

Rules of Practice and Investigations. Currently, Rule 30–3(a)(59) contains a cross-reference to paragraph (e)(6)(iii) of Rule 19b–4 under the Securities Exchange Act of 1934. In connection with the adoption in the Original Release of a new paragraph (e) to Rule 19b–4, the cross-reference to paragraph (e)(6)(iii) of Rule 19b–4 appearing in Rule 30–3(a)(59) should have been redesignated as paragraph (f)(6)(iii) of Rule 19b–4, to reflect the redesignation of former paragraph (e) of Rule 19b–4 as paragraph (f) of Rule 19b–4. This document corrects that cross-reference.

#### List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Authority delegations (Government agencies), Organization and functions (Government agencies).

■ Accordingly, 17 CFR part 200 is corrected by making the following correcting amendment:

#### PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

■ 1. The authority citation for Part 200 continues to read in part as follows:

**Authority:** 15 U.S.C. 77o, 77s, 77sss, 78d, 78d–1, 78d–2, 78w, 78ll(d), 78mm, 80a–37, 80b–11, and 7202, unless otherwise noted.

\* \* \* \* \*

#### § 200.30–3 [Amended]

■ 2. Section 200.30–3(a)(59) is amended by revising the cite “(e)(6)(iii)” to read “(f)(6)(iii)”.

Dated: January 5, 2007.

Nancy M. Morris,  
Secretary.

[FR Doc. E7–238 Filed 1–10–07; 8:45 am]

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#### DEPARTMENT OF STATE

##### 22 CFR Part 62

[Public Notice 5654]

#### Exchange Visitor Program— Professors and Research Scholars

**AGENCY:** Department of State.

**ACTION:** Final Rule; Announcement of Effective Date for Implementation of Five-Year Professor and Research Scholar Categories.

**SUMMARY:** By Notice published on November 1, 2006, 71 FR 64330, the Department of State identified November 4, 2006 as the effective date for its Final Rule published May 19, 2005, 70 FR 28815. The effective date of the Final Rule had been in order to

permit the Department of Homeland Security to complete modifications to the Student and Exchange Visitor Information System (SEVIS) necessary for implementation. However, these SEVIS modifications did not become operational until the evening of November 17, 2006. Accordingly, effective November 18, 2006, current and future professor and research scholar participants will be eligible for five years of program participation as provided in the Final Rule, as amended. These participants will also be subject to the eligibility requirements for repeat participation set forth in the Final Rule, as amended. The Final Rule was amended by a **Federal Register** document published on June 23, 2005, 70 FR 36344. Requirements governing initial eligibility for participation as a professor or research scholar are unchanged. This document supersedes the Department’s document published November 1, 2006, and the language of the Department’s Final Rule published May 19, 2005, as it regards the rule’s effective date. This certification will be published in the **Federal Register**.

**DATES:** *Effective Date:* The final rule published at 70 FR 28815, May 19, 2005, and corrected at 70 FR 36344, June 23, 2005, is effective November 18, 2006.

**FOR FURTHER INFORMATION CONTACT:** Karen Hawkins, (202) 203–5072.

Dated: December 28, 2006.

**Stanley S. Colvin,**

*Director, Office of Exchange Coordination and Designation, Department of State.*

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#### DEPARTMENT OF THE TREASURY

##### Fiscal Service

##### 31 CFR Part 285

RIN 1510–AB09

#### Administrative Offset Under Reciprocal Agreements With States

**AGENCY:** Financial Management Service, Fiscal Service, Treasury.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** This interim 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

will provide for the offset of State payments to collect delinquent, nontax Federal debts. The offsets described in this rule will be processed by the Treasury Offset Program (TOP). The Department of the Treasury’s Financial Management Service (FMS) established TOP in order to centralize the process by which Federal payments are withheld or reduced (in other words, offset) to collect delinquent debts. This interim rule specifically applies to the centralized offset of Federal nontax payments by Federal disbursing officials to collect delinquent debts owed to States pursuant to reciprocal agreements. Therefore, this interim rule affects persons who owe delinquent debts to a State of the United States and who receive Federal payments. It also affects persons who owe delinquent, nontax Federal debts and who receive payments from States. This rule does not apply to collection of past-due support debts (*see* 31 CFR 285.1), the offset of Federal tax refund payments, the offset of Federal salary payments, or the offset of other Federal payments excluded from offset by law.

