

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**29 CFR Part 1650****Debt Collection**

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission (EEOC) is revising its regulation on debt collection to reflect organizational changes, to update statutory and regulatory citations, and to clarify the procedures.

DATES: This rule is effective August 20, 2008.

FOR FURTHER INFORMATION CONTACT:

Thomas J. Schlageter, Assistant Legal Counsel, at (202) 663-4668 (voice), or Lynn T. Dickinson, Senior Attorney, Office of Legal Counsel, at (202) 663-4640 (voice), or (202) 663-7026 (TTY). This final rule is also available in the following formats: large print, braille, electronic file on computer disk, and audio-tape. Copies may be obtained from the EEOC's Publication Center by calling 1-800-669-3362 (voice) or 1-800-669-6820 (TTY).

SUPPLEMENTARY INFORMATION: EEOC is revising its regulation on debt collection found at 29 CFR part 1650. The purpose of the revisions is to reflect organizational changes at EEOC, to update statutory and regulatory citations, to ensure that the subparts are consistent with each other, to eliminate any ambiguities, and to follow more closely the regulations of the Office of Personnel Management (OPM), the Department of Treasury, and the Department of Justice.

Subpart A is revised to reflect changes in the processing of requests for waiver of repayment of salary overpayments. Previously, such requests were submitted to the General Accounting Office (GAO). However, in 1996 the authority to waive collection of these debts was transferred to the Office of Management and Budget (OMB). That same year, OMB delegated this function to agency heads. Therefore, reference to submission of waiver requests to the GAO is deleted.

Subpart A is also revised so that an employee's various options for resolving the matter are separately addressed. An employee can propose a voluntary repayment agreement, request waiver, and ask for a hearing. The language on voluntary repayment agreements mostly formalizes procedures that have been commonly followed in resolving debts. However, the new regulation also clarifies that if an employee proposes a

repayment agreement, he or she does not lose the right to request a hearing afterwards if the request is denied. In addition, the revised language regarding hearings clarifies that employees have a right to a paper hearing to contest their debts, but if they would like an oral hearing, they must show that the matter cannot be resolved by reviewing the documentary evidence alone.

Subpart B is revised to reflect changes in the procedures for collecting debts by tax refund offset. Specifically, beginning on January 1, 1998, administration of tax refund offset was transferred from the Internal Revenue Service to the Financial Management Service (FMS). Therefore, the regulation now provides for transmitting these debts to FMS.

In addition, in 1996, Congress enacted the Debt Collection Improvement Act, which required implementation of a centralized offset program. Previously, agencies were required to attempt to collect debts using administrative and salary offset before referring debts for tax refund offset. Under the new centralized offset program, however, debts that are referred to Treasury are subject to administrative offset, salary offset, and tax refund offset. Therefore, all collection activities can be attempted simultaneously. Moreover, agencies do not have to report debts to credit bureaus before they can refer debts to Treasury. Finally, the prior requirement that agencies mail pre-offset notices to the address on file with IRS for debtor was changed. Now, agencies have greater flexibility to locate the best address available.

Subpart C, Administrative Offset, is removed. In its place, the regulation already issued by the Department of Treasury is adopted by reference, as authorized by 37 U.S.C. § 3716(b)(1).

Subpart D, Administrative Wage Garnishment, is merely revised to reflect organizational changes at EEOC, and to use language consistent with other subparts.

Regulatory Procedures*Paperwork Reduction Act*

This Paperwork Reduction Act (44 U.S.C. Chapter 35) does not apply to this rule because it does not contain an information collection requirement that requires the approval of the Office of Management and Budget.

Regulatory Flexibility Act

As Chair of the Equal Employment Opportunity Commission, I certify under the Regulatory Flexibility Act (5 U.S.C. Chapter 6) that this rule will not have a significant economic impact on a substantial number of small entities

because it primarily affects Federal employees and former Federal employees.

Congressional Review Act

This action pertains to agency management, personnel and organization and does not substantially affect the rights or obligations of non-agency parties and accordingly, is not a rule as that term is used by the Congressional Review Act. Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Administrative Procedure Act

These amendments concern matters of agency management or personnel within the meaning of 5 U.S.C. 553(a)(2). Therefore, the notice and comment requirements of the Administrative Procedure Act are not applicable.

