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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AF58

Prevailing Rate Systems; Definition of Oscoda-Alpena, Michigan, Wage Area to Northwestern Michigan Wage Area

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing an interim regulation to abolish the Oscoda-Alpena, Michigan, Federal Wage System (FWS) wage area for pay-setting purposes. The Oscoda-Alpena wage area is composed of the following Michigan counties: Alcona, Alpena, Antrim, Benzie, Charlevoix, Cheboygan, Crawford, Emmet, Grand Traverse, Iosco, Kalkaska, Leelanau, Manistee, Missaukee, Montmorency, Ogemaw, Oscoda, Otsego, Presque Isle, Roscommon, and Wexford. The current host activity for the Oscoda-Alpena wage area survey, Wurtsmith Air Force Base (AFB), closed at the end of June 1993. No other activity in the Oscoda-Alpena wage area has the capability to conduct a local wage survey. This regulation redefines all counties presently included in the Oscoda-Alpena, Michigan, wage area to the area of application of the Northwestern Michigan wage area.

DATES: This interim rule is effective on August 1, 1993. Comments must be received on or before January 6, 1994.

ADDRESSES: Send or deliver comments to Barbara L. Fiss, Assistant Director for Compensation Policy, Personnel Systems and Oversight Group, U.S. Office of Personnel Management, room 6H31, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Mark Allen (202) 606–2848.

SUPPLEMENTARY INFORMATION: The Oscoda-Alpena, Michigan, wage area is currently defined as a separate wage area for FWS pay-setting purposes. The Department of Defense notified OPM that the host activity for the Oscoda-Alpena wage area, Wurtsmith AFB, closed on June 30, 1993. Wurtsmith AFB does not have the capability to conduct the wage survey for the Oscoda-Alpena, Michigan, wage area that was required to begin in August 1993 in accordance with appendix A to subpart B of part 532, title 5, Code of Federal Regulations.

No other Federal activity in the Oscoda-Alpena wage area has the capability to carry out a local wage survey. The counties presently constituting the Oscoda-Alpena wage area must therefore be combined with another wage area for pay-setting purposes.

The following criteria are taken into consideration when wage areas are combined:

(1) Distance, transportation facilities, and geographic features;

(2) Commuting patterns; and

(3) Similarities in overall population, employment, and the kinds and sizes of private industrial establishments.

There are currently four FWS wage areas in the State of Michigan. The Oscoda-Alpena wage area occupies the northern section of the lower peninsula and is adjacent to three other wage areas: Detroit, Northwestern Michigan, and Southwestern Michigan.

In selecting an existing wage area with which the Oscoda-Alpena wage area should be combined, the distance, transportation facilities, and geographic features criteria slightly favor combining the Oscoda-Alpena wage area with the Southwestern Michigan wage area. However, the distances between the host activities of all adjacent wage areas and Crawford County, the county with the highest remaining FWS employment, are considerable. The substantial distances involved for travel by road and the unusual geography of Michigan preclude making any determinative linkage to another wage area based on these criteria.

Analysis of commuting patterns shows a very slight linkage between the Oscoda-Alpena wage area and the Detroit wage area. Only 61 of 121,046 people who work in the Oscoda-Alpena wage area list their residence in the Detroit survey area, and only 139 of 120,165 working Oscoda-Alpena wage area residents list their place of work as being in the Detroit survey area. There is no additional evidence indicating a pattern of commuting between the Oscoda-Alpena wage area and the survey areas of the other two Michigan wage areas.

Comparison of statistics for overall population, employment and kinds and sizes of private industrial establishments shows that the smaller Oscoda-Alpena and Northwestern Michigan wage areas are very similar to each other and very dissimilar to the other much larger Michigan wage areas.

In summary, distance, transportation facilities, geographic features, and commuting pattern criteria slightly favor combining the Oscoda-Alpena wage area with the Southwestern Michigan or Detroit wage areas. However, demographic and economic factors strongly indicate that the Oscoda-Alpena wage area is most similar to the Northwestern Michigan wage area. On balance, the criteria favor defining the Oscoda-Alpena wage area to the area of application of the Northwestern Michigan wage area.

Based on this review of the criteria for establishing and combining wage areas, we find that the Oscoda-Alpena, Michigan, wage area should be abolished as of August 1, 1993. As requested by the Department of Defense, employees paid from the current Oscoda-Alpena, Michigan, wage schedule will remain on their current schedule until the next wage schedule for the Northwestern Michigan wage area becomes effective on January 1, 1994.

