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Presidential Documents

Title 3—

The President

Proclamation 6093 of February 12, 1990

181st Anniversary of the Birth of Abraham Lincoln

By the President of the United States of America

A Proclamation

A true friend of the common man and a courageous leader at our Nation's greatest hour of trial, Abraham Lincoln occupies a special place of honor in the hearts of all Americans. Each February 12, as we commemorate the anniversary of his birth, we celebrate the peace and unity of purpose President Lincoln reclaimed for this country—and the shining hope he restored to all mankind.

When he became President in 1861, Abraham Lincoln was faced with a grave crisis: seven States, determined to preserve the institution of slavery and to assert what they viewed as their sovereign rights, had seceded from the Union. After a military confrontation at Fort Sumter, the Civil War began.

Lincoln believed that the success of our Nation's great experiment in self-government depended on the strength and integrity of the Union and on the degree to which Americans, as well as the national Government, remained true to the ideals expressed at the Founding. Although the War tried his skills as President and tested whether a nation "so conceived and so dedicated" could long endure, his convictions proved unshakable. In a July 4th Address to the Congress, he declared that the War was nothing less than "a struggle for maintaining in the world, that form and substance of government whose leading object is to elevate the condition of men . . . to afford all an unfettered start, and a fair chance, in the race of life."

Abraham Lincoln knew that for the United States to endure, it must remain faithful to the noble ideal enshrined in our Declaration of Independence: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." Lincoln believed that excluding any human beings from this promise undermines the moral foundation on which our Nation rests. He had once argued that our Nation's Founding Fathers "meant to set up a standard maxim for a free society, which should be familiar to all, and revered by all; constantly looked to, constantly labored for . . . thereby constantly spreading and deepening its influence and augmenting the happiness and value of life to all people of all colors everywhere." Lincoln knew that our Nation must always strive to fulfill its great promise, or risk its very existence.

Throughout the course of the War, Lincoln remained fully committed to the idea of liberty under law. For him, striving to uphold the Constitution and protect the rights of individuals was not only compatible with preserving the Union, but essential to it. In 1864, when he was elected to a second term in office, Lincoln reflected aloud: "We cannot have free government without elections; and if the rebellion could force us to forego or postpone a national election, it might fairly claim to have already conquered and ruined us." The success of the electoral process reaffirmed Lincoln's conviction that the principles upon which our Nation was founded must—and could—withstand the fiery ordeal it now suffered. Lincoln's leadership throughout the Civil War was inspired by a firm belief in those principles.

Abraham Lincoln's aversion to the institution of slavery was known long before he took office. Perhaps it was his experience as a young man, clearing land on the frontier and working odd jobs while he studied law, that enabled him to see the injustice of earning one's bread as the fruit of another man's labor. Ultimately, however, Lincoln saw slavery as dehumanizing, a cruel contrast to the ideals expressed in our Nation's Declaration of Independence. In 1858, campaigning for the Senate, he reminded an audience at Edwardsville, Illinois, that our Nation's strength and purpose are found in the spirit that prizes liberty as the heritage of all men. "Destroy this spirit," the young statesman warned, "and you have planted the seeds of despotism at your own doors. . . . Accustomed to trample on the rights of others, you have lost the genius of your own independence and become the fit subjects of the first cunning tyrant who rises among you." Lincoln realized that slavery violently contradicted the shining promise of America. His issuance of the Emancipation Proclamation became a decisive factor in the Civil War—and one of the historic and crowning achievements of Lincoln's life.

Leading our country through the perilous years of civil war, Abraham Lincoln ensured its safe passage by remaining faithful to the principles upon which it was founded. Today, as we mark the anniversary of his birth, we are grateful for his courage and wisdom, and for his example.

With an unfailing commitment to justice and an equally profound sense of mercy and compassion, Lincoln exhorted his fellow Americans to act "with malice toward none, with charity for all." He cared for the Union and for the individual Americans of all races, all conditions, and all regions. In his eyes, the great experiment in self-government launched by our Nation's Founders represented "the last, best hope of Earth." Today, recalling the timeless spirit of his historic Gettysburg Address, let us rededicate ourselves to "the unfinished work" Abraham Lincoln so nobly advanced. As individuals and as a Nation, let us strive to be governed "by the better angels of our nature," always choosing the sure and righteous course marked for us by the Constitution and the Declaration of Independence. This is the cause for which Lincoln gave his life, and it is the cause that we, too, must represent in the world and carry on for the sake of generations yet unborn.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby urge all Americans to observe February 12, 1990—the 181st anniversary of the birth of Abraham Lincoln—with appropriate programs, ceremonies, and activities designed to honor his memory and to reaffirm our commitment to the ideals he so faithfully defended.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of February, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fourteenth.