**DATES:** This rule is effective January 11, 2007. Comments must be received by March 12, 2007.

**ADDRESSES:** All comments should be addressed to Thomas Dungan, Senior Policy Analyst, Debt Management Services, Financial Management Service, Department of the Treasury, 401 14th Street, SW., Room 435B, Washington, DC 20227. Comments may also be submitted via the internet as directed on the FMS Web site at the following address: <http://www.fms.treas.gov/debt>. A copy of this interim rule is being made available for downloading from the Web site.

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

#### SUPPLEMENTARY INFORMATION:

##### Background

The Debt Collection Improvement Act of 1996 (DCIA), Pub. L. 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).

FMS, a bureau of the Department of the Treasury (Treasury), is responsible for the implementation of centralized administrative offset of Federal payments for the collection of delinquent debt. FMS has established TOP to meet this and other debt collection responsibilities. By centralizing offset through TOP, FMS has consolidated and simplified debt collection procedures for the Federal Government. TOP works as follows: Creditor agencies submit information about delinquent debts to FMS, which maintains the information in its delinquent debtor database. Payment agencies prepare and certify payment vouchers to FMS and disbursing officials at certain other Federal agencies with disbursing authority (such as the Department of Defense or the United States Postal Service), who then disburse payments. The payment vouchers contain information about the payment including the name and taxpayer identifying number (TIN) of the recipient.

Before an eligible Federal payment is disbursed to a payee, FMS compares the payment information (including information from payments disbursed by other Federal agencies) with debtor information in FMS's delinquent debtor database. If the payee's name and TIN match the name and TIN of a debtor, the disbursing official offsets the payment, in whole or in part, to satisfy the debt, to the extent legally allowed.

FMS transmits amounts collected through offset to the appropriate creditor agencies after deducting fees to cover the costs of operating the offset program, pursuant to 31 U.S.C. 3716(c)(4). If not otherwise prohibited by law, creditor agencies may add the fees to the debts as administrative costs, pursuant to 31 U.S.C. 3717(e).

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.

In order 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 development of a pilot program. Three States have chosen to work with FMS to develop and participate in the pilot. The

purpose of the pilot is to test systems and procedures to facilitate offset and to evaluate whether the benefits of the program outweigh the costs. FMS will consider information gained from the operation of the pilot, in addition to comments received on this interim rule, before issuing a final rule.

#### Section Analysis

(a) *Scope.* Paragraph (a) describes the scope of this rule, which governs the administrative offset of Federal nontax payments to collect delinquent debts owed to States in accordance with the requirements of 31 U.S.C. 3716(h). This rule does not apply to the offset of Federal tax refund payments, because the authority for this section—31 U.S.C. 3716—does not authorize the offset of Federal tax refunds to collect debts. This rule also does not apply to the offset of Federal salary payments. While Federal salary payments may be offset under 31 U.S.C. 3716, there are many statutes and regulations that affect Federal salary offsets. FMS has chosen not to address those authorities in this rule. Additionally, this rule does not apply to the collection of past-due support payments. (*See* 31 CFR 285.1 for rules applicable to administrative offset to collect past-due support).

(b) *Definitions.* Paragraph (b) of this rule sets forth definitions applicable to this rule. Unless otherwise defined in this rule, all terms have the meanings set forth in section 285.5(b) of this part. As defined in this rule, “administrative offset” is used to describe the offset of Federal payments to collect delinquent State debts. The definition of “State debt” expressly excludes debts owed by other governments. FMS has determined that TOP is not the appropriate tool for resolving issues of indebtedness between State, local and foreign governments. Also, the term “debt” is limited by statute to exclude debts owed by agencies of the United States. *See* 31 U.S.C. 3701(c). The term “State payment offset” means the offset of State payments, pursuant to State law, to collect delinquent Federal nontax debts. The term “reciprocal agreement” is defined to mean a written agreement between FMS and a State, which will govern administrative offset to collect that State's debts and the offset of that State's payments to collect Federal debts.

