to the public interest.

**Programs Affected**

The catalog of Federal Domestic Assistance programs impacted by this action are as follows:

- 10.404—Emergency Loans
- 10.405—Farm Labor Housing Loans and Grants
- 10.406—Farm Operating Loans
- 10.407—Farm Ownership Loans
- 10.410—Very Low to Moderate Income Housing Loans
- 10.411—Rural Housing Site Loans and Self-Help Housing Land Development Loans
- 10.415—Rural Rental Housing Loans
- 10.417—Very Low-Income Housing Repair Loans and Grants
- 10.420—Rural Self-Help Housing Technical Assistance
- 10.427—Rural Rental Assistance Payments
- 10.760—Water and Waste Disposal Systems for Rural Communities
- 10.766—Community Facilities Loans and Grants
- 10.767—Intermediary Relending Program
- 10.768—Business and Industry Loans
- 10.770—Water and Waste Disposal Loans and Grants (section 306C)
- 10.854—Rural Economic Development Loans and Grants

**Civil Justice Reform**

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with this Executive Order: (1) Unless otherwise specifically provided, all State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule except as specifically prescribed in the rule; and (3) administrative proceedings of the National Appeals Division (7 CFR part 11) must be exhausted before litigation against the Department is instituted.

**Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act (44 U.S.C. 3507), the information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB control number 0575-0119. This rule does not revise or impose any new information collection requirements from those approved by OMB.

**Unfunded Mandates Reform Act**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Agencies generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may

result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Agencies to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

#### Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." The Agencies have determined that this action does not constitute a major Federal action significantly affecting the quality of human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

#### Executive Order 13132, Federalism

The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

#### Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601-602), the undersigned have determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities. New provisions included in this rule will not impact a substantial number of small entities to a greater extent than large entities. Thus, large entities are subject to these rules to the same extent as small entities. Therefore, a regulatory flexibility analysis was not performed.

#### Discussion of Final Rule

The final rule adopts the Department of Treasury (Treasury) Debt Collection procedures required by the Debt Collection Improvement Act (DCIA), Pub. L. 104-434, April 26, 1996, the Federal Claims Collection Standards

concerning administrative offset at 31 CFR 901.3, cross-servicing procedures at 31 CFR part 285, subpart A and Treasury Offset of Internal Revenue Service (IRS) tax refund payments at 31 CFR 285.2. The Rural Business-Cooperative Service and the Rural Housing Service, Community Facilities program, both part of the Rural Development mission area, are adopting this rule to enable it to refer delinquent accounts to Treasury for administrative offset (TOP) and cross-servicing as required by the DCIA. A new section has been added explaining the Farm Service Agency (FSA), Farm Loan Programs (FLP) procedures for referring accounts to Treasury. Additional revisions have been made for readability and to make corrections to conform to Treasury regulations which have consolidated the IRS offset program with the Treasury Offset Program (TOP). Therefore, this rule revises the reference contained in the Rural Housing Service's regulations at 7 CFR 3550.210(a) to reference the correct authorities for conducting IRS offsets.

Rural Development is also revising its servicing and collections regulations to reflect that the Rural Housing Service, for its Single Family Housing and Multi-Family Housing programs and the Rural Utilities Service for its Water and Environmental program have developed their own servicing handbooks providing internal administrative guidance to agency personnel for their Treasury Offset and Cross-Servicing procedures. Farm Services Agency is amending its salary offset guidance to clarify when salary offset will begin and to clarify when notification will be sent to the borrower. There is no additional burden being imposed upon the public and no financial impact imposed on the Government or on the public as a result of this action.

#### List of Subjects

##### 7 CFR Part 1951

Accounting, Accounting servicing, Credit, Loan programs—Agriculture, Low and moderate income housing loans—Servicing.

##### 7 CFR Part 3550

Direct single family housing loan and grants.

