

DEPARTMENT OF THE TREASURY**Fiscal Service****31 CFR Part 240**

RIN 1510-AA45

Indorsement and Payment of Checks Drawn on the United States Treasury**AGENCY:** Financial Management Service, Fiscal Service, Treasury.**ACTION:** Interim rule with request for comments.

SUMMARY: This interim rule amends 31 CFR Part 240, which governs the indorsement and payment of checks drawn on the United States Treasury (Treasury), by incorporating procedures relating to the implementation of the Debt Collection Improvement Act of 1996 (DCIA). In particular, this rule describes Treasury Check Offset, a new debt collection tool established by the DCIA. The DCIA authorizes the Secretary of the Treasury to collect certain debts, owed to the Treasury by financial institutions presenting Treasury checks to a Federal Reserve Bank, by directing Federal Reserve Banks to withhold credit from such presenting banks. This rule also renumbers certain sections and updates various addresses provided in 31 CFR Part 240.

DATES: Effective May 24, 2002. Comments will be accepted until June 24, 2002.

ADDRESSES: All comments concerning this interim rule should be addressed to Lester Smalls, Reclamation Branch Manager, Financial Processing Division, Financial Management Service, Prince Georges Center II Building, 3700 East-West Highway, Room 724-D, Hyattsville, Maryland 20782. Comments also may be emailed to: Lester.Smalls@fms.treas.gov.

FOR FURTHER INFORMATION CONTACT: Lester Smalls, Reclamation Branch Manager, Financial Processing Division, at (202) 874-7945; Ronda Kent or Randall S. Lewis, Senior Attorneys, at (202) 874-6680.

SUPPLEMENTARY INFORMATION:**Background**

This interim rule revises 31 CFR Part 240 by adding new provisions in a new § 240.9 relating to TCO, a debt collection tool authorized by the DCIA, Pub. L. 104-134, Title III, § 31001(d)(4), codified at 31 U.S.C. 3712(e). The DCIA authorizes the Secretary to collect amounts owed to the Treasury by financial institutions presenting Treasury checks to the Federal Reserve

for payment by the United States ("presenting banks"). Under TCO, the Department of the Treasury (Department) will direct a Federal Reserve Bank to withhold credit from such presenting banks and apply the funds to satisfy a presenting bank's debt to the Treasury. In accordance with the DCIA, the Department will collect by means of TCO only if reclamation demand and protest as described in 31 CFR 240.7 and administrative offset as described in 31 CFR 240.8 are unsuccessful. This interim rule is unrelated to the Notices of Proposed Rulemaking published on September 21, 1995 (60 FR 48940) and May 30, 1997 (62 FR 29314).

Regulatory Analyses*Executive Order 12866, Regulatory Planning and Review*

It has been determined that this regulation is not a significant regulatory action. This interim rule will not have an annual effect of \$100 million or more on the economy, and will not adversely affect in a material way the economy, productivity, competition, jobs, environment, public health or safety, or State, local, or tribal governments or communities. Further, this interim rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency, nor will it materially alter the budgetary effects of entitlements, grants, user fees, or loan programs, or the rights or obligations of their recipients. This interim rule does not raise novel legal or policy issues.

Clarity of Regulations

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. We invite your comments on how to make this interim rule easier to understand. For example:

- Have we organized the material in this interim rule to suit your needs?
- Are the requirements in the interim rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- What else could we do to make this interim rule easier to understand?

Please send any comments you have on the clarity of this interim rule to the address specified in the **ADDRESSES** section.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Accordingly, a regulatory flexibility

analysis is not required. The revisions to part 240 in this interim rule incorporate statutory changes, and do not create, in and of themselves, a new debt collection tool or otherwise create a new limit on the rights of affected parties, including small entities. Moreover, the revisions to part 240 concern the collection of delinquent debts by means of TCO, and are in furtherance of specific authority established by the DCIA. In particular, the DCIA provides that, "by presenting Treasury checks for payment a presenting bank is deemed to authorize this offset." 31 U.S.C. 3712(e)(1). Consequently, any economic impact on small entities will be the result of specific statutory authority, rather than a direct result of this interim rule.

Administrative Procedure Act

We find good cause for issuing this interim rule without prior notice and comment. Under the Administrative Procedure Act, an agency is permitted to issue a rule without prior notice and comment when the agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary or contrary to the public interest. 5 U.S.C. 553(b)(B). The provisions of the DCIA codified at 31 U.S.C. 3712(e) authorize the collection of amounts owed by presenting banks by means of the withholding of credit from financial institutions presenting Treasury checks for ultimate charge to the account of the Treasury. This rule merely incorporates the TCO provisions of the DCIA into 31 CFR part 240, and clarifies the interaction between the TCO provisions and pre-existing provisions relating to reclaiming amounts owed to the Treasury by presenting banks and collection of such amounts by means of administrative offset. With one exception, this interim rule does not substantively amplify the plain language of the DCIA. The only substantive revision to 31 CFR part 240 that is not included in the TCO provisions of the DCIA is the provision codified at 31 CFR 240.9(d) which provides that TCO does not apply to claims based on reclamations that have been outstanding for more than 10 years. Given that this provision limits the application of the TCO provisions of the DCIA and, therefore, in itself does not adversely affect presenting banks, we find that it is unnecessary to require prior notice and comment for that provision. Nevertheless, the public is invited to submit comments on the interim rule. Comments received will be

taken into account before a final rule is issued.

For the same reasons, it has been determined that a delayed effective date is not required pursuant to 5 U.S.C. 553(d)(3).