Executive Order 12866

This action does not create any of the regulatory impacts specified by Executive Order 12866, is not a significant regulatory action within the meaning of section 3(f) of that Executive Order, and therefore does not require review under Executive Order 12866.

List of Subjects in 29 CFR Part 1650

Administrative offset, Administrative wage garnishment, Debt collection, Salary offset, Tax refund offset.

For the Commission.

Naomi C. Earp,
Chair.

■ For the reasons set forth in the preamble, the Equal Employment Opportunity Commission revises 29 CFR part 1650 to read as follows:

PART 1650—DEBT COLLECTION**Subpart A—Procedures for the Collection of Debts by Salary Offset**

Sec.

- 1650.101 Purpose.
- 1650.102 Delegation of authority.
- 1650.103 Scope.
- 1650.104 Definitions.
- 1650.105 Notice of Debt.
- 1650.106 Right to inspect and copy records related to the debt.
- 1650.107 Voluntary repayment agreements.
- 1650.108 Waiver.

- 1650.109 Hearing.
- 1650.110 Procedures for salary offset.
- 1650.111 Recovery from other payments due a separated employee.
- 1650.112 Interest, penalties, and administrative costs.
- 1650.113 Non-waiver of rights by payments.
- 1650.114 Refunds.

Subpart B—Procedures for the Collection of Debts by Federal Tax Refund Offset

- 1650.201 Purpose.
- 1650.202 Past-due legally enforceable debt.
- 1650.203 Notification of intent to collect.
- 1650.204 Reasonable attempt to notify.
- 1650.205 Consideration of evidence submitted as a result of notification of intent.
- 1650.206 Notification to Treasury.
- 1650.207 Administrative charges.

Subpart C—Procedures for Collection of Debts by Administrative Offset

- 1650.301 Purpose and regulatory procedures for the collection of debts by administrative offset.

Subpart D—Procedures for the Collection of Debts by Administrative Wage Garnishment

- 1650.401 Purpose and regulatory procedures for the collection of debts by administrative wage garnishment.

Authority: 31 U.S.C. 3701 *et seq.*

Subpart A also issued under 5 U.S.C. 5514; 5 CFR 550.1101.

Subpart B also issued under 31 U.S.C. 3720A; 31 CFR 285.5(d)(4).

Subpart C also issued under 31 U.S.C. 3716.

Subpart D also issued under 31 U.S.C. 3720D.

Subpart A—Procedures for the Collection of Debts by Salary Offset

§ 1650.101 Purpose.

This subpart sets forth the procedures to be followed in the collection by salary offset of debts owed to the United States under 5 U.S.C. 5514. The general standards and procedures governing the collection, compromise, termination, and referral to the Department of Justice of claims for money and property that are prescribed in the regulations issued jointly by the Secretary of the Treasury and the Attorney General of the United States, the Federal Claims Collection Standards (31 CFR Parts 900–904), apply to the administrative collection activities of the EEOC. Debts owed by current federal employees to Government travel charge card contractors will be collected in accordance with the regulations issued by the General Services Administration at 41 CFR Part 301–54.

§ 1650.102 Delegation of authority.

The Chair delegated to the Chief Human Capital Officer the authority to collect debts owed by current EEOC employees, and to the Chief Financial

Officer the authority to collect debts owed by former EEOC employees and non-EEOC employees.

§ 1650.103 Scope.

(a) This subpart applies to the collection of certain debts by salary offset against an employee's disposable pay.

(1) This subpart applies to collections by the EEOC from:

(i) Federal employees who are indebted to the EEOC; and

(ii) EEOC employees who are indebted to other agencies.

(2) This subpart does not apply:

(i) To debts or claims arising under the Internal Revenue Code of 1986 (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;

(ii) In 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 and employee training expenses in 5 U.S.C. 4108).