(c) *General rule.* Paragraph (c) sets forth the general rule that Federal disbursing officials are authorized to offset Federal payments to collect delinquent State debts as long as the requirements of 31 U.S.C. 3716(h) are met. Among other things, States must enter into reciprocal agreements with

FMS that provide for the offset of State payments to collect Federal nontax debts.

(d) *Reciprocal agreements.* Paragraph (d) sets forth the basic parameters for the reciprocal agreements between FMS and the States. As required by 31 U.S.C. 3716(h)(1)(B)(i), a State must enter into a reciprocal agreement before it may collect its debts through administrative offset under this section. The reciprocal agreement will contain more detailed provisions consistent with this rule. A reciprocal agreement will not necessarily require that each party will offset the exact same types of payments. FMS and the State shall determine which payments will be part of the offset programs in order to make the agreements mutually beneficial and, thus, reciprocal.

(e) *Requirements for administrative offset.* Paragraph (e) sets forth the requirements for collecting State debts by administrative offset of Federal payments. State debts must meet the same eligibility requirements for administrative offset as Federal debts are required to meet under 31 CFR 285.5(d)(3)(i). States must comply with the same certification requirements as Federal agencies under 31 CFR 285.5(d)(6) except for requirements that are clearly inapplicable to administrative offset under this section. The specific exceptions are establishment of Federal salary offset procedures and the requirement to assess interest on Federal debts.

Additionally, with respect to paragraph (d)(6)(ii) of section 285.5 of this part, States will only be required to certify that they have complied with the requirements of 31 U.S.C. 3716 and this section; States are not required to certify compliance with 31 U.S.C. 3720A or 26 U.S.C. 6402, both of which apply to Federal tax refund offsets. States shall also certify that they have complied with any requirements imposed by State law or procedure that may be applicable to administrative offset under this section.

(f) *Debts previously submitted by States for tax refund offset.* Pursuant to 31 CFR 285.8, States have submitted delinquent State income tax obligations to FMS for collection by Federal tax refund offset. At the time of submission, States certified the debts in substantially the same manner as required under this rule, including that the State has given the debtor notice of the State's intention to collect the debt through offset of Federal tax refunds. State income tax obligations may also be collected by administrative offset under this rule. FMS has determined that it is unnecessary to require the States to

certify those debts again as a condition to eligibility for administrative offset under this rule. However, with respect to these debts, within 30 days of an administrative offset under this section, the State must notify the debtor in writing that the debtor may exercise the due process rights set forth in paragraph (e) of this rule, if the State has not previously notified the debtor that Federal payments other than tax refunds are subject to administrative offset, and the debtor has not exercised his or her due process rights prior to the submission of the debt to FMS. This paragraph also notes that nothing in this rule requires the State to duplicate any notice or any opportunity for a hearing or review previously provided to the debtor.

(g) *Federal Payments subject to administrative offset under this section.* Paragraph (g) states that the types of Federal payments that will be offset to collect a State's debts shall be set forth in the reciprocal agreement. A number of payment types are expressly excluded from administrative offset under this rule. In accordance with the statutory prohibitions contained in 31 U.S.C. 3716(h), disbursing officials may not offset the following payments to collect debts under this rule: (a) Any payments exempted from offset as set forth in 31 CFR 285.5(e)(2); (b) payments due to an individual under the Social Security Act; (c) payments due an individual pursuant to part B of the Black Lung Benefits Act; and (d) payments due an individual pursuant to any law administered by the Railroad Retirement Board. Additionally, as explained above, offset of Federal tax refunds and salary payments are not authorized by this rule.

