Appendix D--Explanation of Schedule D1

Sample Record 1 of Schedule D1
Magnetic Tape Format of Hypothetical Exchange Workingpaper

D10100000107003002		ACTUAL PURCHASES 1/				
D10100000207003002						
D10100000307003002						
D10100000407003002						
D10100000507003002	MONTH	Mar. 86	Apr. 86	May 86	Jun. 86	Total
D10100000607003002						
D10100000707003002	VOLUME (Dt)	663648	679187	448935	428392	2220162
D10100000807003002						
D10100000907003002	COST	1498351	1450319	837325	740414	4526409
D10100001007003002						
D10100001107003002	AVERAGE COST	2.2577	2.1354	1.8651	1.7284	2.0388
D10100001207003002						
D10100001307003002		1/ No purchases were made in July and				
D10100001407003002		August				

The first eighteen character positions on Schedule D1 are reserved for indentifying information. This identifying information is shown on this workingpaper in the far lefthand columns as it might appear on a Schedule D1 submittal. To clarify the information shown, a key is provided below.

D1 01 000001 07 003 002

D1: This identifier references the schedule within which the workingpaper was filed.

01: References the applicable record within Schedule D1.

000001: The appropriate sequence number reference.

07: This number indicates that this particular workingpaper is part of the section designated for exchange imbalance adjustments.

003: This is the third workingpaper in the section of workingpapers supporting the exchange imbalance adjustments in this PGA.

002: This is page 2 of this workingpaper.

[FR Doc. 87-26377 Filed 11-17-87; 8:45 am]

BILLING CODE 6717-01-C

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Parts 41 and 42

[108.866]

Visas: Documentation of Immigrants and Nonimmigrants Under the Immigration and Nationality Act, as Amended

AGENCY: Bureau of Consular Affairs, Department of State (DOS).

ACTION: Final rule.

SUMMARY: This final rule implements numerous amendments to the Immigration and Nationality Act which were enacted by the 99th Congress. The amendments to the regulations contained in this rule are required by statute. They were published in the **Federal Register** of August 10, 1987 (52 FR 29542; SD-210) and corrected on August 25, 1987 (52 FR 32026). An additional change relating to the submission of duplicate documents in § 42.124, which was inadvertently omitted in the proposed rule, is included in this final rule. The change, however, does not affect the substance of the previous publication. The changes to 22 CFR Parts 41 and 42 will improve visa issuance processing and will favorably affect certain nonimmigrant and immigrant visa applicants as discussed in the Notice of Proposed Rulemaking (SD-210).

EFFECTIVE DATE: November 17, 1987.

FOR FURTHER INFORMATION CONTACT: Stephen K. Fischel or Guida Evans-Magher, Legislation and Relations Division, Visa Services, Washington, DC 20520 (202) 663-1204; 663-1206.

SUPPLEMENTARY INFORMATION: On August 10, 1987, the Department published proposed rulemaking SD-210, which reflected amendments to the Immigration and Nationality Act by enactment of Pub. L. 99-653, Pub. L. 99-639, Pub. L. 99-603, and Pub. L. 99-570. The changes include elimination of submission of duplicate immigrant visa documentation and fingerprinting requirement, establishment of new nonimmigrant visa classifications and immigrant visa categories and their corresponding visa symbols, extension of derivative foreign state chargeability to the alien spouse and/or child following to join the principal alien in certain cases, and the modification of certain grounds of ineligibility.

Interested persons were given the opportunity to comment on the proposal. An analysis of the sole comment received which relates to grounds of ineligibility under sections 212(a)(19) and 212(a)(23) of the Immigration and Nationality Act (22 CFR 41.91(a) (19) and (23) and 42.91(a) (19) and (23)), is outlined below. An additional amendment which was inadvertently omitted from the proposed rulemaking, SD-210, has been included in this final rule. Section 5(a) of Pub. L. 99-653 removes the requirement under section 221(a) of the INA that a consular officer must be in possession of a duplicate copy of the original immigrant visa. The amendment to § 42.124 removes this requirement from the language in the second sentence of paragraph (c).

Analysis of Comment

The commenter recognized that the regulations proposed to implement amendments to sections 212(a) (19) and (23) of the INA were consistent with and essentially mandated by the enactment of the "Immigration Marriage Fraud Amendments of 1986" and the "Omnibus Drug Enforcement Act of 1986" respectively. The commenter went on to point out that those amendments significantly expanded the scope of both section 212(a)(19) and 212(a)(23) and that many aliens who formerly would not have been excludable under the one or the other section will now be so excludable. The commenter expressed the hope that the Department and consular officers abroad will take into account hardships that this fact may work on certain aliens. Both the Department and consular officers abroad are under an affirmative duty to implement and administer these provisions as amended and cannot in good conscience refrain from doing so. On the other hand, the same procedural requirements and standards will apply to these provisions in their amended form as have applied in the past. While the number of applications refused under these provisions will clearly increase because of their expanded scope, the Department does not intend or contemplate that the recent amendments should result in any sort of deliberate campaign to increase refusals. This rule is not considered to be a major rule for purposes of E.O. 12291 nor is it expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 22 CFR Parts 41 and 42

Aliens, Nonimmigrants, Immigrants, Visas.

Adoption of Amendments

Accordingly, the Department amends Title 22, Chapter I, Part 41 and Part 42 as follows:

PART 41—DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

1. The authority citation for Part 41 continues to read as follows:

Authority: Sec. 104, 66 Stat. 174; 8 U.S.C. 1104; sec. 109(b)(1), Pub. L. 95-105, 91 Stat. 847.

2. Section 41.12 is amended by inserting H-2A and H-2B symbols between the H-1 and H-3 classification symbols and inserting N-8 and N-9 symbols after the "M-2" classification symbol information and before the "Nato" classification symbols to read as follows:

§ 41.12 Classification symbols.

* * * * *

Class	Citation	Symbol to be inserted in visa
* * * * * * *		
Temporary worker performing agricultural services unavailable in the United States	101(a)(15)(H)(ii)(*a*); 100 Stat. 3411	H-2A
Temporary worker performing other services unavailable in the United States	101(a)(15)(H)(ii)(*b*); 100 Stat. 3411	H-2B
* * * * * * *		
The parent of an alien child classified SK-3 under section 101(a)(27)(I)(i)	101(a)(15)(N); 100 Stat. 3359	N-8
The child of parent classified N-8 or of aliens classified SK-1; SK-2; SK-4 under section 101(a)(27)(I)(ii), (iii), or (iv).	101(a)(15)(N); 100 Stat. 3359	N-9
* * * * * * *		

3. In § 41.91 paragraph (a)(19)(i) is revised and paragraph (a)(19)(iii) is removed; (a)(23) is revised, and (a)(24) is removed and reserved to read as follows:

§ 41.91 Aliens ineligible to receive visas.