(b) Nothing in this subpart precludes the compromise, suspension, or termination of collection actions where appropriate under the standards implementing the Federal Claims Collection Act, 31 U.S.C. 3711, namely, 31 CFR Parts 900–904; or the waiver of a debt where appropriate under 5 U.S.C. 5584 or 5 U.S.C. 5524a.

§ 1650.104 Definitions.

For the purpose of this subpart, terms are defined as follows:

(a) *Agency* means:

(1) An Executive agency as defined in section 105 of title 5, United States Code, including the U.S. Postal Service and the U.S. Postal Rate Commission;

(2) A military department as defined in section 102 of title 5, United States Code;

(3) An agency or court in the judicial branch, including a court as defined in section 610 of title 28, United States Code, the District Court for the Northern Mariana Islands, and the Judicial Panel on Multidistrict Litigation;

(4) An agency of the legislative branch, including the U.S. Senate and the U.S. House of Representatives; and

(5) Other independent establishments that are entities of the Federal Government.

(b) *Commission* means those officers, employees, and agents of the Equal Employment Opportunity Commission who are responsible for debt collection activities.

(c) *Debt* means money owed by an employee of the Federal Government to an agency of the Federal Government, including direct loans, loans insured or guaranteed by the United States and all

other amounts due the Government from fees, leases, rents, royalties, services, sales of real or personal property, overpayments, penalties, damages, interest, fines and forfeitures (except those arising under the Uniform Code of Military Justice), erroneous salary payments, and all other similar amounts owing to the Federal Government.

(d) *Disposable pay* means that part of current basic pay, special pay, incentive pay, retired pay, retainer pay, or, in the case of an employee not entitled to basic pay, other authorized pay remaining after the deduction of any amount required by law to be withheld. Deductions described in 5 CFR 581.105(b) through (f) will be used to determine disposable pay subject to salary offset.

(e) *Employee* means a current employee of an agency, including a current member of the Armed Forces or a Reserve of the Armed Forces (Reserves).

(f) *Salary Offset* means the collection of a debt under 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 or her consent.

§ 1650.105 Notice of Debt.

(a) *Timing and contents of notice.* Notice of the Commission's intent to collect a debt by salary offset shall be given at least 30 days before salary offset deductions are to begin. The written notice shall include the following:

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

(2) The Commission's intention to collect the debt by means of deduction from the employee's current disposable pay account until the debt and all accumulated interest, penalties, and administrative costs are paid in full;

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

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

(5) The employee's right to inspect and copy the Commission's records pertaining to the debt or to receive copies of such records if the employee is unable personally to inspect the records, due to geographical or other constraints;

(6) The opportunity to propose a voluntary repayment schedule and agreement that is acceptable to the Commission in lieu of the proposed offset;

(7) The employee's right to a hearing conducted by an impartial hearing official (an Administrative Law Judge or an individual not under the supervision or control of the Chair) with respect to the existence and amount of the debt claimed or the repayment schedule (*i.e.*, the percentage of disposable pay to be deducted each pay period); the method and time period for requesting a hearing; that the timely request for a hearing will stay the commencement of collection proceedings; and that a final decision will be issued at the earliest practical date, but not later than 60 days after receipt of the hearing request;

(8) The employee's right to request a waiver under 5 U.S.C. 5584 or 5 U.S.C. 5524a, or compromise under 31 U.S.C. 3711;

(9) The making of any knowingly false or frivolous statements, representations, or evidence may subject the employee to:

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

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

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

(10) Unless there are applicable contractual or statutory provisions to the contrary, amounts paid on or deducted from debts that are later waived or found not to be owed to the United States will be promptly refunded to the employee.

(b) *Exception to the advance notice requirement.* Advance notice under paragraph (a) of this section is not required:

(1) Where an adjustment to pay arises out of an employee's election of coverage, or change in coverage, under a Federal benefits program requiring periodic deductions from the employee's pay and the amount to be recovered was accumulated over four pay periods or less;

(2) Where a routine intra-agency adjustment of pay is made to correct an overpayment of pay attributable to clerical or administrative errors or delays in processing pay documents, if the overpayment occurred within the four pay periods preceding the adjustment and, at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and a point of contact for contesting such adjustment;

(3) Where any adjustment of pay to collect a debt amounting to \$50 or less

is made, if, at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and a point of contact for contesting such adjustment; or

(4) Where an employee consents to withholdings from his or her current pay account.