#### PART 1951—SERVICING AND COLLECTIONS

1. The authority citation for part 1951 continues to read as follows:

**Authority:** 5 U.S.C. 301; 7 U.S.C. 1932 note; 7 U.S.C. 1989; 31 U.S.C. 3716; 42 U.S.C. 1480.

#### Subpart C—Offsets of Federal Payments to USDA Agency Borrowers

2. Section 1951.101 is revised to read as follows:

##### § 1951.101 General.

Federal debt collection statutes provide for the use of administrative, salary, and Internal Revenue Service (IRS) offsets by government agencies, including the Farm Service Agency (FSA), Rural Housing Service (RHS) for its community facility program, and Rural Business-Cooperative Service (RBS), herein referred to collectively as "United States Department of Agriculture (USDA) Agency," to collect delinquent debts. Any money that is or may become payable from the United States to an individual or entity indebted to a USDA Agency may be subject to offset for the collection of a debt owed to a USDA Agency. In addition, money may be collected from the debtor's retirement payments for delinquent amounts owed to the USDA Agency if the debtor is an employee or retiree of a Federal agency, the U.S. Postal Service, the Postal Rate Commission, or a member of the U.S. Armed Forces or the Reserve. Amounts collected will be processed as regular payments and credited to the borrower's account. USDA Agencies will process requests by other Federal agencies for offset in accordance with § 1951.102 of this subpart. This subpart does not apply to direct single family housing loans, direct multi-family housing loans, and the Rural Utilities Service. Section 1951.136 of this subpart only applies to RHS for its community facility program and RBS for the offset of Federal payments. Nothing in this subpart affects the common law right of set off available to USDA Agencies.

2a. In section 1951.102, paragraph (b)(1) is revised to read as follows:

##### § 1951.102 Administrative offset.

\* \* \* \* \*

(b) \* \* \*

(1) *Agency* means Farm Service Agency, Farm Loan Programs; Rural Housing Service, except direct Single Family Housing loans and direct Multi-Family Housing loans; and Rural Business-Cooperative Service, or any successor agency.

\* \* \* \* \*

3. In Section 1951.111 the introductory text and paragraph (d) (1) are revised to read as follows:

##### § 1951.111 Salary offset.

Salary offset may be used to collect debts arising from delinquent USDA Agency loans and other debts which

arise through such activities as theft, embezzlement, fraud, salary overpayments, under withholding of amounts payable for life and health insurance, and any amount owed by former employees from loss of federal funds through negligence and other matters. Salary offset may also be used by other Federal agencies to collect delinquent debts owed to them by employees of the USDA Agency, excluding county committee members. Administrative offset, rather than salary offset, will be used to collect money from Federal employee retirement benefits. For delinquent Farm Loan Programs direct loans, salary offset will not begin until the borrower has been notified of servicing options in accordance with 7 CFR 1951.907. In addition, for Farm Loan Programs direct loans, salary offset will not be instituted if the Federal salary has been considered on the Farm and Home Plan, and it was determined the funds were to be used for another purpose other than payment on the USDA Agency loan. For Farm Loan Programs guaranteed debtors, salary offset can not begin until a final loss claim has been paid. When salary offset is used, payment for the debt will be deducted from the employee's pay and sent directly to the creditor agency. Not more than 15 percent of the employee's disposable pay can be offset per pay period, unless the employee agrees to a larger amount. The debt does not have to be reduced to judgment or be undisputed, and the payment does not have to be covered by a security instrument. This section describes the procedures which must be followed before the USDA Agency can ask a Federal agency to offset any amount against an employee's salary.

\* \* \* \* \*

(d) *Notice to debtor.*

(1) After the Certifying Official determines that collection by salary offset is feasible, the debtor should be notified within 15 calendar days after the salary offset determination. This notice will notify the debtor of intended salary offset at least 30 days before the salary offset begins. For Farm Loan Programs direct loans, this notice will be sent after the borrower is over 90 days past due and immediately after sending notification of servicing rights in accordance with 7 CFR 1951.907 of this subpart. For Farm Loan Programs guaranteed debtors, this notice will be sent after a final loss claim has been paid. The salary offset determination notice will be delivered to the debtor by regular mail.

\* \* \* \* \*

4. Section 1951.136 and 1951.137 are added to read as follows:

**§ 1951.136 Procedures for Department of Treasury Offset and Cross-Servicing for the Rural Housing Service (Community Facility Program only) and the Rural Business-Cooperative Service.**

(a) The National Offices of the Rural Housing Service (RHS), Community Facilities (CF) and the Rural Business-Cooperative Service (RBS) will refer past due, legally enforceable debts which are over 180 days delinquent to the Secretary of the Treasury for collection by centralized administrative offset (TOP), Internal Revenue Service offset administered through TOP and Treasury's Cross-Servicing (Cross-Servicing) Program, which centralizes all Government debt collection actions. A borrower with a workout agreement in place, in bankruptcy or litigation, or meeting other exclusion criteria, may be excluded from TOP or Cross-Servicing.