(h) *Conducting the administrative offset.* Paragraph (h) instructs Federal disbursing officials to conduct administrative offset under this rule in the same manner as under 31 CFR 285.5. This paragraph also specifies the priority for applying offset funds when a payment matches with multiple debts in TOP. FMS uses TOP to collect many types of delinquent debts under various legal authorities. If a payment matches with multiple debts, the disbursing official shall apply offset amounts to all other types of debts collected by offset under subpart A of 31 CFR part 285 (i.e., debts owed to Federal agencies and past due support debts) before applying any available amounts to a debt under this rule. Additionally, in accordance with 31 U.S.C. 3716(c)(8), a levy pursuant to the Internal Revenue Code has precedence over offsets under this section. Disbursing officials, therefore, will satisfy a levy to collect tax debts

prior to offsetting funds under this section.

(i) *Liability of disbursing officials and payment agencies.* Paragraph (i) restates the statutory provision that disbursing officials and payment agencies shall not be liable to the payee for nonpayment of any amounts offset under this rule.

(j) *Notification to a State of Federal debt.* Paragraph (j) addresses the requirements for offsetting a State payment to collect a Federal debt. State payment offset is governed by the law of the State conducting the offset. This paragraph provides that all State law requirements that Federal creditor agencies must meet for State payment offset shall be set forth in the reciprocal agreement. Such requirements shall not exceed the requirements for collecting Federal debts by administrative offset under 31 CFR 285.5(d). This paragraph also provides that FMS will certify to the State conducting the offset that the Federal debts FMS submits to the State have been certified as valid and legally enforceable in accordance with 31 U.S.C. 3716(a).

(k) *Conducting State payment offset.* Paragraph (k) provides that States shall conduct State payment offset pursuant to the State's laws and regulations. The paragraph sets forth two requirements regarding State payment offset that parallel requirements for conducting administrative offset. First, in the case of a State payment that is payable to two or more joint payees, the entire payment shall be subject to offset to collect the debt of any one of the payees, unless prohibited by State law. Such prohibition must be set forth in the reciprocal agreements. Because the Treasury Offset Program only matches one debtor at a time per payment, FMS will generally not enter into reciprocal agreements that prohibit offsetting a payment to collect a debt owed by only one of the joint payees. Second, if a payment is made to a person solely in that person's capacity as a representative payee for another person having the beneficial interest in the payment, the State disbursing official shall only offset such payments for the debts of the person having the beneficial interest. For example, if a State makes a payment to a minor child, and the payment is made payable to that child's parent as the representative payee for that child, the State shall not offset the payment to collect a debt that the parent owes to the United States.

Paragraph (k) also sets forth the requirement that the State notify the payee of any State payment offset. While the reciprocal agreement may set forth additional requirements, this rule requires, at a minimum, that the notice

inform the payee of the type and amount of the payment that was offset, the identity of the Federal agency that requested the offset, and a contact point within the Federal agency that will handle concerns regarding the offset. Operationally, FMS will provide this information to the State at the time FMS requests the State payment offset.

(l) *Limitations.* Paragraph (l) sets forth limitations on the collectibility of both Federal and State debts. Debts shall remain eligible for State payment offset or administrative offset, as applicable, so long as the debts remain valid and legally enforceable for purposes of offset. Among other things, this means that, unless otherwise provided by law, the debt has not been outstanding for more than 10 years. See 31 U.S.C. 3716(e). The 10-year limitation, however, does not apply to collecting debts reduced to judgment by administrative offset. See the Federal Claims Collection Standards at 31 CFR 901.3(a)(4). There are no time limitations on collecting Federal judgments. Many State judgments are also not subject to time limitations. Therefore, this rule states that a Federal or State debt that has been reduced to judgment shall remain enforceable for purposes of administrative offset for as long as the judgment remains enforceable against the debtor under the laws applicable to the judgment.

(m) *Fees.* Paragraph (m) states that FMS will deduct a fee from amounts offset pursuant to this rule. As required by 31 U.S.C. 3716(c)(4), the fee will be in an amount that FMS has determined to be sufficient to reimburse FMS for the full cost of conducting offsets under this section. FMS will notify States and Federal agencies of the amount of the fee in advance.