(a) * * *

(19) *Fraud and misrepresentation.* (i) Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure, or has sought to procure, or has procured a visa, other documentation, or entry into the United States or other benefit provided under the Act shall be ineligible under section 212(a)(19); provided, that the provisions of this paragraph are not applicable if the fraud or misrepresentation was committed by an alien at the time the alien sought entry into a country other than the United States or obtained travel documents as a bona fide refugee and the refugee was in fear of being repatriated to a former homeland if the facts were disclosed in connection with an application for a visa to enter the United States; provided further, that the fraud or misrepresentation was not committed by such refugee for the purpose of evading the quota or numerical restrictions of the U.S. immigration laws, or investigation of the alien's record at the place of former residence or elsewhere in connection with an application for a visa.

* * * * *

(23) *Controlled substance violations.* An alien shall be ineligible to receive a nonimmigrant visa under the provisions of section 212(a)(23) of the Act, as amended, as a result of a conviction for a violation of, or for conspiracy to violate any law or regulation relating to a controlled substance, as defined in the Controlled Substances Act (21 U.S.C. 802), which occurred before, on, or after October 27, 1986.

(24) [Reserved]

* * * * *

§ 41.116 [Amended]

4. In § 41.116, paragraphs (b) (1) and (2) are removed, and paragraph (b)(3) is redesignated as the text of paragraph (b).

PART 42—DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

1. The authority citation for Part 42 continues to read as follows:

Authority: Sec. 104, 66 Stat. 174, 8 U.S.C. 1104; sec. 109(b)(1), Pub. L. 95-105, 91 Stat. 847.

2. In § 42.12, paragraph (a) is removed; paragraph (b) is amended by adding new immigrant visa classification symbols after the symbol "SJ-2" at the end of the list, and is redesignated as paragraph (a); paragraphs (c) and (d) are redesignated as paragraphs (b) and (c) and are revised to read as indicated below.

§ 42.12 Classification symbols.

A visa issued to an immigrant alien within one of the classes described in this section shall bear a symbol to show the classification of the alien.

(a) The following symbols shall be used in cases of aliens who are special immigrants:

Class	Citation	Symbol to be inserted in visa
* * *	* * *	*
Retired officer or employee classified G-4 under section 101(a)(15)(G)(iv)	101(a)(27)(I)(iii); 100 Stat. 3434	SK-1
Spouse of retired officer or employee classified SK-1	101(a)(27)(I)(iv); 100 Stat. 3434	SK-2
Unmarried son or daughter of a present or former officer or employee classified G-1 under section 101(a)(15)(G)(i).	101(a)(27)(I)(i); 100 Stat. 3434	SK-3
A spouse classified G-4 or N-9 who is the survivor of a deceased officer or employee classified G-4 under section 101(a)(15)(G)(iv).	101(a)(27)(I)(ii); 100 Stat. 3434	SK-4

(b) The following symbols shall be used in cases of aliens who qualify as immediate relatives:

Class	Citation	Symbol to be inserted in visa
Spouse of U.S. citizen	201(b)	IR-1
Spouse of U.S. citizen (conditional status)	201(b); 216(a), 100 Stat. 3537	CR-1
Child of U.S. citizen	201(b)	IR-2
Child of U.S. citizen (conditional status)	201(b); 216(a), 100 Stat. 3537	CR-2
Orphan adopted abroad by U.S. citizen	201(b)	IR-3
Orphan to be adopted by U.S. citizen	201(b)	IR-4
Parent of U.S. citizen	201(b)	IR-5

(c) The following symbols shall be used in cases of immigrants who are subject to the numerical restrictions specified in section 201(a) of the Act:

Class	Citation	Symbol to be inserted in visa
First preference: Unmarried son or daughter of U.S. citizen	203(a)(1)	P1-1
First preference: Child of alien classified P1-1	203(a)(8)	P1-2
Second preference: Spouse of alien resident	203(a)(2)	P2-1
Second preference: Spouse of alien resident (conditional status)	203(a)(2); 216(a), 100 Stat. 3537	C2-1
Second preference: Unmarried son or daughter of alien resident	203(a)(2)	P2-2
Second preference: Unmarried son or daughter of alien resident (conditional status)	203(a)(2); 216(a), 100 Stat. 3537	C2-2
Second preference: Child of alien classified P2-1 or P2-2	203(a)(8)	P2-3
Second preference: Child of alien classified C2-1 or C2-2 (conditional status)	203(a)(8); 216(a), 100 Stat. 3537	C2-3
Third preference: Professional or highly skilled immigrant	203(a)(3)	P3-1
Third preference: Spouse of alien classified P3-1	203(a)(8)	P3-2
Third preference: Child of alien classified P3-1	203(a)(8)	P3-3

Class	Citation	Symbol to be inserted in visa
Fourth preference: Married son or daughter of U.S. citizen	203(a)(4)	P4-1
Fourth preference: Married son or daughter of U.S. citizen (conditional status)	203(a)(4); 216(a), 100 Stat. 3537	C4-1
Fourth preference: Spouse of alien classified P4-1	203(a)(8)	P4-2
Fourth preference: Spouse of alien classified C4-1 (conditional status)	203(a)(8); 216(a), 100 Stat. 3537	C4-2
Fourth preference: Child of alien classified P4-1	203(a)(8)	P4-3
Fourth preference: Child of alien classified C4-1 (conditional status	203(a)(8); 216(a), 100 Stat. 3537	C4-3
Fifth preference: Brother or sister of U.S. citizen twenty-one years of age or older	203(a)(5)	P5-1
Fifth preference: Spouse of alien classified P5-1	203(a)(8)	P5-2
Fifth preference: Child of alien classified P5-1	203(a)(8)	P5-3
Sixth preference: Needed skilled or unskilled worker	203(a)(6)	P6-1
Sixth preference: Spouse of alien classified P6-1	203(a)(8)	P6-2
Sixth preference: Child of alien classified P6-1	203(a)(8)	P6-3
Nonpreference immigrant	203(a)(7)	NP-1

§42.27 [Removed and Reserved]

3. Section 42.27 is removed and reserved.

4. Section 42.51 is revised to read as follows:

§ 42.51 Exception for accompanying child.

If necessary to prevent the separation of a child from the alien parent or parents, an immigrant child, including a child born in a dependent area, may be charged to the same foreign state to which a parent is chargeable, if the child is accompanying or following to join the parent, in accordance with section 202(b)(1) of the Act.

5. Section 42.52 is revised to read as follows:

§ 42.52 Exception for spouse.

If necessary to prevent the separation of husband and wife, an immigrant spouse, including a spouse born in a dependent area, may be charged to the foreign state to which the spouse is chargeable if accompanying or following to join the spouse, in accordance with section 202(b)(2).