George Bush

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Rules and Regulations

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 141

Federal Claims Collection; Salary Offset

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: This part sets forth the Commodity Futures Trading Commission's policy and procedures which implement 5 U.S.C. 5514 and 5 CFR part 550, subpart K for the collection by administrative offset of a federal employee's salary with or without his/her consent to satisfy certain debts owed to the Federal government.

EFFECTIVE DATE: February 14, 1990.

FOR FURTHER INFORMATION CONTACT: David W. Kuhnsman, Esq., Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, (202) 254–9880.

SUPPLEMENTARY INFORMATION: Under the Debt Collection Act of 1982, when the head of a Federal agency determines that an employee of an agency is indebted to the United States or is notified by a head of another Federal agency that an agency employee is indebted to the United States, the employee's debt may be offset against his or her salary. Certain due process rights must be afforded to an employee before salary offset deductions begin. As is required by the Debt Collection Act of 1982, this regulation is consistent with salary offset regulations issued by the Office of Personnel Management as codified in 5 CFR part 550, subpart K.

Regulatory Flexibility Act; Paperwork Reduction Act

The Regulatory Flexibility Act, 5 U.S.C. 601 et seq., requires agencies to consider the impact of proposed rules on small entities. It is not anticipated that these new regulations dealing solely with internal rules governing Commodity Futures Trading Commission personnel will impose any new burden on small entities. Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that the rule promulgated herein will not have a significant economic impact on a substantial number of small entities.

Because the rule adopted herein does not contain a collection of information requirement, or an "information collection request" within the meaning of 44 U.S.C. 3502(4), the Commission has determined that the provisions of the Paperwork Reduction Act do not apply.

Waiver of Public Notice and Comment

These regulations are published in final form without the opportunity for public notice and comment because they relate to CFTC organization, procedure, and practice affecting its management and personnel.

List of Subjects in 17 CFR Part 141

Administrative practice and procedure, Compensation, Debt collection, Personnel.

Accordingly, the Commodity Futures Trading Commission amends 17 CFR by adding part 141 as follows:

PART 141—SALARY OFFSET

Authority: 5 U.S.C. 5514, E.O. 11609 (redesignated E.O. 12197), 5 CFR part 550, subpart K, and 7 U.S.C. 4a(j).

§ 141.1 Purpose and scope.

(a) This regulation provides procedures for the collection by administrative offset of a federal employee's salary without his/her consent to satisfy certain debts owed to the federal government. These regulations apply to employees of other federal agencies and current employees of the Commission who owe debts to the Commission and to current employees of the Commission who owe debts to other federal agencies. This regulation does not apply when the employee consents to recovery from his/her current pay account.

(b) This regulation does not apply to debts or claims arising under:

(1) The Internal Revenue Code of 1954, as amended, 26 U.S.C. 1 et seq.;

(2) The Social Security Act, 42 U.S.C. 301 et seq.;

(3) The tariff laws of the United States; or

(4) Any case where a collection of a debt by salary offset is explicitly provided for or prohibited by another statute.

(c) This regulation does not apply to any adjustment to pay arising out of an employee's selection of coverage or a change in coverage under a federal benefits program requiring periodic deductions from pay if the amount to be recovered was accumulated over four pay periods or less.

(d) This regulation does not preclude the compromise, suspension, or termination of collection action where appropriate under the standards implementing the Federal Claims Collection Act, 31 U.S.C. 3711 et seq., 4 CFR parts 101 through 105, 45 CFR part 1177.

(e) This regulation does not preclude an employee from requesting waiver of an 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 the debt by submitting a subsequent claim to the General Accounting Office in accordance with General Accounting Office procedures. This regulation does not preclude an employee from requesting a waiver pursuant to other statutory provisions applicable to the particular debt being collected. Neither the requesting of a waiver nor the filing of a claim with the General Accounting Office will affect the amount or validity of the debt being collected until a waiver has been granted or the debt has been determined to be for an incorrect amount or invalid.

(f) Matters not addressed in these regulations should be reviewed in accordance with the Federal Claims Collection Standards at 4 CFR 101.1 et seq.

§ 141.2 Definitions.

For the purposes of this part the following definitions will apply:

"Agency" means an executive agency as defined at 5 U.S.C. 105 including the U.S. Postal Service, the U.S. Postal Commission, a military department as defined at 5 U.S.C. 102, an agency or court in the judicial branch, an agency of the legislative branch including the U.S. Senate and House of Representatives and other independent establishments that are entities of the Federal government.