The Federal Prevailing Rate Advisory Committee reviewed this request and recommended approval by consensus.

Pursuant to sections 553(b)(3)(B) of title 5, United States Code, I find that good cause exists for waiving the general notice of proposed rulemaking to accommodate changes necessitated by Department of Defense downsizing and expedite this wage area redefinition. Also, pursuant to section 553(d)(3) of title 5, United States Code, I find that good cause exists for making this rule effective in less than 30 days. The notice is being waived and the regulation is being made effective in less

than 30 days to avoid the expenditure of resources needed to prepare for the required August 1993 survey of the Oscoda-Alpena, Michigan, wage area. Wurtsmith AFB is unable to function as the host activity for the wage survey and no other local activity within the Oscoda-Alpena wage area has the capability to conduct a wage survey.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Government employees, Wages.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

Accordingly, OPM is amending 5 CFR part 532 as follows:

PART 532—PREVAILING RATES SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

2. In appendix A to subpart B, the listing for the Oscoda-Alpena, Michigan, wage area is removed.

3. Appendix C to subpart B is amended by removing the listing for the Oscoda-Alpena, Michigan, wage area and by revising the wage area listing for the Northwestern Michigan wage area to read as follows:

Appendix C to Subpart B of Part 532—Appropriated Fund Wage and Survey Areas

* * * * *

Northwestern Michigan Survey Area

Michigan:
- Delta
- Dickinson
- Marquette

Area of Application. Survey area plus:

Michigan:
- Alcona [1]
- Alger
- Alpena [1]
- Antrim [1]
- Baraga
- Benzie [1]
- Charlevoix [1]
- Cheboygan [1]
- Chippewa
- Crawford [1]
- Emmet [1]
- Gogebic
- Grand Traverse [1]
- Houghton
- Iosco [1]
- Iron
- Kalkaska [1]
- Keweenaw
- Leelanau [1]
- Luce
- Mackinac
- Manistee [1]
- Menominee
- Missaukee [1]
- Montmorency [1]
- Ogemaw [1]
- Ontonagon
- Oscoda [1]
- Otsego [1]
- Presque Isle [1]
- Roscommon [1]
- Schoolcraft
- Wexford [1]

* * * * *

[1] Effective date January 1, 1994.

[FR Doc. 93–29724 Filed 12–6–93; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 831

RIN 3206–AF67

Civil Service Retirement System; Law Enforcement Officers and Firefighters

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim rules amending the regulations covering special retirement provisions for law enforcement officers and firefighters employed under the Civil Service Retirement System (CSRS). These changes are intended to improve efficiency by delegating to the employing agencies responsibility for deciding who is entitled to coverage under the special retirement provisions.

DATES: Interim rules effective December 7, 1993; comments must be received on or before February 7, 1994.

ADDRESSES: Send comments to Reginald M. Jones, Jr., Assistant Director for Retirement and Insurance Policy; Retirement and Insurance Group; Office of Personnel Management; P.O. Box 57; Washington, DC 20044; or deliver to OPM, room 4351, 1900 E Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert M. Rosenblatt, (202) 606–0299.

SUPPLEMENTARY INFORMATION: Section 8336(c) of title 5, U.S. Code, authorizes immediate retirement benefits at age 50 for Federal employees who have completed 20 years of Federal civilian service as a law enforcement officer or firefighter. Until now the Office of Personnel Management (OPM) has retained sole authority to determine whether or not service performed as a law enforcement office or firefighter meets the retirement law's definitions of "law enforcement officer" or "firefighter" (5 U.S.C. 8331(20) and 5 U.S.C. 8331(21), respectively), and, therefore qualifies for special retirement benefits. These regulations will authorize heads of employing agencies, subject to OPM oversight, to decide which of their CSRS employees qualify for law enforcement officer or firefighter coverage in the same manner as those determinations are now made for law enforcement officers and firefighters under the Federal Employees Retirement System (FERS). (See subpart H of 5 CFR Part 842.)

The delegation of authority from OPM to agency heads will streamline the processing of law enforcement officer and firefighter coverage determinations, and place responsibility for those determinations with the employing agencies that have the most direct personnel management interest in them. (These rules stipulate, however, that agencies will not reopen past coverage decisions except when new and material evidence is available that was not available when the issue was decided.)