6. In § 42.91, paragraph (a)(19)(i) is revised and (a)(19)(iii) is removed; paragraph (a)(23) is revised, and paragraph (a)(24) is removed and reserved to read as follows:

§ 42.91 Aliens ineligible to receive visas.

(a) * * *

(19) *Fraud and misrepresentation.* (i) Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure, or has sought to procure, or has procured a visa, other documentation, or entry into the United States or other benefit provided under the Act shall be ineligible under section 212(a)(19); provided, that the provisions of this paragraph are not applicable if the fraud or misrepresentation was committed by an alien at the time the alien sought entry into a country other than the United States or obtained travel documents as a bona fide refugee and the refugee was in fear of being repatriated to a former homeland if the facts were disclosed in connection with an application for a visa to enter the United States; provided further, that the fraud or misrepresentation was not committed by such refugee for the purpose of evading the quota or numerical restrictions of the U.S. immigration laws, or investigation of the alien's record at the place of former residence or elsewhere in connection with an application for a visa.

* * * * *

(23) *Controlled substance violations.* An alien shall be ineligible to receive an immigrant visa under the provisions of section 212(a)(23) of the Act, as amended, as a result of a conviction for a violation of, or for conspiracy to violate any law or regulation relating to a controlled substance, as defined in the Controlled Substances Act, (21 U.S.C. 802), which occurred before, on, or after October 7, 1986.

(24) [Reserved]

* * * * *

7. Section 42.111(b) is revised to read as follows:

§ 42.111 Supporting documents.

* * * * *

(b) *Documents required.* An alien applying for an immigrant visa shall be required to furnish, if obtainable: a copy of each required police certificate; a certified copy of any existing prison record, military record, and record of birth; and a certified copy of all other records or documents which the consular officer considers necessary.

* * * * *

8. Section 42.116(b) is revised to read as follows:

§ 42.116 Registration and fingerprinting.

* * * * *

(b) *Fingerprinting.* An alien may be required at any time prior to the execution of Form OF-230 to have a set of his fingerprints taken if such procedure is necessary for purposes of identification or investigation.

§ 42.124 [Amended]

9. Section 42.124(c) is amended by removing the second sentence.

10. In § 42.125, the section heading is revised and paragraphs (a) and (b) are amended by revising their first sentences, and paragraph (c) is removed to read as follows:

§ 42.125 Issuance of new or replacement visas.

(a) *New immigrant visa for an alien not subject to numerical limitation.* An immediate relative within the meaning of section 201(b) of the Act, or a special immigrant described in section 101(a)(27) of the Act, who establishes that his visa has been lost or mutilated and has expired, or that he will be unable to use it during the period of its validity, may be issued a new visa at the same or any other consular office upon payment of the statutory application and visa fees if the immigrant is at that time found qualified to receive such visa. Prior to issuing a new immigrant visa * * *

(b) *Replacement of immigrant visa for an alien subject to numerical limitations.* An immigrant documented under section 203 of the Act who establishes that he was or will be unable to use it during the period of its validity because of reasons beyond his control and for which he is not responsible, may be issued a replacement immigrant visa under the original number during the same fiscal year in which the original visa was issued, if the number has not been returned to the Department upon payment anew of the statutory application and visa fees, if the immigrant is at that time found qualified to receive such a visa. Prior to issuing a new immigrant visa * * *

* * * * *

12. Paragraph (a) of § 42.130 is amended by removing the last four sentences and inserting new language after the third sentence to read as follows:

§ 42.130 Procedure in refusing visas.

(a) *Refusal Procedure.* * * * Each document related to the refusal shall then be attached to Form OF-230 for retention in the refusal files. Any document not related to the refusal shall be returned to the applicant. If the grounds of ineligibility may be overcome by the presentation of additional evidence and the applicant indicates an intention to submit such evidence, all documents may, with the consent of the alien, be retained in the consular files for a period not to exceed one year. If the refusal has not been overcome within one year, any documents not relating to the refusal shall be removed from the file and returned to the alien.

* * * * *

Dated: October 29, 1987.

Joan M. Clark,

Assistant Secretary for Consular Affairs.

[FR Doc. 87-25442 Filed 11-16-87; 8:45 am]

BILLING CODE 4710-06-M

UNITED STATES INFORMATION AGENCY

22 CFR Part 512

Collection of Debts by the Government Under the Debt Collection Acts

AGENCY: United States Information Agency (USIA).

ACTION: Final rule.

SUMMARY: The USIA is amending its rules by introducing Part 512 of 22 CFR establishing rules for the collection of debts owed to the United States. The rules implement the collection procedures authorized by the Federal Claims Collection Act (31 U.S.C. 3701-3719) as amended by the Debt Collection Act of 1982 (Pub. L. 97-365, 96 Stat. 1749). These laws have been implemented by the Federal Claims Collection Standards issued jointly by the General Accounting Office and the Department of Justice (4 CFR Parts 101-105), regulations issued by the Office of Personnel Management (5 CFR Part 550) and the procedures prescribed by the Office of Management and Budget in Circular A-129 of May 9, 1985.

EFFECTIVE DATE: November 17, 1987.

FOR FURTHER INFORMATION CONTACT: Kenn Goodman, Planning, Presentations and Systems Division, United States Information Agency, Room 664, 301 4th Street, SW., Washington, DC 20547, phone (202) 485-6327.

SUPPLEMENTARY INFORMATION: The Debt Collection Act of 1982 (the Act) authorizes procedures for the collection of debts owed to the United States, including (1) contracting for collection services to recover debts; (2) administrative offset; and (3) salary offset. Although these are separate procedures, any procedure may be used by itself or in conjunction with other procedures.

Contracts for Collection Services

Section 13 of the Debt Collection Act (codified at 31 U.S.C. 3718) authorizes Agencies to enter into contracts for collection services to recover debts owed the United States. The Act requires that certain provisions be contained in such contracts including:

(1) The Agency retains the authority to resolve a dispute, including the authority to terminate a collection action or refer the matter to the Attorney General for civil remedies; and

(2) The contractor is subject to the Privacy Act of 1974, as it applies to private contractors, as well as subject to State and Federal law governing debt collection practices.

Administrative Offset

The procedures authorized for administrative offset are contained in section 10 of the Debt Collection Act codified at (31 U.S.C. 3716). As with the provision for disclosure to a collection agency, the Act requires that notice procedures be observed by the agency.

The debtor is also afforded an opportunity to inspect and copy Government records pertaining to the claim, enter into an agreement for repayment, and to a review of the claim (if requested). Agencies of the Government may cooperate with one another in order to effectuate recovery of the claim.

Salary Offset

Section 5 of the Debt Collection Act (codified at 5 U.S.C. 5514) establishes new procedures to be used when an Agency collects money owed it by offsetting the salary of a Federal employee. Like administrative offset, agencies may cooperate with one another in order to recover the debt.