(c) *Receipt of notice of debt.* The Notice of Debt will be sent by certified mail, return-receipt requested. The date on which the return-receipt is signed is the date on which the employee is deemed to have received the Notice of Debt.

§ 1650.106 Right to inspect and copy records related to the debt.

An employee who desires to inspect or copy Commission records related to the debt must send a request to the official designated in the Notice of Debt. In response, the Commission will notify the employee of the location and time when the employee may inspect and copy the records or send copies of such records to the employee.

§ 1650.107 Voluntary repayment agreements.

(a) In response to a Notice of Debt, an employee may propose a written repayment schedule in lieu of the proposed salary offset. Any proposal under this subsection must be received by the office of the official designated in the notice within 15 calendar days after receipt of the Notice of Debt.

(b) It is within the Commission's discretion to accept or reject a voluntary repayment proposal. The Commission shall send the employee a written decision.

(c) If the Commission decides that the proposed repayment schedule is unacceptable, and that the written proposed repayment schedule was timely received, the employee shall have a further 15 days from the date he or she received the decision on the proposed repayment schedule in which to file a request for a hearing.

(d) If the Commission decides that the proposed repayment schedule is acceptable, the agreement shall be put in writing and signed by both the employee and the Commission.

§ 1650.108 Waiver.

The Commission may waive debts, to the extent authorized by 5 U.S.C. 5584, arising out of erroneous payments of pay, when collection would be against equity and good conscience and not in the best interests of the United States, and so long as there is no indication of fraud, fault, or lack of good faith on the

part of the employee. Interest, penalties, and administrative costs may also be waived under 31 U.S.C. 3717(h) and 31 CFR 901.9(g), on a case-by-case basis, if collection would be against equity and good conscience and not in the best interests of the United States.

§ 1650.109 Hearing.

(a) *Request for a hearing.* An employee who wants a hearing on the existence of the debt, its amount, or on the proposed offset schedule must send a written request to the official designated in the Notice of Debt. The request for a hearing must be received by the designated office on or before the 15th calendar day following receipt by the employee of the Notice of Debt. The request must be signed by the employee and must contain a brief summary of the facts, evidence, and witnesses, if any, that the employee believes support his or her position. If the employee wants an oral hearing, the request must also explain why the matter cannot be resolved by review of documentary evidence alone (*e.g.*, how an issue of credibility or veracity is involved). Because proof of the existence or amount of a debt rarely requires an evaluation of the credibility of witnesses, oral hearings will only rarely be granted. The timely filing of a request for hearing shall automatically stay the commencement of collection proceedings.

(b) *Failure to timely submit.* If the request for hearing is late, the Commission may still grant the request if the employee can show that the delay was the result of circumstances beyond his or her control or that he or she failed to receive actual notice of the filing deadline.

(c) *Procedure.*

(1) *Hearing official.* The hearing official will be an Administrative Law Judge or an individual who is not under the supervision or control of the Chair.

(2) *Notice.* The hearing official shall notify the employee whether the hearing will be oral or documentary. If the hearing will be oral, the notice shall set forth the date, time, and location of the hearing, which must occur no more than 30 days after the request is received. If the hearing will be conducted by examination of documents, the employee shall be notified that he or she should submit evidence and arguments in writing to the hearing official by a specified date after which the record shall be closed. This date shall give the employee reasonable time to submit documentation.

(3) *Oral hearing.* The hearing official may grant a request for an oral hearing if he or she determines that the issues

raised by the employee cannot be resolved by review of documentary evidence alone (e.g., when credibility or veracity are at issue). An oral hearing is not required to be an adversarial adjudication, and the hearing official is not required to apply rules of evidence. Oral hearings may take the form of, but are not limited to:

(i) Informal conferences with the hearing official in which the employee and agency representative are given a full opportunity to present evidence, witnesses, and argument;

(ii) Informal meetings in which the hearing examiner interviews the employee and, as necessary, others with relevant evidence; or

(iii) Formal written submissions followed by an opportunity for oral presentation. Witnesses who testify in oral hearings shall do so under oath or affirmation.