For the convenience of the reader, OPM has republished subpart I of part 831 in its entirety. However, these rules make substantive changes only in the delegation of authority to make coverage determinations to the employing agencies (and the consequent elimination of OPM's role in making those determinations, except in an oversight capacity); the criteria for making coverage determinations have changed.

Under section 553(b)(3)(B) of title 5, United States Code, I find that good cause exists for waiving the general notice of proposed rulemaking, and to make these rules effective in less than 30 days. These regulations streamline processing of coverage determinations and place responsibility for those determinations with the employing agencies that have the most direct personnel management interest in them, without affecting individual rights.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will only affect Federal employees and agencies and retirement payments to retired Government employees and their survivors.

List of Subjects in 5 CFR Part 831

Administrative practice and procedure, Government employees, Pensions, Retirement.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

Accordingly, OPM is amending 5 CFR part 831 as follows:

PART 831—RETIREMENT

1. The authority citation for part 831 continues to read in part as follows:

Authority: 5 U.S.C. 8347; * * *

2. Subpart I, consisting of §§ 831.901 through 831.911, is revised to read as follows:

Subpart I—Law Enforcement Officers and Firefighters

Sec.

831.901 Applicability and purpose.
831.902 Definitions.
831.903 Conditions for coverage in primary positions.
831.904 Conditions for coverage in secondary positions.
831.905 Evidence.
831.906 Requests from individuals.
831.907 Withholdings and contributions.
831.908 Mandatory separation.
831.909 Reemployment.
831.910 Review of decisions.
831.911 Oversight of coverage determinations.

Subpart I—Law Enforcement Officers and Firefighters

§ 831.901 Applicability and purpose.

(a) This subpart contains regulations of the Office of Personnel Management (OPM) to supplement 5 U.S.C. 8336(c), which establishes special retirement eligibility for law enforcement officers and firefighters employed under the Civil Service Retirement System; 5 U.S.C. 8331(3) (C) and (D), pertaining to basic pay; 5 U.S.C. 8334(a) (1) and (c), pertaining to deductions, contributions, and deposits; 5 U.S.C. 8335(b), pertaining to mandatory retirement; and 5 U.S.C. 8339(d), pertaining to computation of annuity.

(b) The regulations in this subpart are issued pursuant to the authority given to OPM in 5 U.S.C. 8347 to prescribe regulations to carry out subchapter III of chapter 83 of title 5 of the United States Code, and in 5 U.S.C. 1104 to delegate authority for personnel management to the heads of agencies.

§ 831.902 Definitions.

In this subpart—

Agency head means, for the executive branch agencies, the head of an executive agency as defined in 5 U.S.C. 105; for the legislative branch, the Secretary of the Senate, the Clerk of the House of Representatives, or the head of any other legislative branch agency; for the judicial branch the Director of the Administrative Office of the U.S. Courts; for the Postal Service, the Postmaster General; and for any other independent establishment that is an entity of the Federal Government, the head of the establishment. For purposes of this subpart, "agency head" is also deemed to include the designated representative of the head of an executive department as defined in 5 U.S.C. 101, except that for provisions dealing with law enforcement officers and firefighters, the designated representative must be a department headquarters-level official who reports directly to the executive department head and who is the sole such representative for the entire department.

Detention duties means duties that require frequent direct contact in the detention, direction, supervision, inspection, training, employment, care, transportation, or rehabilitation of individuals suspected or convicted of offenses against the criminal laws of the United States or the District of Columbia or offenses against the punitive articles of the Uniform Code of Military Justice (10 U.S.C. chapter 47). (See 5 U.S.C. 8331(20).)

Firefighter means an employee, whose duties are *primarily* to perform work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment. Also included in this definition is an employee engaged in this activity who is transferred to a supervisory or administrative position. (See 5 U.S.C. 8331(21).) An employee whose primary duties are the performance of routine fire prevention inspection is excluded from this definition.

Frequent direct contact means personal, immediate, and regularly-assigned contact with detainees while performing detention duties, which is repeated and continual over a typical work cycle.