Salary offset procedures permit an employee to review the determination of indebtedness before offset is implemented, and an employee against whom an offset is sought is automatically entitled to a hearing on matters surrounding the determination of the debt, or the percentage of disposable pay to be deducted each pay period.

Executive Order 12291

This proposed rule is not a "major rule" as defined under Executive Order 12291 because it will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

Regulatory Flexibility Act

The USIA finds that the proposed rule will have no "significant economic impact upon a substantial number of small entities" within the meaning of section 3(a) of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164 (5 U.S.C. 605(b)). This conclusion has been reached because the proposed rule does not in itself impose any additional requirements upon small entities. Accordingly, no regulatory flexibility analysis is required.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), any reporting recordkeeping provisions that are included in this rule will be submitted for approval to the Office of Management and Budget (OMB).

List of Subjects in 22 CFR Part 512

Administrative practices, procedures, debt, claims.

Accordingly it is proposed to amend Title 22 CFR Chapter 5 as follows: Part 512 is added to read as follows:

PART 512—COLLECTION OF DEBTS UNDER THE DEBT COLLECTION ACT OF 1982

Subpart A—General Provisions

Subpart B—Administrative Offset—Referral to Collection Agencies

Authority: 31 U.S.C. 3701; 31 U.S.C. 3711 et seq.; 5 U.S.C. 5514; 4 CFR Parts 101–105; 5 CFR Part 550.

Subpart A—General Provisions

§ 512.1 Definitions.

(a) The term "Agency" means the United States Information Agency.

(b) The term "Agency head" means the Director, United States Information Agency.

(c) The term "appropriate Agency official" or "designee" means the Chief, Financial Operations Division or such other official as may be named in the future by the Director, USIA.

(d) The terms "debt" or "claim" refer to an amount of money which has been determined by an appropriate Agency official to be owed to the United States from any person, organization or entity, except another Federal Agency.

(e) A debt is considered "delinquent" if it has not been paid by the date specified in the Agency's written notification or applicable contractual agreement, unless other satisfactory arrangements have been made by that date, or at any time thereafter the debtor fails to satisfy obligations under a payment agreement with the Agency.

(f) The term "referral for litigation" means referral to the Department of Justice for appropriate legal proceedings.

§ 512.2 Exceptions.

(a) Claims arising from the audit of transportation accounts pursuant to 31 U.S.C. 3726 shall be determined, collected, compromised, terminated, or settled in accordance with the regulations published under 31 U.S.C. 3726 (refer to 41 CFR Part 101–41).

(b) Claims arising out of acquisition contracts subject to the Federal Acquisition Regulation (FAR) shall be determined, collected, compromised, terminated or settled in accordance with those regulations (see 48 CFR Part 32). If not otherwise provided for in the FAR system, contract claims that have been the subject of a contracting officer's final decision in accordance with section 6(a) of the Contracts Disputes Act of 1978 (41 U.S.C. 605(a)), may be determined, collected, compromised, terminated, or settled under the provisions of this regulation, except no additional review of the debt shall be granted beyond that provided by the contracting officer in accordance with the provisions of section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605), and the amount of any interest, administrative charge, or penalty charge shall be subject to the limitations, if any, contained in the contract out of which the claim arose.

(c) Claims based in whole or in part on conduct in violation of the antitrust laws, or in regard to which there is an indication of fraud, presentation of a false claim, or misrepresentation on the part of the debtor or any other party having an interest in the claim, shall be referred to the Department of Justice (DOJ) as only the DOJ has the authority to compromise, suspend or terminate collection action on such claims.

(d) Tax claims are excluded from the coverage of this regulation.

§ 512.3 Use of procedures.

Procedures authorized by this regulation (including but not limited to referral to a debt collection agency, administrative offset, or salary offset) may be used singly or in combination, providing the requirements of the applicable law and regulation are satisfied.

§ 512.4 Conformance to law and regulations.

(a) The requirements of applicable law (31 U.S.C. 3701–3719 as amended by Pub. L. 97–365, (96 Stat. 1749) have been implemented in Government-wide standards:

(1) The regulations of the Office of Personnel Management (5 CFR Part 550).

(2) The Federal Claims Collection Standards issued jointly by the General Accounting Office and the Department of Justice (4 CFR Parts 101–105), and

(3) The procedures prescribed by the Office of Management and Budget in Circular A–129 of May 9, 1985.

(b) Not every item in the above described standards has been incorporated or referenced in this regulation. To the extent, however, that circumstances arise which are not covered by the terms stated in this regulation, USIA will proceed in any actions taken in accordance with applicable requirements found in the sources referred to in paragraphs (a) (1), (2), and (3) of this section.

§ 512.5 Other procedures.

Nothing contained in this regulation is intended to require USIA to duplicate administrative proceedings required by contract or other laws or regulations.

§ 512.6 Informal action.

Nothing in this regulation is intended to preclude utilization of informal administrative actions or remedies which may be available.

§ 512.7 Return of property.

Nothing contained in this regulation is intended to deter USIA from demanding the return of specific property or from demanding the return of the property or the payment of its value.

§ 512.8 Omissions not a defense.

The failure of USIA to comply with any provision in this regulation shall not serve as a defense to the debt.

Subpart B—Administrative Offset and Referral to Collection Agencies

§ 512.9 Demand for payment.

Prior to initiating administrative offset, demand for payment will be made as follows:

(a) Written demands will be made promptly upon the debtor in terms which inform the debtor of the consequences of failure to cooperate. A total of three progressively stronger written demands at not more than 30-day intervals will normally be made unless a response to the first or second demand indicates that further demand would be futile and the debtor's response does not require rebuttal. In determining the timing of demand letters, USIA will give due regard to the need to act promptly so that, as a general rule, debt referrals to the Department of Justice for litigation, where necessary, can be made within one year of the Agency's final determinatin of the fact and the amount of the debt. When necessary to protect the Goverment's interests (e.g., to prevent the statute of limitations, 28 U.S.C. 2415, from expiring) written demand may be preceded by other appropriate actions under this chapter, including immediate referral for litigation.

(b) The initial demand letter will inform the debtor of: The basis for the indebtedness and the right of the debtor to request review within the Agency; the applicable standards for assessing interest, penalties, and administrative costs (Supart D of this regulation) and; the date by which payment is to be made, which normally will not be more than 30 days from the date that the initial demand letter was mailed or hand delivered. USIA will exercise care to insure that demand letters are mailed or hand-delivered on the same day that they are actually dated.

(c) As appropriate to the circumstances, USIA will include in the demand letters matters relating to alternative methods of payment, the debtor's rights to representation by his respective bargaining unit, policies relating to referral to collection agencies, the Agency's intentions relative to referral of the debt to the Department of Justice for litigation, and, depending on the statutory authority, the debtor's entitlement to consideration of waiver.