### Special Analysis

FMS is promulgating this interim rule without opportunity for prior public comment pursuant to the Administrative Procedure Act, 5 U.S.C. 553 (the "APA"), because FMS has determined, for the following reasons, that a comment period would be unnecessary and contrary to the public interest. The DCIA provision authorizing the offset of Federal payments to collect delinquent debt owed to the States pursuant to reciprocal agreements was effective on August 26, 1996. A comment period is unnecessary because this interim rule does not change the ongoing offset process under the TOP, but rather provides guidance for State agencies and Federal disbursing officials to facilitate the addition of State debts into TOP. Under this interim rule, State

agencies are required to provide to the debtor the same pre-offset notice, opportunities, and rights to dispute the debt and seek waiver as currently required under 31 U.S.C. 3716 and 3720A and implementing regulations. Since this interim rule provides important guidance ensuring that debtors receive appropriate notices and opportunities from States that elect to participate, FMS believes that it is in the public interest to issue this interim rule without opportunity for prior public comment.

For the same reasons, FMS has determined that good cause exists to make this interim rule effective upon publication without providing the 30-day period between publication and the effective date contemplated by 5 U.S.C. 553(d)(3). The public is invited to submit comments on the interim rule, which will be taken into account before a final rule is issued.

### Regulatory Analysis

This interim rule is not a significant regulatory action as defined in Executive Order 12866. Because no notice of proposed rulemaking is required for this rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

### Federalism

This rule has been reviewed under Executive Order 13132, Federalism. This rule will not have substantial direct effects 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. Participation in the program governed by this rule is voluntary for the States, and this rule only sets forth the general procedures for State participation. Additionally, as described above, FMS has worked closely with States in the development of a pilot program that will operate pursuant to this interim rule. As part of that collaborative process, FMS has consulted with the States participating in the pilot regarding the provisions of this rule and the operational requirements for participation. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

### 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.

### Authority and Issuance

■ 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. Section 285.6 is added to part 285, subpart A, to read as follows:

#### § 285.6 Administrative offset under reciprocal agreements with states.

(a) *Scope.* (1) This section sets forth the rules that apply to the administrative offset of Federal nontax payments to collect delinquent debts owed to States. As set forth in 31 U.S.C. 3716(h), States may participate in administrative offset so long as they meet certain requirements, including entering into reciprocal agreements with the Secretary of the Treasury. Such reciprocal agreements may contain any requirements that the Secretary considers appropriate to facilitate offset. Participation in offset under this section is voluntary for both FMS and the States. This section prescribes the minimum requirements for such reciprocal agreements, including provisions applicable to the offset of State payments, pursuant to State law, to collect delinquent Federal debts. Such offsets are defined in this section as "State payment offsets."

(2) This section does not apply to the offset of Federal salary payments, Federal tax refunds (*see* 31 CFR 285.8), or the collection of past-due support debts (*see* 31 CFR 285.1 and 285.3).

(b) *Definitions.* (1) Unless otherwise defined in paragraph § 285.5(b) of this subpart.

(2) For purposes of this section:

*Administrative offset* has the meaning set forth in 31 U.S.C. 3701(a) and means withholding funds payable by the United States to, or held by the United States for, a person to satisfy a debt owed by the payee. The term *debt* in this definition means a State debt.

*Debtor* means a person who owes a debt to the United States or a State.

*Federal debt* means any amount of money, funds or property that has been determined by an appropriate official of the Federal government to be owed to the United States by a person, organization, or entity, except another Federal agency. The term includes debt administered by a third party acting as an agent for the Federal Government. For purposes of this section, the term "Federal debt" does not include debts arising under the Internal Revenue Code of 1986 (26 U.S.C. 1 *et seq.*), the tariff laws of the United States, or the Social Security Act (42 U.S.C. 301 *et seq.*), except to the extent provided in sections 204(f) and 1631(b)(4) of such Act (42 U.S.C. 404(f) and 1383(b)(4)(A), respectively) and 31 U.S.C. 3716(c).