Law enforcement officer means an employee, the duties of whose position are *primarily* the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States, including an employee engaged in this activity who is transferred to a supervisory or administrative position. (See 5 U.S.C. 8331(20).) The definition does not include an employee whose primary duties involve maintaining law and order, protecting life and property, guarding against or inspecting for violations of law, or investigating persons other than persons who are suspected or convicted of offenses against the criminal laws of the United States.

Primary duties are those duties of a position that—

(1) (i) Are paramount in influence or weight; that is, constitute the basic reasons for the existence of the position;

(ii) Occupy a substantial portion of the individual's working time over a typical work cycle; and

(iii) Are assigned on a regular and recurring basis.

(2) Duties that are of an emergency, incidental, or temporary nature cannot be considered "primary" even if they meet the substantial portion of time criterion. In general, if an employee spends an average of at least 50 percent of his or her time performing a duty or group of duties, they are his or her primary duties.

Primary position means a position whose primary duties are:

(1) To perform work directly connected with controlling and extinguishing fires or maintaining and using firefighter apparatus and equipment; or

(2) Investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States.

Secondary position means a position that:

(1) Is clearly in the law enforcement or firefighting field;

(2) Is in an organization having a law enforcement or firefighting mission; and

(3) Is either—

(i) Supervisory; i.e., a position whose primary duties are as a first-level supervisor of law enforcement officers or firefighters in primary positions; or

(ii) Administrative; i.e., an executive, managerial, technical, semiprofessional, or professional position for which experience in a primary law enforcement or firefighting position, or equivalent experience outside the Federal government, is a prerequisite.

§ 831.903 Conditions for coverage in primary positions.

(a) An employee's service in a position that has been determined by the employing agency head to be a

primary law enforcement officer or firefighter position is covered under the provisions of 5 U.S.C. 8336(c).

(b) An employee who is not in a primary position, nor covered while in a secondary position, and who is detailed or temporarily promoted to a primary position is not covered under the provisions of 5 U.S.C. 8336(C)

§ 831.904 Conditions for coverage in secondary positions.

(a) An employee's service in a position that has been determined by the employing agency head to be a secondary law enforcement officer or firefighter position is covered under the provisions of 5 U.S.C. 8336(c) if all of the following criteria are met:

(1) The employee is transferred directly (i.e., without a break in service exceeding 3 days) from a primary position to a secondary position; and

(2) If applicable, the employee has been continuously employed in secondary positions since transferring from a primary position without a break in service exceeding 3 days, except that a break in employment in secondary positions which begins with an involuntary separation (not for cause), within the meaning of 8336(d)(1) of title 5, United States Code, is not considered in determining whether the service in secondary positions is continuous for this purpose.

(b) This requirement for continuous employment in a secondary position applies only to voluntary breaks in service beginning after January 19, 1988.

(c) An employee who is not in a primary position, nor covered while in a secondary position, and who is detailed or temporarily promoted to a secondary position is not covered under the provisions of 5 U.S.C. 8336(c).

(d) The service of an employee who is in a position on January 19, 1988, that has been approved as a secondary position under this subpart will continue to be covered under the provisions of 5 U.S.C. 8336(c) as long as the employee remains in that position without a voluntary break in service, and coverage is not revoked by OPM under § 831.911, or by the agency head.

§ 831.905 Evidence.

(a) An agency head's determination that a position is a primary position must be based solely on the official position description of the position in question, and any other official description of duties and qualifications. The official documentation for the position must establish that it satisfies the requirements defined in § 831.902.

(b) A determination under § 831.904 must be based on the official position description and any other evidence deemed appropriate by the agency head for making the determination.

§ 831.906 Requests from individuals.

(a) An employee who requests credit for service under 5 U.S.C. 8336(c) bears the burden of proof with respect to that service, and must provide the employing agency with all pertinent information regarding duties performed, including—

(1) For law enforcement officers, a list of the provisions of Federal criminal law the incumbent is responsible for enforcing and arrests made; and

(2) For firefighters, number of fires fought, names of fires fought, dates of fires, and position occupied while on firefighting duty.

(b) An employee who is currently serving in a position that has not been approved as a primary or secondary position, but who believes that his or her service is creditable as service in a primary or secondary position may request the agency head to determine whether or not the employee's service should be credited and, if it qualifies, whether it should be a primary or secondary position.