(d) USIA will respond promptly to communications from the debtor and will advise debtors who dispute the debt that they must furnish available evidence to support their contention.

§ 512.10 Collection by administrative offset.

(a) Collection by administrative offset will be undertaken in accordance with these regulations on all claims which are liquidated and certain in amount, in every instance where the appropriate Agency official determines such collection to be feasible and not otherwise prohibited.

(1) For purpose of this section, the term "administrative offset" has the same meaning as provided in 31 U.S.C. 3716(a)(1).

(2) Whether collection by administrative offset is feasible is a determination to be made by the Agency on a case-by-case basis, in the exercise of sound discretion. USIA will consider not only the practicalities of administrative offset, but whether such offset is best suited to protect and further all of the Government's interests. USIA will give consideration to the debtor's financial condition, and is not required to use offset in every instance where there is an available source of funds. USIA will also consider whether offset would tend to substantially disrupt or defeat the purpose of the program authorizing the payments against which offset is contemplated.

(b) Before the offset is made, a debtor shall be provided with the following: written notice of the nature and the amount of the debt and the Agency's intention to collect by offset; opportunity to inspect and copy Agency records pertaining to the debt; opportunity to obtain review within the Agency of the determination of indebtedness; and opportunity to enter into written agreement with the Agency to repay the debt. USIA may also make requests to other agencies holding funds payable to the debtor, and process requests for offset that are received from other agencies.

(1) USIA will exercise sound judgment in determining whether to accept a repayment agreement in lieu of offset. The determination will weigh the Government's interest in collecting the debt against fairness to the debtor.

(2) In cases where the procedural requirements specified in this paragraph (b) have previously been provided to the debtor in connection with the same debt under some other statutory or regulatory authority, such as pursuant to an audit allowance, the Agency is not required to duplicate those requirements before taking administrative offset.

(3) USIA may not initiate administrative offset to collect a debt more than 10 years after the Government's right to collect the debt first accrued, unless facts material to the Government's right were not known and could not reasonably have been known by the official or officials of the Government who were charged with the responsibility to discover and collect the debt. When the debt first accrued is to be determined according to existent law regarding the accrual of debts (e.g., 28 U.S.C. 2415).

(4) USIA is not authorized by 31 U.S.C. 3716 to use administrative offset with respect to: Debts owed by any State or local Government; debts arising under or payments made under the Social Security Act, the Internal Revenue Code of 1954 or the tariff laws of the United States; or any case in which collection of the type of debt involved by administrative offset is explicitly provided for or prohibited by another statute. Unless otherwise provided by contract or law, debts or payments which are not subject to administrative offset under 31 U.S.C. 3716 may be collected by administrative offset under the common law or other applicable statutory authority.

(5) USIA may effect administrative offset against a payment to be made to a debtor prior to completion of the procedures required by paragraph (b) of this section if failure to take offset would substantially prejudice the Government's ability to collect the debt, and the time before the payment is to be made does not reasonably permit the completion of those procedures. Amounts recovered by offset but later determined not to be owed to the Government shall be promptly refunded 30 days after the Agency has notified the debtor in writing that the debt is not owed. Such written notification will be issued within 15 days after the Agency has confirmed through a review of its official records that the debt is not owed.

(c) Type of hearing or review: (1) For purposes of this section, whenever USIA is required to afford a hearing or review within the Agency, the Agency will provide the debtor with a reasonable opportunity for an oral hearing when: An applicable statute authorizes or requires the Agency to consider waiver of the indebtedness involved, the debtor requests waiver of the indebtedness, and the waiver determination turns on an issue of veracity; or the debtor requests reconsideration of the debt and the Agency determines that the question of the indebtedness cannot be resolved by review of the documentary evidence. Unless otherwise required by law, an oral hearing under this section is not required to be a formal evidentiary type hearing.

(2) This section does not require an oral hearing with respect to debt collection systems in which determinations of indebtedness or waiver rarely involve issues of veracity and the Agency has determined that the review of the written record is ordinarily enough to correct prior mistakes.

(3) In those cases where an oral hearing is not required by this section, the Agency will make its determination on the request for waiver or reconsideration based upon a review of the written record.

(d) Appropriate use will be made of the cooperative efforts of other agencies in effecting collection by administrative offset. USIA will not refuse to initiate administrative offset to collect debts owed the United States, unless the requesting agency has not complied with the applicable provisions of these standards.

(e) Collection by offset against a judgment obtained against the United States shall be accomplished in accordance with 31 U.S.C. 3728.

(f) Whenever the creditor agency is not the agency which is responsible for making the payment against which offset is sought, the latter agency shall not initiate the requested offset until it has been provided by the creditor agency with an appropriate written certification that the debtor owes the debt (including the amount) and that full compliance with the provisions of this section has taken place.

(g) When collecting multiple debts by administrative offset, USIA will apply the recovered amounts to those debts in accordance with the best interests of the United States, as determined by the facts and circumstances of the particular case, paying particular attention to the applicable statutes of limitations.

§ 512.11 Administrative offset amounts payable from Civil Service Retirement and Disability Fund.

(a) Unless otherwise prohibited by law, USIA may request that monies that are due and payable to a debtor from the Civil Service Retirement and Disability Fund be administratively offset in reasonable amounts in order to collect in one full payments, or a minimal number of payment, debts owed the United States by the debtor. Such requests shall be made to the appropriate officials within the Office of Personnel Management in accordance with such regulations as may be prescribed by the Director of that Office.

(b) When making a request for administrative offset under paragraph (a) of this section, USIA shall include written statements that:

(1) The debtor owes the United States a debt, including the amount of the debt;

(2) The USIA has complied with the applicable statutes, regulations, and procedures of the Office of Personnel Management; and

(3) The USIA has complied with the requirements of § 512.10 of this part, including any required hearing or review.

(c) Once USIA decides to request offset under paragraph (a) of this section, it will make the request as soon as practical after completion of the applicable procedures in order that the Office of Personnel Management may identify the debtor's account in anticipation of the time when the debtor requests or becomes eligible to receive payments from the Fund. This will satisfy any requirement that offset be initiated prior to expiration of the applicable statute of limitations.

(d) If USIA collects part or all of the debt by other means before deductions are made or completed pursuant to paragraph (a) of this section, USIA shall act promptly to modify or terminate its request for offset under paragraph (a) of this section.

(e) This section does not require or authorize the Office of Personnel Management to review the merits of the USIA determination relative to the amount and validity of the debt, its determination on waiver under an applicable statute, or its determination whether to provide an oral hearing.

§ 512.12 Collection in installments.