*Offset* means withholding funds payable to a person to satisfy a debt owed by the payee.

*Participating State* means a State that has entered into a reciprocal agreement under this section.

*Reciprocal agreement* means a written agreement between FMS and a State, entered into pursuant to 31 U.S.C. § 3716(h), which provides for administrative offset and State payment offset.

*State* has the meaning set forth in 31 U.S.C. 3701(b)(2) and includes the several states of the United States, the District of Columbia, American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Commonwealth of Puerto Rico.

*State debt* means any amount of money, funds or property that has been determined by an appropriate State official to be owed to that State by a person, organization, or entity, except the United States, a foreign sovereign, or another State (including local governments within a State). For purposes of this rule, the term includes debt administered by a third party acting as an agent for the State.

*State payment offset* means withholding funds payable by a State to, or held by a State for, a person to satisfy a debt owed by the payee to the United States.

(c) *General rule.* FMS and other disbursing officials of the Federal Government will conduct administrative offset to collect past-due State debts certified to FMS, and participating States will conduct State payment offset to collect delinquent Federal debts in accordance with the terms of reciprocal agreements entered into between the States and FMS, acting on behalf of the Secretary. Upon notification of a delinquent State debt

from a participating State to FMS, disbursing officials of the United States shall offset the Federal payments specified in the reciprocal agreement to collect the State debt. The amount offset, minus an offset fee, shall be forwarded to the State to be distributed in accordance with applicable laws and procedures. Upon notification of a delinquent Federal debt from FMS to a participating State, authorized officials of the participating State shall conduct State payment offset as specified in the applicable reciprocal agreement to collect the Federal debt.

(d) *Reciprocal agreements.* (1) FMS may enter into reciprocal agreements with States for administrative offset and State payment offset. The agreements shall contain any requirements which FMS considers appropriate to facilitate the offset and prevent duplicative efforts, and shall require States to prescribe procedures governing the collection of delinquent State debts which are substantially similar to requirements imposed on Federal agencies pursuant to 31 U.S.C. § 3716(b). States may prescribe such procedures through legislation or regulations, as deemed appropriate by State officials. States which have entered into a reciprocal agreement with FMS pursuant to this section may thereafter request, in the manner prescribed in the reciprocal agreement, that administrative offsets be performed. Such requests shall be made by the appropriate State disbursing official, which, for purposes of this section, means an appropriate official of the State agency that is responsible for collecting the State debt. Reciprocal agreements must be signed by a State official authorized to enter into such agreements.

(2) Once FMS has entered into a reciprocal agreement with a State pursuant to this section, FMS may request that the State perform State payment offsets to collect delinquent Federal debts in accordance with the terms of the reciprocal agreement.

(3) A duly executed reciprocal agreement is required before a State may request an administrative offset pursuant to 31 U.S.C. 3716(h).

(e) *Requirements for submitting State debts for administrative offset—(1) Debt eligibility.* A State debt submitted to FMS for collection by administrative offset must meet the debt eligibility requirements of 31 CFR 285.5(d)(3)(i).

(2) *Certification.* At the time a participating State notifies FMS of a State debt for purposes of collection by administrative offset under this section, the State shall comply with the certification requirements set forth in

paragraph 31 CFR 285.5(d)(6) with the following two exceptions:

(i) Paragraph (d)(6)(ii)(E)—Federal salary offset; and

(ii) Paragraph (d)(6)(iii)—Federal requirements for the assessment of interest and penalties to Federal debts. Additionally, with respect to paragraph (d)(6)(ii) of § 285.5, States shall only be required to certify that they have complied with the requirements of 31 U.S.C. 3716 (not 31 U.S.C. 3720A or 26 U.S.C. 6402) and this section 285.6. States shall also certify that they have complied with any requirements imposed by State law or procedure that may be applicable to administrative offset.