(b) A 60 day due process notice will be sent to borrowers subject to TOP or Cross-Servicing. The borrower will be given 60 days to resolve any delinquency before the debt is reported to Treasury. The notice will include:

- (1) The nature and amount of the debt, the intention of the Agency to collect the debt through TOP or Cross-Servicing, and an explanation of the debtor's rights;
- (2) An opportunity to inspect and copy the records related to the debt from the Agency;
- (3) An opportunity to review the matter within the Agency or the National Appeals Division, if there has not been a previous opportunity to appeal the offset; and
- (4) An opportunity to enter into a written repayment agreement.

(c) In referring debt to the Department of Treasury the Agency will certify that:

- (1) The debt is past due and legally enforceable in the amount submitted and the Agency will ensure that collections are properly credited to the debt;
- (2) Except in the case of a judgment debt or as otherwise allowed by law, the debt is referred for offset within 10 years after the Agency's right of action accrues;
- (3) The Agency has made reasonable efforts to obtain payment; and
- (4) Payments that are prohibited by law from being offset are exempt from centralized administrative offset.

**§ 1951.137 Procedures for Treasury Offset and Cross-Servicing for the Farm Service Agency (FSA) Farm Loan Programs**

(a) The Farm Service Agency, Farm Loan Programs, will refer past due, legally enforceable debts which are over

180 days delinquent to the Secretary of the Treasury for collection by centralized administrative offset (TOP), Internal Revenue Service offset administered through TOP and Treasury's Cross-Servicing (Cross-Servicing) Program, which centralizes all Government debt collection actions. A borrower with a workout agreement in place, in bankruptcy or litigation, or meeting other exclusion criteria, may be excluded from TOP or Cross-Servicing. Guaranteed debtors will only be referred to TOP upon confirmation of payment on a final loss claim.

(b) A 60 day due process notice will be sent to borrowers subject to TOP or Cross-Servicing by the Director of Kansas City Finance Office. The borrower will be given 60 days to resolve any delinquency before the debt is reported to Treasury. The notice will include:

- (1) The nature and amount of the debt, the intention of the Agency to collect the debt through TOP or Cross-Servicing, and an explanation of the debtor's rights;
- (2) An opportunity to inspect and copy the records related to the debt, from the Agency;
- (3) An opportunity to review the matter within the Agency; and
- (4) An opportunity to enter into a written repayment agreement.

(c) In referring debt to the Department of Treasury the Agency will certify that:

- (1) The debt is past due and legally enforceable in the amount submitted and the Agency will ensure that collections are properly credited to the debt;
- (2) Except in the case of a judgment debt or as otherwise allowed by law, the debt is referred for offset within 10 years after the Agency's right of action accrues;
- (3) The Agency has made reasonable efforts to obtain payment; and
- (4) Payments that are prohibited by law from being offset are exempt from centralized administrative offset.

**PART 3550—[AMENDED]**

5. The authority citation for part 3550 continues to read as follows:

**Authority:** 5 U.S.C. 301 and 42 U.S.C. 1480.

6. In § 3550.210, paragraph (a) is revised to read as follows:

(a) *IRS offset.* RHS may take action to effect offset of claims due RHS against tax refunds due to RHS debtors under 31 U.S.C. 3720a and 31 CFR 285.2.

Dated: October 2, 2002.

**William F. Hagy III,**

*Acting Administrator, Rural Business-Cooperative Service.*

Dated: October 2, 2002.

**Arthur A. Garcia,**

*Administrator, Rural Housing Service.*

Dated: October 3, 2002.

**Curtis M. Anderson,**

*Acting Administrator, Rural Utilities Service.*

Dated: October 25, 2002.

**James R. Little,**

*Administrator, Farm Service Agency.*

[FR Doc. 02-29050 Filed 11-18-02; 8:45 am]

BILLING CODE 3410-XT-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 601

[REG-251003-96]

RIN 1545-AR99

#### Statement of Procedural Rules

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Amendments to Statement of Procedural Rules.

**SUMMARY:** This document amends the Statement of Procedural Rules to reflect changes effected by the Electronic Freedom of Information Act Amendments of 1996 to update organizational titles and addresses, and to make certain changes in the IRS's procedures for processing Freedom of Information Act requests. The rules affect persons requesting records from the IRS.