(a) Whenever feasible, and except as required otherwise by law, debts owed to the United States, together with interest, penalties, and administrative costs as required by this regulation, should be collected in one lump sum. This is true whether the debt is being collected under administrative offset or by another method, including voluntary payment. However, if the debtor is financially unable to pay the indebtedness in one lump sum, payment may be accepted in regular installments. If USIA agrees to accept payment in installments, it will obtain a legally enforceable written agreement from the debtor that specifies all of the terms of the arrangement and which contains a provision accelerating the debt in the event the debtor defaults. The size and frequency of the payments should bear a reasonable relation to the size of the debt and ability to the debtor to pay. If possible the installment payments should be sufficient in size and frequency to liquidate the Government's claim within 3 years.

(b) If the debtor owes more than one debt and designates how a voluntary installment plan is to be applied among those debts, the Agency will follow that designation. If no such designation is made, the Agency will apply payments to the various debts in accordance with the best interest of the United States as as determined by the facts and circumstances of each case, with particular attention to application statutes of limitation.

§ 512.13 Exploration of compromise.

USIA may attempt to effect compromise in accordance with the standards set forth in Part 103 of the Federal Claims Collection Standards (4 CFR Part 103).

§ 512.14 Suspending or terminating collection action.

The suspension or termination of collection action shall be made in accordance with the standards set forth in Part 104 of the Federal Claims Collection Standard (4 CFR Part 104).

§ 512.15 Referrals to the Department of Justice or the General Accounting Office.

Referrals to the Department of Justice or the General Accounting Office shall be made in accordance with the standards set forth in Part 105 of the Federal Claims Collection Standards (4 CFR Part 105).

§ 512.16 Collection services.

(a) USIA has authority to contract for collection services to recover delinquent debts in accordance with 31 U.S.C. 3718(c) and 4 CFR 102.6.

(b) Contracts with collection agencies will provide that:

(1) The authority to resolve disputes, compromise claims, suspend or terminate collection action, and refer the matter to the Justice Department for litigation will be retained by USIA;

(2) Contractors are subject to 5 U.S.C. 552a, the Privacy Act of 1974, as amended, to the extent specified in 5 U.S.C. 552a(m) and to applicable Federal and State laws and regulations pertaining to debt collection practices, such as the Fair Debt Collection Practices Act, 15 U.S.C. 1692;

(3) The contractor is required to strictly account for all amounts collected;

(4) The contractor must agree that uncollectible accounts shall be returned with appropriate documentation to enable USIA to determine whether to pursue collection through litigation or to terminate collection;

(5) The contractor must agree to provide any data in its files relating to paragraphs (a) (1), (2), and (3) of § 105.2 of the Federal Claims Collection Standards (4 CFR Part 105) upon returning the account to USIA for subsequent referral to the Department of Justice for litigation.

(c) USIA will not use a collection agency to collect a debt owed by a currently employed or retired Federal employee, if collection by salary or annuity offset is available.

Subpart C—Salary Offset

§ 512.17 Purpose.

This subpart provides the standards to be followed by USIA in implementing 5 U.S.C. 5514 to recover a debt from the pay of an Agency employee, and establishes the procedural guidelines to recover debts when the employee's creditor and paying agencies are not the same.

§ 512.18 Scope.

(a) *Coverage.* This subpart applies to Executive agencies and employees as defined by § 512.19.

(b) *Applicability.* This subpart and 5 U.S.C. 5514 apply in recovering debts by offset without the employee's consent from the current pay of that employee. Debt collection procedures which are not specified in U.S.C. 5514 and these regulations will be consistent with the Federal Claims Collection Standards (4 CFR Parts 101–105).

(1) The procedures contained in this subpart do not apply to debts or claims arising under the Internal Revenue Code of 1954 as amended (26 U.S.C. 1 et seq.), the Social Security Act (42 U.S.C. 301 et seq.), or the tariff laws of the United States or to any case where collection of a debt is explicitly provided for or prohibited by another statute (e.g., travel advances in 5 U.S.C. 5705).

(2) This subpart does not preclude an employee from requesting a waiver of a

salary overpayment under 5 U.S.C. 5584, 10 U.S.C. 2774, or 32 U.S.C. 716, or in any way questioning the amount or validity of a debt by submitting a subsequent claim to the General Accounting Office in accordance with procedures prescribed by the General Accounting Officer, nor does it preclude an employee from requesting waiver when waiver is available under any statutory provision.

§ 512.19 Definitions.

For purposes of this subpart:

"Agency" means the United States Information agency (USIA).

"Creditor Agency" means the agency to which the debt is owed.

"Debt" means an amount owed to the United States.

"Disposable Pay" means that part of current basic pay, special pay, incentive pay, retired pay, retainer pay or authorized pay remaining after the deduction of any amount required to be withheld by law. The Agency will exclude deductions described in 5 CFR 581.105 (b) through (f) to determine disposable pay subject to salary offset.

"Employee" means a current employee of USIA or of another Executive Agency.

"Executive Agency" means an agency as defined by section 105 of title 5 of the U.S. Code.

"FCCS" means the Federal Claims Collection Standards jointly published by the Justice Department and the General Accounting Office at 4 CFR parts 101–105.

"Paying agency" means the agency employing the individual and authorizing the payment of his or her current pay.

"Salary offset" means an administrative offset to collect a debt under 5 U.S.C. 5514 by deductions at one or more officially established pay intervals from the current pay account of an employee without his or her consent.

"Waiver" means the cancellation, remission, forgiveness, or non-recovery of a debt allegedly owed by an employee to an agency as permitted or required by U.S.C. 5584, 10 U.S.C. 2774, or 32 U.S.C. 710 5 U.S.C. 8346(b), or any other law.

§ 512.20 Notification.

(a) Salary offset deductions shall not be made unless the Director, Financial Operations Division of USIA, or such other official as may be named in the future by the Director of USIA, provides to the employee a written notice, 30 calendar days prior to any deduction, stating at a minimum:

(1) The Agency's determination that a debt is owed including the nature, origin, and amount of the debt;

(2) The Agency's intent to collect the debt by means of deduction from the employee's current disposable pay account;

(3) The amount, frequency and proposed beginning date and duration of the intended deductions;

(4) An explanation of the Agency's policy concerning interest, penalties, and administrative costs;

(5) The employee's right to inspect and copy Government records pertaining to the debt;

(6) The opportunity to establish a schedule for the voluntary repayment of the debt or to enter into a written agreement to establish a schedule for repayment in lieu of offset per the requirements of 4 CFR 102.2(e).

(7) The employee's right to a hearing arranged by the Agency and conducted by an administrative law judge or, alternatively, an official not under the control of the head of the Agency;

(8) The method and time period for filing a petition for a hearing;

(9) That timely filing of the petition will stay the commencement of collection proceedings;

(10) That final decision on the hearing will be issued not later than 60 days after the filing of the petition for hearing unless the employee requests and the hearing officer grants a delay in the proceedings.