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

"Debt" means an amount owed to the United States from sources which include loans insured or guaranteed by the United States and all other amounts due the United States from fees, leases, rents, royalties, services, sales of real or personal property, overpayments, penalties, damages, interests, fines, forfeitures (except those arising under the Uniform Code of Military Justice), and all other similar sources.

"Disposable pay" means the amount that remains from an employee's federal pay after required deductions for social security, federal, state or local income tax, health insurance premiums, retirement contributions, life insurance premiums, federal employment taxes, and any other deductions that are required to be withheld by law.

"Hearing official" means an individual responsible for conducting any hearing with respect to the existence or amount of a debt claimed, and who renders a decision on the basis of such hearing. A hearing official shall be an impartial member of the Office of the Executive Director not under the supervision or control of the head of the Commission.

"Paying agency" means the agency that employs the individual who owes the debt and authorizes the payment of his/her current pay.

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

§ 141.3 Applicability.

These regulations are to be followed when:

(a) The Commission is owed a debt by an individual currently employed by another federal agency;

(b) The Commission is owed a debt by an individual who is a current employee of the Commission;

(c) The Commission employs an individual who owes a debt to another federal agency.

§ 141.4 Notice requirements.

(a) Deductions shall not be made unless the employee is provided with written notice of the debt at least 30 days before salary offset commences.

(b) The written notice shall contain:

(1) A statement that the debt is owed and an explanation of its nature, and amount;

(2) The agency's intention to collect the debt by deducting from the employee's current disposable pay account;

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

(4) An explanation of interest, penalties, and administrative charges, including a statement that such charges will be assessed unless excused in accordance with the Federal Claims Collections Standards at 4 CFR 101.1 et seq.;

(5) The employee's right to inspect, request, and receive a copy of government records relating to the debt;

(6) The opportunity to establish a written schedule for the voluntary repayment of the debt;

(7) The right to a hearing conducted by an impartial hearing official;

(8) The methods and time period for petitioning for hearings;

(9) A statement that the timely filing of a petition for a hearing will stay the commencement of collection proceedings;

(10) A statement that a final decision on the hearing will be issued not later than 60 days after the filing of the petition requesting the hearing unless the employee requests and the hearing official grants a delay in the proceedings;

(11) A statement that knowingly false or frivolous statements, representations, or evidence may subject the employee to:

(i) Disciplinary procedures appropriate under chapter 75 of 5 U.S.C., 5 CFR part 752, or any other applicable statutes or regulations;

(ii) Penalties under the False Claims Act, 31 U.S.C. 3729–3731, or any other applicable statutory authority; or

(iii) Criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002 or any other applicable statutory authority.

(12) A statement of other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made; and

(13) Unless there are contractual or statutory provisions to the contrary, a statement that amounts paid on or deducted for the debt which are later waived or found not owed to the United States will be promptly refunded to the employee.

§ 141.5 Hearing.

(a) *Request for hearing.* (1) An employee must file a petition for a hearing in accordance with the instructions outlined in the Commission's notice to offset.

(2) A hearing may be requested by filing a written petition addressed to the Executive Director stating why the employee disputes the existence or amount of the debt. The petition for a hearing must be received by the Executive Director no later than fifteen (15) calendar days after the date of the notice to offset unless the employee can show good cause for failing to meet the deadline date.

(b) *Hearing procedures.* (1) The hearing will be presided over by a impartial hearing official.

(2) The hearing shall conform to procedures contained in the Federal Claims Collection Standards 4 CFR 102.3(c). The burden shall be on the employee to demonstrate that the existence or the amount of the debt is in error.

§ 141.6 Written decision.

(a) The hearing official shall issue a written opinion no later than 60 days after the hearing.

(b) The written opinion will include a statement of the facts presented to demonstrate the nature and origin of the alleged debt; the hearing official's analysis, findings and conclusions; the amount and validity of the debt, and the repayment schedule.

§ 141.7 Coordinating offset with another Federal agency.