**DATES:** Effective Date: December 19, 2002.

**FOR FURTHER INFORMATION CONTACT:** Michael B. Frosch, 202-622-4590 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

This document contains final rules amending the Statement of Procedural Rules (SPR) (26 CFR 601.701 and 26 CFR 601.702), issued under the authority contained in 5 U.S.C. 301 and 552. The SPR is being updated to reflect changes effected by the Electronic Freedom of Information Act Amendments of 1996 (EFOIA), Public Law 104-231, 110 Stat. 2422. Other amendments conform to procedures set forth in the Department of the Treasury's regulations on disclosure of records under the FOIA, 65 FR 40503 (June 30, 2000). Other amendments

reflect procedures heretofore only available to the public in the Internal Revenue Manual, which is maintained in the IRS Freedom of Information Reading Room. The SPR is also updated to reflect changes in title or nomenclature and to reflect changes of addresses to be contacted for Freedom of Information requests in light of the IRS reorganization mandated by section 1001 of the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA).

#### Discussion of Amendments in Section 601.701

Section 601.701 is removed and reserved. Section 601.701 was simply a restatement of the statute as interpreted by the courts and does not need to be repeated in regulations.

#### Discussion of Amendments in Part 601.702

The amendments are described in the order of the sections of the SPR being amended.

Paragraph (a)(1) is amended to reflect changes in nomenclature.

Paragraph (a)(2) is amended to reflect changes in nomenclature.

Paragraph (b)(1) is amended to incorporate changes required by the Electronic Freedom of Information Act Amendments of 1996 (EFOIA). Specifically, this provision implements the new statutory requirement that any records that an agency processes and discloses in response to a FOIA request that the agency determines to have become or are likely to become the subject of subsequent requests for substantially the same records be placed in public reading rooms so that they are readily available to potential FOIA requesters. This provision also implements the statutory mandate to enhance the availability of reading room records by requiring: (1) That reading room records created on or after November 1, 1996, be available to the public by electronic means, *e.g.*, the Internet, by November 1, 1997; and (2) an index of reading room records shall be made available on the Internet by December 31, 1999.

Paragraph (b)(2) is amended to implement the EFOIA requirement that the extent of any deletion of information be indicated on the portion of the record which is made available or published, and where technically feasible, that the deletion be indicated at the place in the record where made.

Paragraph (b)(3) is amended to reflect a change in the room location of the Freedom of Information Reading Room at the National Office. As a consequence of RRA, the IRS no longer has regional

offices, and, therefore, the regional reading rooms have been eliminated. Paragraph (b)(3)(iii) is revised to clarify that fees shall not be charged for copying materials in the Freedom of Information Reading Room. Paragraph (b)(3)(iv), pertaining to mailing reading room material to other IRS office locations for personal inspection or directly to the requester, is removed. Neither the FOIA nor Department of the Treasury regulations or policy requires the IRS to provide this assistance to persons unable or unwilling to use the Freedom of Information Reading Room. The IRS determined that the administrative cost of providing such assistance outweighed the marginal public benefit, especially since all required records are on the Internet.

Paragraph (c)(1) is amended to clarify IRS practice regarding the processing of valid FOIA requests within the statutory time period. It explicitly provides that invalid requests are not subject to the time constraints provided in paragraphs (c)(9) through (11). Newly designated paragraph (c)(1)(ii) reflects IRS practice that requests for the continuing production of records created after the date of receipt of the request shall not be honored.

Paragraph (c)(2), a new provision, covers electronic format records. It implements the EFOIA requirement that the agency provide a requested record in any form or format requested if the record is readily reproducible by the agency in that form or format. Furthermore, it directs the IRS to make reasonable efforts to search for records in electronic form or format.

Paragraph (c)(3), an amendment of former paragraph (c)(2) relating to requests for records not in control of the IRS, contains only minor revisions of word usage and cross references.

Paragraph (c)(4), an amendment of former paragraph (c)(3), concerning the form of a request, is revised to clarify the procedures for making requests when the requesters are uncertain as to which office they should submit their requests; and to clarify IRS practice when requesters have an outstanding FOIA fee balance when subsequent requests are received.

Paragraph (c)(5), an amendment of former paragraph (c)(4), dealing with reasonable description of records and identity and legal entitlement of the requester, is clarified to conform to section 6103(e)(1)(D) and the Conference and Practice requirements of 26 CFR 601.503 as to who may make a request on behalf of a corporation; to require the submission of the taxpayer identification number where the request seeks tax information to ensure the