(11) That knowingly false, misleading, or frivolous statements, representations or evidence may subject the employee to:

(i) Disciplinary procedures under Chapter 75 of Title 5, United States Code or any other applicable statutes;

(ii) Penalties under the False Claims Act, sections 3729–3731 of title 31 U.S.C. or any other applicable statutes.

(iii) Criminal penalties under sections 286, 287, 1001, 1002 of title 18 United States Code or any other applicable statutes.

(12) Any other rights or remedies available to the employee, including representation by counsel or his respective bargaining unit, under the statutes or regulations governing the program for which collection is being made.

(13) That amounts paid on or deducted for the debts that are later waived or found not owed to the United States will be promptly refunded to the employee.

(b) Notifications under this section shall be hand delivered with a record made of the delivery, or shall be mailed certified mail with return receipt requested.

(c) No notification hearing, written responses or final decisions under this regulation are required of USIA for any adjustment to pay arising from an employee's election of coverage under a Federal benefit program requiring periodic deductions from pay, if the amount to be recovered was accumulated over four pay periods or less.

§ 512.21 Hearing.

(a) *Petition for hearing.* (1) A hearing may be requested by filing a written petition with the Director, Financial Operations Division of USIA, or such other official as may be named in the future by the Director of USIA, stating why the employee believes the Agency's determination of the existence or amount of the debt is in error.

(2) The petition must be signed by the employee and fully identify and explain with reasonable specificity all the facts, evidence and witnesses which the employee believes support his or her position.

(3) The petition must be filed no later than fifteen (15) calendar days from the date the notification under § 512.20 (b) was hand delivered or the date of delivery by certified mail.

(4) Where petition is received after the 15 calendar day limit, USIA will accept the petition if the employee can show that the delay was beyond his or her control or because of failure to receive notice.

(5) If the petition is not filed within the time limit, and is not accepted pursuant to paragraph (a)(4) of this section, the employee's right to hearing will be considered waived, and salary offset will be implemented.

(b) *Type of hearing.* (1) The form and content of the hearing will be determined by the hearing official who shall be a person outside the control or authority of USIA.

(2) The employee may represent him or herself, or may be represented by counsel.

(3) The hearing official shall maintain a summary record of the hearing.

(4) The hearing official will prepare a written decision which will state:

(i) The facts purported to evidence nature and origin of the alleged debt;

(ii) The hearing official's analysis, findings, and conclusions relative to:

(A) The employee's and/or the Agency's grounds;

(B) The amount and the validity of the alleged debt;

(C) The repayment schedule, if applicable.

(5) The decision of the hearing official shall constitute the final administrative decision of the Agency.

§ 512.22 Deduction from pay.

(a) Deduction by salary offset, from an employee's disposable current pay, shall be subject to the following circumstances:

(1) When funds are available, the Agency will collect debts owed the United States in full in one lump-sum. If funds are not available or the debt exceeds 15% of disposable pay for an officially established pay interval, collection will normally be made in installments.

(2) The installments shall not exceed 15% of the disposable pay from which the deduction is made, unless the employee has agreed in writing to a larger amount.

(3) Deduction will commence with the next full pay interval following consent by the employee, waiver of offset or decision issued by the hearing official.

(4) Installment deductions will not be made over a period greater than the anticipated period of employment.

§ 512.23 Liquidation from final check or recovery from other payment.

(a) If an employee retires or resigns before collection of the debt is completed, offset of the entire remaining balance may be made from a final payment of any nature to such extent as is necessary to liquidate the debt.

(b) Where debt cannot be liquidated by offset from final payment, offset may be made from later payments of any kind due from the United States inclusive of Civil Service Retirement and Disability Fund pursuant to § 512.11 of this regulation.

§ 512.24 Non-waiver of rights by payments.

An employee's voluntary payment of all or part of a debt being collected under 5 U.S.C. 5514 shall not be construed as a waiver of any rights which the employee may have under 5 U.S.C., or any other provision of contract or law, unless statutory or contractual provisions provide to the contrary.

§ 512.25 Refunds.

(a) Refunds shall be promptly made when:

(1) A debt is waived or otherwise found not to be owed to the United States; or

(2) The employee's paying agency is directed by an administrative or judicial order to refund amounts deducted from his or her current pay.

(b) Refunds do not bear interest unless required or permitted by law or contract.

§ 512.26 Interest, penalties, and administrative costs.

The assessment of interest, penalties and administrative costs shall be in accordance with Subpart D of this regulation.

§ 512.27 Recovery when paying agency is not creditor agency.

(a) *Format for request for recovery.* (1) Upon completion of the procedures prescribed under 5 U.S.C. 5514, the creditor agency shall complete and certify the appropriate debt certification specified by OPM.

(2) The creditor agency shall certify in writing that the employee owes the debt, the amount and basis of the debt; the date on which payment is due, the date the Government's right to collect first accrued, and that the creditor agency's regulations implementing section 5514 have been approved by OPM.

(3) If collection must be made in installments, the creditor agency must advise the paying agency of the number of installments to be collected, the amount of each installment, and the commencing date of the first installment.

(b) *Submitting the request for recovery.*—(1) *Current employees.* The creditor agency shall submit the appropriate debt certification, agreement, or other instruction on the payment schedule to the employee's paying agency.

(2) Separated employees.

(i) Employees who are in the process of separating. If the employee is in the process of separating, the creditor agency will submit its debt claim to the employee's paying agency for collection as provided in §§ 512.22 and 512.23. The paying agency shall certify the total amount of its collection and notify the creditor agency and the employee as provided in paragraph (b)(2) of this section. Where the paying agency is aware that the employee is entitled to payments from the Civil Service Retirement and Disability Fund, it will send a copy of the debt claim and certification to the agency responsible for making such payments as notice that a debt is outstanding.

(ii) Employees who have already separated. If the employee is already separated and all payments due from his or her former paying agency have been paid, the creditor agency may request that monies which are due and payable to the employee from the Civil Service Retirement and Disability Fund (5 CFR 831.1801) or other similar funds be administratively offset in order to collect the debt (31 U.S.C. 3716 and the FCCS).

(iii) Employees who transfer from one paying agency to another. If an employee transfers to a position served by a different paying agency subsequent to the creditor agency's debt claim but before complete collection, the paying agency from which the employee separates shall certify the total amount of collection made on the debt. One copy of the certification will be supplied to the employee, and another to the creditor agency with notice of the employee's transfer. The original shall be inserted in the employee's official personnel folder and the new paying agency will resume collection from the employee's current pay account, and notify the employee and the creditor agency of the resumption. Upon settlement or repayment of the debt all records of the debt will be removed from official personnel records. The creditor agency will not need to repeat the due process procedure described by 5 U.S.C. 5514.

