

Office of the Secretary of Transportation

§ 92.35

in the case of an individual whose repayment schedule is established other than by a written agreement as described in paragraph (b)(3) of this section concerning the terms of the repayment schedule; and

(5) That the creditor agency's regulations implementing 5 U.S.C. 5514 have been approved by OPM (see 5 CFR 550.1108(a)).

(c) Where a hearing has been held, a copy of the decision of the administrative law judge or other hearing official must be furnished to the chief of the accounting or finance office of the paying DOT operating element before collection of the indebtedness by salary offset may be initiated. The method and amount of the offset will be as stated in the decision.

§ 92.23 Collection.

(a) A debt shall be collected in a lump sum or by installment deductions at officially established pay intervals from an employee's current pay account, unless the employee and the DOT operating element agree to alternative arrangements for payment (see § 92.11(b)(9) describing such voluntary repayment arrangements). The alternative arrangement shall be in writing, signed by both the employee and the chief of the appropriate accounting or finance office, and shall be documented in the DOT operating element's files.

(b) Under 31 U.S.C. 3716 and 4 CFR 102.3(b)(3), agencies may not initiate offset to collect a debt more than 10 years after the Government's right to collect the debt accrued, unless facts material to the Government's rights to collect the debt were not known by the DOT operating element's official or officials charged with the responsibility to discover and collect the debt.

§ 92.25 Source of deductions.

Except as provided in § 92.31 and § 92.33 of this part (with respect to separated employees), the paying DOT operating element will make deductions only from disposable pay (see § 92.5(f)).

§ 92.27 Duration of deductions.

Debts shall be collected in one lump sum where possible. However, if the employee is financially unable to pay in one lump sum or the amount of the

debt exceeds 15 percent of disposable pay payable in one pay period, collection will be made in installments. Such installment deductions will be made over a period not greater than the anticipated period of employment or active duty, as the case may be, except as provided in §§ 92.29, 92.31, and 92.33 of this part.

§ 92.29 Limitation on amount of deductions.

The size and frequency of installment deductions shall bear a reasonable relation to the size of the debt and the employee's ability to pay. However, the amount deducted for any period may not exceed 15 percent of the disposable pay from which the deduction is made, unless the employee has agreed in writing to the deduction of a greater amount.

§ 92.31 Liquidation from final payment.

If the employee retires, resigns his or her employment, is terminated, or the employment or period of active duty ends before collection of the debt is completed, there shall be an offset from subsequent payments of any nature (e.g., final salary, lump sum leave, etc.) due the employee from the DOT operating element on the date of separation to the extent necessary to liquidate the debt.

§ 92.33 Recovery from other payments due a separated employee.

If the debt cannot be liquidated by offset from any final payment due the employee as of the date of separation, the DOT operating element shall liquidate the debt by administrative offset pursuant to 31 U.S.C. 3716 from later payments of any kind due the former employee from the United States, where appropriate (see § 92.41(b)(2)(ii)).

§ 92.35 Interest, penalties and administrative costs.

(a) Where a DOT creditor operating element (see § 92.5(g)) is the creditor, it shall charge interest on an outstanding debt at the rate published by the Secretary of the Treasury in accordance with 31 U.S.C. 3717. The rate of interest