(c) A current or former employee (or the survivor of a former employee) who believes that a period of past service in an unapproved position qualifies as service in a primary or secondary position and meets the conditions for credit must follow the procedure in paragraph (b) of this section. Except as provided in paragraph (d) of this section, the request must be made to the agency where the claimed service was performed.

(d) For a current or former employee seeking credit under 5 U.S.C. 8336(c) for service performed at an agency that is no longer in existence, and for which there is no successor agency, OPM will accept, directly from the current or former employee (or the survivor of a former employee), a request for a determination as to whether a period of past service qualifies as service in a primary or secondary position and meets the conditions for credit.

(e) Coverage in a position or credit for past service will not be granted for a period greater than 1 year prior to the date that the request from an individual is received under paragraphs (b), (c), or (d) of this section by the employing agency, the agency where past service was performed, or OPM.

(f) An agency head, in the case of a request filed under paragraph (b) or (c) of this section, or OPM, in the case of request filed under paragraph (d) of this section, may extend the time limit for filing when, in the judgment of such agency head or OPM, the individual shows that he or she was prevented by circumstances beyond his or her control from making the request within the time limit.

§ 831.907 Withholdings and contributions.

(a) During the service covered under the conditions established by § 831.903 and § 831.904, the employing agency will deduct and withhold from the employee's base pay the amount required under 5 U.S.C. 8334(a) for such positions and submit that amount, together with agency contributions required by 5 U.S.C. 8334(a), to OPM in accordance with payroll office instructions issued by OPM.

(b) If the correct withholdings and/or Government contributions are not submitted to OPM for any reason whatsoever, including cases in which it is finally determined that past service of a current or former employee was subject to the higher deduction and Government contribution rates, the employing agency must correct the error by submitting the correct amounts (including both employee and agency shares) to OPM as soon as possible. Even if the agency waives collection of the overpayment of pay under any waiver authority that may be available for this purpose, such as 5 U.S.C. 5584, or otherwise fails to collect the debt, the correct amount must still be submitted to OPM without delay as soon as possible.

(c) An employee, upon proper application to the agency, or a former employee or eligible survivor, upon proper application to OPM, will be paid a refund, without interest, of erroneous additional withholdings or deposits for service that was found not to have been covered service.

(d) The additional employee withholding and agency contribution for covered or creditable service properly made as required under 5 U.S.C. 8334(a)(1) or deposited under 5 U.S.C. 8334(c) are not separately refundable, even in the event that the employee or his or her survivor does not qualify for a special annuity computation under 5 U.S.C. 8339(d).

(e) While an employee who does not hold a primary or secondary position is detailed or temporarily promoted to a primary or secondary position, the additional withholdings and agency contributions will not be made. While an employee who does hold a primary or secondary position is detailed or temporarily promoted to a position which is not a primary or secondary position, the additional withholdings and agency contributions will continue to be made.

§ 831.908 Mandatory separation.

(a) The mandatory separation provisions of 5 U.S.C. 8335(b) apply to all law enforcement officers and firefighters in primary and secondary positions. A mandatory separation under section 8335(b) is not an adverse action under part 752 of this chapter or a removal action under part 359 of this chapter. Section 831.503 provides the procedures for requesting an exemption from mandatory separation.

(b) In the event an employee is separated mandatorily under 5 U.S.C. 8335(b), or is separated for optional retirement under 5 U.S.C. 8336(c), and OPM finds that all or part of the minimum service required for entitlement to immediate annuity was in a position which did not meet the requirements of a primary or secondary position and the conditions set forth in this subpart, such separation will be considered erroneous.

§ 831.909 Reemployment.

An employee who has been mandatorily separated under 5 U.S.C. 8335(b) is not barred from reemployment in any position except a primary position after age 60. Service by a reemployed annuitant is not covered by the provisions of 5 U.S.C. 8336(c).

§ 831.910 Review of decisions.

The following decisions may be appealed to the Merit Systems Protection Board under procedures prescribed by the Board:

(a) The final decision of an agency head or OPM issued to an employee, former employee, or survivor as the result of a request for determination filed under § 831.906; and

(b) The final decision of an employing agency that a break in service referred to in § 831.904(a)(2) did not begin with an involuntary separation within the meaning of 5 U.S.C. 8336(d)(1).

§ 831.911 Oversight of coverage determinations.