(c) Processing the debt claim upon receipt by the paying agency:

(1) Incomplete claims. If the paying agency receives an improperly completed debt certification, it shall return the request with a notice that procedures under 5 U.S.C. 5514 and this subpart must be completed and a properly completed debt certification form received before action will be taken to effect collection.

(2) Complete claim. If the paying agency receives a properly completed debt form, deductions will begin prospectively at the next officially established pay interval. A copy of the debt form will be given to the debtor along with notice of the date deductions will commence.

(3) The paying agency is not required or authorized to review the merits of the creditor agency's determination with respect to the amount or validity of the debt as stated in the debt claim form.

Subpart D—Interest, Penalties, and Administrative Costs

§ 512.28 Assessment.

(a) Except as provided in paragraph (h) of this section, or § 512.29, USIA shall assess interest, penalties, and administrative costs on debts owed to the United States pursuant to 31 U.S.C. 3717. Before assessing these charges, USIA will mail or hand deliver a written notice to the debtor. This notice will include a statement of the Agency's requirements concerning §§ 512.9 and 512.21.

(b) Interest shall accrue from the date on which notice of the debt is first mailed or hand-delivered to the debtor, using the most current address available to the Agency.

(c) The rate of interest assessed shall be the rate of the current value of funds to the United States Treasury (i.e., the Treasury Tax and Loan account rate), as prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins annually or quarterly, in accordance with 31 U.S.C. 3717. The rate of interest as initially assessed shall remain fixed for the duration of the indebtedness. However, in cases where the debtor has defaulted on a repayment agreement and seeks a new agreement, USIA may set a new rate which reflects the current value of funds to the Treasury at the time the agreement is executed. Interest will not be assessed on interest, penalties, or administrative costs required by this section.

(d) USIA shall assess charges to cover administrative costs incurred as a result of a delinquent debt. Calculation of administrative costs shall be based upon actual costs incurred. Administrative costs include costs incurred to obtain credit reports in the case of employee debt or in using a private debt collector in the case of non-employee debt.

(e) USIA shall assess a penalty charge not to exceed 6% per year on any portion of a debt that is delinquent for more than 90 days. This charge need not be calculated until the 91st day of delinquency, but shall accrue from the date that the debt became delinquent.

(f) When a debt is paid in partial or installment payments, amounts received shall be applied first to the outstanding penalty and administrative cost charges, second to accrued interest and third to outstanding principal.

(g) USIA will waive the collection of interest on the debt or any portion of the debt that is paid within 30 days after the date on which interest began to accrue. USIA may extend this 30-day period, on a case-by-case basis, if it reasonably determines such action is appropriate. USIA may also waive in whole or in part the collection of interest, penalties, and administrative costs assessed under this section per the criteria specified in part 103 of the Federal Claims Collection Standards (4 CFR Part 103) relating to the compromise of claims or if the Agency determines that collection of these charges is not in the best interest of the United States. Waiver under the first sentence of this paragraph is mandatory. Under the second and third sentences, it may be exercised under the following circumstances:

(1) Waiver of interest pending consideration of a request for reconsideration, administrative review, or waiver of the underlying debt under a permissive statute, and

(2) Waiver of interest where USIA has accepted an installment plan under § 512.12, there is no indication of fault or lack of good faith on the part of the debtor and the amount of the interest is large enough, in relation to the size of the installments that the debtor can reasonably afford to pay, that the debt will never be repaid.

(h) Where a mandatory waiver or review statute applies, interest and related charges may not be assessed for those periods during which collection must be suspended under § 104.2(c)(1) of the Federal Claims Collection Standards (4 CFR Part 104).

§ 512.29 Exemptions.

(a) The provisions of 31 U.S.C. 3717 do not apply—

(1) To debts owned by any State or local government;

(2) To debt arising under contracts which were executed prior to, and were in effect on October 25, 1982;

(3) To debts where an applicable statute, loan agreement, or contract either prohibits such charges or explicitly fixes the charges that apply to the debts arising under the Social Security Act, the Internal Revenue Code of 1954, or the tariff laws of the United States.

(b) However USIA is authorized to assess interest and related charges on debts which are not subject to 31 U.S.C. 3717 to the extent authorized under the common law or other applicable statutory authority.

Dated: November 10, 1987.

Stanley M. Silverman,

Comptroller.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[Docket No.: RCRA-SHWPAW-IV-01-87 FRL-3292-2]

North Carolina; Order to Commence Proceedings To Determine Whether To Withdraw Hazardous Waste Program Approval

AGENCY: Environmental Protection Agency.

ACTION: North Carolina; order to commence proceedings to determine whether to withdraw hazardous waste program approval.

SUMMARY: On June 12, 1987, the North Carolina legislature enacted Senate Bill 114 (the "Act") which amended Article 9 of Chapter 130A of the North Carolina General Statutes, to add a new section 130A-295.01, the text of which is set forth below. The Act provides that new commercial hazardous waste treatment facilities will not be issued a hazardous waste permit to discharge any hazardous waste or toxic substance into any surface water that is located upstream of a public drinking water intake, unless a dilution factor of 1000 exists at the point of discharge into the surface water under certain low flow conditions. After review and investigation of the Act, the Regional Administrator has determined, for the reasons set forth below, that cause exists to commence withdrawal proceedings under 40 CFR 271.23, based upon the criteria in 40 CFR 271.22(a)(1)(ii) and (2)(i). In addition, GSX Chemical Services, Inc. (GSX) and the Hazardous Waste Treatment Council (Treatment Council) have petitioned EPA to withdraw authorization of the North Carolina hazardous waste program, alleging that the dilution and siting provisions of the Act are not in conformity with the provisions of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6901, *et seq.* This Order serves as the required response to the GSX and the Treatment Council petitions, granting the petitions to the extent of initiating withdrawal proceedings, and as a statement of allegations to which North Carolina must respond. *See* 40 CFR 271.23(b)(1).

DATES: Under 40 CFR 271.23(b)(1), the State must respond to the allegations in this Order by providing a written answer within December 17, 1987. The withdrawal proceeding hearing will be held on January 12-13, 1988 beginning at 9:00 a.m. each day.

Participation in Proceedings

The withdrawal proceeding hearing will be conducted by a Presiding Officer, in accordance with 40 CFR 271.23(b)(2) and 40 CFR 22.03 and 40 CFR 271.23. Leave to participate by persons not parties in the proceedings, pursuant to 40 CFR 271.23(b)(5), will be determined by the Presiding Officer. The Presiding Officer will also grant or deny motions to intervene and motions to file briefs as amicus curiae, pursuant to 40 CFR 271.23(b)(3) and 40 CFR 22.11 (c) and (d).

Pursuant to the provisions of 40 CFR 271.23(b)(2)(i), North Carolina, EPA, GSX Services, Inc., and the Hazardous