List of Subjects in 31 CFR Part 240

Banks, Banking, Checks, Counterfeit checks, Federal Reserve system, Forgery, Guarantees.

Authority and Issuance

For the reasons set out in the preamble, 31 CFR Part 240 is amended as follows.

PART 240—INDORSEMENT AND PAYMENT OF CHECKS DRAWN ON THE UNITED STATES TREASURY

1. The authority citation for part 240 is revised to read as follows:

Authority: 5 U.S.C. 301; 12 U.S.C. 391; 31 U.S.C. 3328, 3331, 3343, 3711, 3712, 3716, 3717; 332 U.S. 234 (1947); 318 U.S. 363 (1943).

§§ 240.9–240.15 [Redesignated as §§240.10–240.16]

2. Sections 240.9–240.15 are redesignated as §§ 240.10–240.16.

3. Section 240.7 is amended by revising paragraphs (a)(1), (b), and (c)(1) to read as follows:

(a) * * *

(1) That Treasury intends to collect the debt through administrative offset in accordance with § 240.8 if the reclamation is not paid within 120 days of the reclamation date, and if administrative offset is unsuccessful, that Treasury intends to collect the debt through Treasury Check Offset in accordance with § 240.9; * * *

(b) Requests for an appointment to inspect and copy Treasury's records with respect to a reclamation and requests to enter into repayment agreements should be sent in writing to: Department of the Treasury, Financial Management Service, Financial Processing Division, Reclamation Branch, Room 700–D, P.O. Box 1849, Hyattsville, MD 20788.

(c)(1) If a presenting bank wishes to contest its liability for the principal amount demanded, it shall send a protest, i.e., a written statement and copies of all documentary evidence (e.g., affidavits, account agreements, signature cards) and other written information raising a question of law or fact which, if resolved in the presenting bank's favor, would show that the presenting bank is not liable, to: Department of the Treasury, Financial Management Service, Financial Processing Division, Reclamation

Branch, Room 700–D, P.O. Box 1849, Hyattsville, MD 20788. The Director, Financial Processing Division, who has supervisory authority over the Reclamation Branch, or his/her authorized subordinate, shall consider and decide any protest properly submitted under this paragraph. Neither the Director, Financial Processing Division, nor any of his/her subordinates, shall have any involvement in the process of making findings or demands under § 240.6(a). In order to be considered, and to be timely, a protest must be received not later than 90 days after the reclamation date. Treasury will refrain from collection in accordance with § 240.8 or § 240.9 while a timely protest is being considered. Unresolved protested items will be appropriately annotated on the monthly summary of debt statement.

* * * * *

4. Section 240.8(c) is revised to read as follows:

§ 240.8 Offset.

* * * * *

(c) If Treasury is unable to collect an amount owed by use of the offset described in paragraph (a) of this section, Treasury shall take such action against the presenting bank as may be necessary to protect the interests of the United States, including Treasury Check Offset in accordance with § 240.9 or referral to the Department of Justice.

* * * * *

5. New § 240.9 is added to read as follows:

§ 240.9 Treasury Check Offset.

(a) If Treasury is unable to effect collection pursuant to § 240.7 or § 240.8 of this part, it will collect the principal amount of the reclamation, accrued interest, penalty, and administrative costs through Treasury Check Offset. Treasury Check Offset occurs when, at the direction of Treasury, a Federal Reserve Bank withholds, that is, offsets, credit from a presenting bank (e.g., a financial institution presenting a Treasury check for ultimate charge to the account of the United States Treasury). The amount of credit offset is applied to the principal amount of the reclamation, accrued interest, penalties, and administrative costs owed by the presenting bank. As provided by the provisions of 31 U.S.C. 3712(e), by presenting Treasury checks for payment, the presenting bank is deemed to authorize Treasury Check Offset.

(b) If Treasury effects offset under this section and it is later determined that the presenting bank paid the principal amount of the reclamation and accrued

interest, penalties, and administrative costs thereon, or that a presenting bank was not liable for the amount of the reclamation, Treasury will promptly refund to the presenting bank the amount of its payment. Treasury may refund the amount either by applying the amount to another reclamation debt in accordance with this Part or other applicable law, or by returning the amount to the presenting bank.

(c) Treasury Check Offset is used for the purpose of collecting debt owed by a presenting bank to the Federal Government. As a consequence, presenting banks shall not be able to use the fact that Treasury checks presented for payment have not been paid as the basis for a claim against Treasury, a Federal Reserve Bank, or other persons or entities, including payees or other indorsers of checks, for the amount of the credit offset pursuant to 31 U.S.C. 3712(e) and this section.

(d) This section does not apply to a claim based upon a reclamation that has been outstanding for more than 10 years from the date of delinquency.

6. Redesignated § 240.13(a)(2)(ii) is revised to read as follows:

§ 240.13 Checks issued to incompetent payees.

(a) * * *

(2) * * *

(ii) Was issued in payment of principal or interest on U.S. securities, it shall be forwarded to the Bureau of the Public Debt, Division of Customer Service, P.O. Box 426, Parkersburg, WV 26106.

* * * * *

Dated: May 16, 2002.

Richard L. Gregg,
Commissioner.

[FR Doc. 02–13033 Filed 5–23–02; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD05–02–022]

Special Local Regulations for Marine Events; Severn River, College Creek, and Weems Creek, Annapolis, Maryland

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: The Coast Guard is implementing the special local regulations at 33 CFR 100.518 for the