(a) *The Commission as the creditor agency.* When the Commission determines that an employee of another federal agency owes a delinquent debt to the Commission, the Commission shall as appropriate:

(1) Arrange for a hearing upon the proper petitioning by the employee;

(2) Certify to the paying agency 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 the

debt accrued, and that Commission regulations for salary offset have been approved by the Office of Personnel Management;

(3) If collection must be made in installments, the Commission must advise the paying agency of the amount or percentage of disposable pay to be collected in each installment;

(4) Advise the paying agency of the actions taken under 5 U.S.C. 5514(b) and provide the dates on which action was taken unless the employee has consented to salary offset in writing or signed a statement acknowledging that the Commission has complied with the procedures required by law. The written consent or acknowledgment must be sent to the paying agency;

(5) If the employee is in the process of separating, the Commission must submit its debt claim to the paying agency as provided in this part. The paying agency must certify any amounts already collected, notify the employee, and send a copy of the certification and notice of the employee's separation to the Commission. If the paying agency is aware that the employee is entitled to payments from the Civil Service Retirement and Disability Fund or similar payments, it must certify to the agency responsible for making such payments the amount of the debt and that the provisions of 5 CFR 550.1108 have been followed; and

(6) If the employee has already separated and all payments due from the paying agency have been paid, the Commission may request, unless otherwise prohibited, that money payable to the employee from the Civil Service Retirement and Disability Fund or other similar funds be collected by administrative offset.

(b) *The Commission as the paying agency.* (1) Upon receipt of a properly certified debt claim from another agency, deductions will be scheduled to begin at the next established pay interval. The employee must receive written notice from the Commission that the Commission has received a certified debt claim from the creditor agency, the amount of the debt, the date salary offset will begin, and the amount of the deduction(s). The Commission shall not review the merits of the creditor agency's determination of the validity or the amount of the certified claim.

(2) If the employee transfers to another agency after the creditor agency has submitted its debt claim to the Commission and before the debt is collected completely, the Commission must certify the total amount collected. One copy of the certification must be furnished to the employee. A copy must be furnished the creditor agency with notice of the employee's transfer.

§ 141.8 Procedures for salary offset.

(a) Deductions to liquidate an employee's debt will be by the method and in the amount stated in the Commission's notice of intention to offset as provided in § 141.4. Debts will be collected in one lump sum where possible. If the employee is financially unable to pay in one lump sum, collection must be made in installments.

(b) Debts will be collected by deduction at officially established pay intervals from an employee's current pay account unless alternative arrangements for repayment are made.

(c) Installment deductions will be made over a period not greater than the anticipated period of employment. The size of installment deductions must bear a reasonable relationship to the size of the debt and the employee's ability to pay. The deduction for the pay intervals for any period must not exceed 15% of disposable pay unless the employee has agreed in writing to a deduction of a greater amount.

(d) Unliquidated debts may be offset against any financial payment due to a separated employee including but not limited to final salary or leave payments in accordance with 31 U.S.C. 3716.

§ 141.9 Refunds.

(a) The Commission will refund promptly any amounts deducted to satisfy debts owed to the Commission when the debt is waived, found not owed to the Commission or when directed by an administrative or judicial order.

(b) The creditor agency will promptly return any amounts deducted by the Commission to satisfy debts owed to the creditor agency when the debt is waived, found not owed, or when directed by an administrative or judicial order.

(c) Unless required by law, refunds under this subsection shall not bear interest.

§ 141.10 Statute of limitations.

If a debt has been outstanding for more than 10 years after the agency's right to collect the debt first accrued, the agency may not collect by salary offset unless facts material to the Government's right to collect were not known and could not reasonably have been known by the official or officials who were charged with the responsibility for discovery and collection of such debts.

§ 141.11 Non-waiver of rights.

An employee's involuntary payment of all or any part of a debt collected under these regulations will not be construed as a waiver of any rights that employee may have under 5 U.S.C. 5514 or any other provision of contract or law unless there are statutes or contract(s) to the contrary.

§ 141.12 Interest, penalties, and administrative costs.

Charges may be assessed for interest, penalties, and administrative costs in accordance with the Federal Claims Collection Standards, 4 CFR 102.13.

Issued in Washington, DC, on February 7, 1990. By the Commission

Jean A. Webb,

Secretary of the Commission, Commodity Futures Trading Commission.

[FR Doc. 90-3343 Filed 2-13-90; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

Approval of Illinois Abandoned Mine Land Reclamation Plan Amendment

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is announcing the approval of a proposed amendment to the Illinois Abandoned Mine Land Reclamation (AMLR) Plan (hereinafter referred to as the Illinois AMLR plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment allows the Illinois Abandoned Mined Lands Reclamation Council (the Council) to perform non-coal reclamation within prescribed limitations. After opportunity for public comment and review of the amendment, the Deputy Director has determined that the Illinois amendment meets the requirements of the Surface Mining Control and Reclamation Act and the Secretary's regulations at 30 CFR part 884

EFFECTIVE DATE: February 14, 1990.

ADDRESSES: Copies of the full text of the amendment are available for review during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Springfield Field Office, 600 E. Monroe, Room 20,