(a) Upon deciding that a position is a law enforcement officer or firefighter position, each agency head must notify OPM (Attention: Associate Director for Retirement and Insurance) stating the title of each position, the number of incumbents, and whether the position is primary or secondary. The Director of OPM retains the authority to revoke an agency head's determination that a position is a primary or secondary position, or that an individual's service in any other position is creditable under 5 U.S.C. 8336(c).

(b) Each agency must establish a file containing each coverage determination made by an agency head under § 831.903 and § 831.904, and all background material used in making the determination.

(c) Upon request by OPM, the agency will make available the entire coverage determination file for OPM to audit to ensure compliance with the provisions of this subpart.

(d) Upon request by OPM, an agency must submit to OPM a list of all covered positions and any other pertinent information requested.

(e) A coverage determination issued by OPM or its predecessor, the Civil Service Commission, will not be reopened by an employing agency, unless the agency head determines that new and material evidence is available that, despite due diligence, was not available before the decision was issued.

[FR Doc. 93–29725 Filed 12–6–93; 8:45 am]
BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR PART 204

[Release No. 34–33277]

Debt Collection—Administrative Offset, Tax Refund Offset and Collection Services, Credit Bureau Reporting

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission has added three new subparts to Part 204, Rules relating to Debt Collection, Subpart A, Administrative Offset, sets forth the procedures to collect a debt owed the U.S. Government, by Administrative offset; Subpart C, Tax Refund Offset, establishes procedures whereby delinquent debts owed to the Commission will be referred to the Internal Revenue Service (IRS) for collection by offset against Federal income tax refunds under 31 U.S.C. 3720A and Subpart D, Miscellaneous: Collection Services, Credit Bureau Reporting, sets forth the procedures by which the Commission may report delinquent debts to credit bureau/consumer reporting agencies and use the collection services to collect debt owed to the U.S. Government. The Commission is required by the Debt Collection Act of 1982 to adopt regulations and develop procedures to collect debts owed to the U.S. Government. These regulations will bring the Commission into compliance with federal debt collection requirements.

EFFECTIVE DATE: January 6, 1994.

FOR FURTHER INFORMATION CONTACT: Darrell Dockery (Branch Chief, Accounting), Glynis Long (Salary Offset Editor), or Henry Hoffman (Assistant Comptroller) at (202) 272–2409, Office of the Comptroller, Securities and Exchange Commission, 450 Fifth St. NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Deficit Reduction Act [1] and the Cash Management Improvement Act Amendments of 1992 [2] mandate the use of tax refund offset by all agencies. These Acts authorize the Internal Revenue Service (IRS) to reduce a tax refund by the amount of a past-due legally enforceable debt owed to the United States by a person or entity. [3] The Commission must notify the Secretary of the Treasury at least once a year of the amount of all such debt.

In order to participate in the Tax Refund Offset Program with the IRS, the Commission must publish regulations on Tax Refund Offset, Salary Offset, and Administrative Offset. [4] In addition, the Commission must report the debtor to a consumer or credit bureau reporting agency. [5] If the Commission cannot collect the debt by Administrative Offset, [6] or Salary Offset, [7] then collection will be made through the Tax Refund Offset Program.

Subpart A—Administrative Offset—sets forth the procedures to collect, by Administrative offset, as defined in 31 U.S.C. Chapter 37, money payable by the United States Government to, or held by the Government for, a person to satisfy a debt the person owes the Government.

Subpart C—Tax Refund Offset—establishes procedures whereby delinquent debts owed to the Commission will be referred to the Internal Revenue Service (IRS) for collection by offset against Federal income tax refunds under 31 U.S.C. 3720A.

Subpart D—Miscellaneous: Collection Services, Credit Bureau Reporting, sets forth the procedures by which the Commission may report delinquent debts to consumer reporting agencies

[1] 31 U.S.C. 3720A, 6402.

[2] 31 U.S.C. 3720A.

[3] Pursuant to Public Law 102–589 Section 3, the term "person" means an individual, a sole proprietorship, partnership, corporation, nonprofit organization, or any other form of business association.

[4] 26 CFR 301.6402–6 *et seq.* Internal Revenue Service of the Department of the Treasury, Procedure and Administration.

[5] 31 U.S.C 3701, 3711, 3718 and the Federal Claims Collection Standards (FCCS) 4 CFR 102.8.

[6] 31 U.S.C. 3716.

[7] 5 U.S.C. 5514.