(f) *State debts submitted to FMS for tax refund offset prior to the effective date of this section.* 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 prior to the effective date of this section for collection pursuant to 31 CFR 285.8, *Offset of tax refund payments to collect state income tax obligations.* However, within 30 days of an administrative offset under this section, the State shall notify the debtor in writing that the debtor may exercise the rights set forth in the applicable sections of 31 CFR 285.5(d) as set forth in paragraph (e) of this section, only if the State has not previously informed the debtor in writing that Federal payments other than tax refunds may be offset to collect the State debt, and the debtor has not exercised such rights previously with respect to the State debt that was collected by the offset. Nothing in this section requires any State to duplicate any notice or any opportunity for a hearing or review provided to the debtor prior to administrative offset.

(g) *Federal Payments subject to administrative offset under this section.*

(1) The Federal payments that will be offset to collect a participating State's debts shall be set forth in the reciprocal agreement. Federal payments that are excluded from administrative offset under this section include:

(i) Any payments described in 31 CFR 285.5(e)(2) "Payments excluded from offset";

(ii) Payments due to an individual under the Social Security Act;

(iii) Payments due an individual pursuant to part B of the Black Lung Benefits Act;

(iv) Payments due an individual pursuant to any law administered by the Railroad Retirement Board;

(v) Federal tax refunds; and

(vi) Federal salary payments.

(h) *Conducting the administrative offset.* (1) Disbursing officials shall conduct administrative offset under this section in the same manner as set forth in 31 CFR 285.5(f) through (i).

(2) When a payee owes more than one delinquent State debt which has been referred to FMS for collection, amounts will be applied to delinquent State debts under this section after any amounts offset pursuant to any other section of this subpart A and any amounts levied pursuant to 26 U.S.C. 6331.

(i) *Liability of disbursing officials and payment agencies.* Neither the Federal disbursing official nor the agency authorizing the Federal payment shall be liable to a debtor for the amount of the administrative offset on the basis that the underlying obligation, represented by the payment before the administrative offset was taken, was not satisfied.

(j) *Notification to a State of Federal debt.* (1) A State may set forth in the reciprocal agreement the requirements for FMS to follow when submitting a Federal debt for collection by State payment offset. Such agreements shall set forth all requirements contained in State law for the State payment offset. Such requirements, however, may not exceed the requirements for collecting Federal debts by administrative offset as set forth in § 285.5(d) of this subpart.

(2) FMS shall certify to a participating State that each debt FMS submits for State payment offset has been certified by the Federal creditor agency to be delinquent, valid, and legally enforceable in the amount stated, and that the Federal creditor agency owed the debt has complied with the requirements of 31 U.S.C. 3716(a) prior to submitting the debt for offset.

(k) *Conducting State payment offset.*

(1) An official of a participating State shall conduct State payment offset pursuant to the laws and regulations of the participating State; provided that:

(i) If a payment is owed jointly to more than one payee, the entire payment shall be offset for a debt of either payee, unless otherwise prohibited by law or regulation; and

(ii) If a payment is made to a person solely in that person's capacity as a representative payee for another person having the beneficial interest in the payment, the disbursing official shall offset that payment only to collect debts owed by the person having the beneficial interest in the payment.

(2) Any prohibitions on offsetting a joint payment described in paragraph (k)(1)(i) of this section shall be set forth in the reciprocal agreement.

(3) An official of the participating State shall notify the payee of the State

payment offset. The reciprocal agreement may contain detailed guidance and procedures regarding sending such notice, but shall, at a minimum require that the notice inform the payee of:

- (i) The type and amount of the payment that was offset;
- (ii) The identity of the Federal agency that requested the offset; and
- (iii) A contact point within the Federal agency that will handle concerns regarding the offset.

(l) *Limitations.* A debt properly submitted to FMS or the State for administrative offset or State payment offset shall remain subject to collection until withdrawn by the entity that submitted the debt for collection, provided the debt remains past-due and legally enforceable for purposes of administrative offset or State payment offset, as applicable. A debt which has been reduced to a judgment shall remain legally enforceable for purposes of administrative offset and State payment offset for as long as the judgment remains enforceable against the debtor.

(m) *Fees.* FMS shall deduct a fee from each administrative offset and State payment offset amount before transferring the balance of the offset funds to the State or Federal agency owed the debt. Pursuant to 31 U.S.C. 3716(c)(4), the fee will be in an amount that FMS has determined to be sufficient to reimburse FMS for the full cost of the offset procedure. FMS will notify the States and creditor agencies, annually and in advance, of the amount of the fee FMS will charge for each offset.

Dated: January 4, 2007.

**Kenneth R. Papaj,**  
*Commissioner.*

[FR Doc. E7-127 Filed 1-10-07; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD01-07-006]

#### Drawbridge Operation Regulations; Acushnet River, New Bedford and Fairhaven, MA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, First Coast Guard District, has issued a temporary

deviation from the regulation governing the operation of the Route 6 highway bridge across the Acushnet River, mile 0.0, between New Bedford and Fairhaven, Massachusetts. Under this temporary deviation a 30-minute advance notice for bridge openings shall be required between 7 a.m. and 5 p.m., Monday through Friday, from January 8, 2007 through February 2, 2007. This deviation is necessary to facilitate emergency bridge fender repairs.

**DATES:** This deviation is effective from January 8, 2007 through February 2, 2007.

**ADDRESSES:** Materials referred to in this document are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223-8364. The First Coast Guard District Bridge Branch Office maintains the public docket for this temporary deviation.

**FOR FURTHER INFORMATION CONTACT:** John McDonald, Project Officer, First Coast Guard District, at (617) 223-8364.

**SUPPLEMENTARY INFORMATION:** The Route 6 highway bridge, across the Acushnet River, mile 0.0, between New Bedford and Fairhaven, Massachusetts, has a vertical clearance in the closed position of 8 feet at mean high water and 12 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.585.

The owner of the bridge, Massachusetts Highway Department, requested a temporary deviation to facilitate emergency bridge protective fender repairs. The bridge fender system on the east channel was recently damaged by a vessel allision. The damaged fender system must be repaired as soon as possible in the interest of navigational safety.

Under this temporary deviation the Route 6 highway bridge shall require at least a 30-minute advance notice for bridge openings between 7 a.m. and 5 p.m., Monday through Friday, from January 8, 2007 through February 2, 2007.

The bridge will continue to open in accordance with the normal operating schedule which requires the bridge to open on the hour between 6 a.m. and 10 a.m. and at a quarter past the hour between 11:15 a.m. and 6:15 p.m. However, in order to perform necessary bridge repairs, a 30 minute advance notice for such openings is required between 7 a.m. and 5 p.m., Mondays through Fridays from January 8 through February 2, 2007.

During this period the bridge shall open at any time for vessels whose draft exceeds 15 feet. However, such vessels must also provide 30 minute advance notice.

In accordance with 33 CFR 117.35, this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Should the bridge maintenance authorized by this temporary deviation be completed before the end of the effective period published in this notice, the Coast Guard will rescind the remainder of this temporary deviation, and the bridge shall be returned to its normal operating schedule. Notice of the above action shall be provided to the public in the Local Notice to Mariners and the **Federal Register**, where practicable.

This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: January 3, 2007.

**Gary Kassof,**

*Bridge Program Manager, First Coast Guard District.*

[FR Doc. E7-240 Filed 1-10-07; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD01-06-139]

#### Drawbridge Operation Regulations; Shaw Cove, New London, CT

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Amtrak Bridge across Shaw Cove, mile 0.0., at New London, Connecticut. Under this temporary deviation, an advance notice shall be required for bridge openings during designated bridge opening time periods each day from January 5, 2007 through March 30, 2007; however, bridge openings shall be provided at any time for DDL Energy, if at least a 24-hour advance notice is given. This deviation is necessary to facilitate scheduled bridge maintenance.

**DATES:** This deviation is effective from January 5, 2007 through March 30, 2007.

**ADDRESSES:** Materials referred to in this document are available for inspection or copying at the First Coast Guard