(4) *Documentary hearing.* If an oral hearing is not necessary, the hearing official shall make the determination based upon a review of the written record.

(d) *Record.* The hearing official shall maintain a summary record of any hearing conducted under this section.

(e) *Date of decision.* The hearing official shall issue a written decision as soon as practicable after the hearing, but not later than 60 days after the date on which the request for hearing was received by the Commission, unless the hearing was delayed at the request of the employee, in which case the 60 day decision period shall be extended by the number of days by which the hearing was postponed.

(f) *Content of decision.* The written decision shall include:

(1) A summary of the facts concerning the origin, nature, and amount of the debt;

(2) The hearing official's findings, analysis, and conclusions; and

(3) The revised terms of any repayment schedule, if applicable.

(g) *Failure to appear.* In the absence of good cause, if the employee or the representative of the agency fails to appear, the hearing official shall proceed with the hearing as scheduled, and make his or her determination based upon the oral testimony presented and the documentation submitted by both parties.

§ 1650.110 Implementation of salary offset.

(a) *Method of collection.* A debt will be collected in a lump sum or by installment deductions at officially established pay intervals from an employee's current pay account, unless the employee and the Commission agree

in writing to alternate arrangements for repayment.

(b) *Source of deductions.* Deductions will be made only from basic pay, special pay, incentive pay, retired pay, retainer pay or in the case of an employee not entitled to basic pay, other authorized pay.

(c) *Duration of deductions.* Debts will be collected in one lump sum when possible to minimize interest costs and administrative processing fees for the employee. If the employee is financially unable to pay in one lump sum and the amount of debt exceeds 15 percent of the employee's disposable pay for an officially established pay interval, collection by offset will be made in installments. Such installment deductions will be made over a period not greater than the anticipated period of active duty or employment of the employee and, except in rare circumstances, not to exceed 3 years.

(d) *Limitation on amount of deductions.* The size and frequency of installment deductions will bear a reasonable relationship to the size of the debt and the employee's ability to pay. The amount deducted for any period, however, will not exceed 15 percent of the disposable pay from which the deduction is made, unless the employee has agreed in writing to the deduction of a greater amount. Installment payments of less than \$25 will be accepted only in the most unusual circumstances.

(e) *When deductions may begin.*

(1) If the employee files a timely request for hearing, or a proposed voluntary repayment agreement, deductions will begin in the next bi-weekly salary payment after a final decision is issued on the request or repayment proposal.

(2) If the employee fails to submit a timely request for hearing or proposal for a voluntary repayment agreement, deductions will commence in the next bi-weekly salary payment after the expiration of 30 days following the employee's receipt of the Notice of Debt under 1650.105(c).

(f) *Lump-sum deduction from final check.* When the employee retires, resigns, or ends his or her period of active duty before the debt is collected in full, the employee's debt will be automatically deducted from the final payments (e.g., final salary payment, lump-sum leave, etc.) due the employee to the extent necessary to liquidate the debt. If the employee's final pay is not sufficient to permit all deductions to be made, the order of precedence for the deductions will be: Retirement and FICA; Medicare; Federal income taxes; health benefits; group life insurance;

indebtedness due to the United States; State income taxes; and voluntary deductions and allotments.

§ 1650.111 Recovery from other payments due a separated employee.

When a debt owed to EEOC has not been completely liquidated through salary offset and the employee has separated from EEOC, the Commission shall, pursuant to 31 U.S.C. 3716 and the Federal Claims Collection Standards, 31 CFR parts 900–904, seek to offset the balance of the debt against any financial payment due the employee from the U.S. Government.

§ 1650.112 Interest, penalties, and administrative costs.

Unless a debt is paid in full within 30 days of receipt of the Notice of Debt, the Commission will charge interest at the rate established in accordance with 31 U.S.C. 3717 effective on the date of delinquency, and a processing charge pursuant to 31 U.S.C. 3717. The Commission will charge a penalty, pursuant to 31 U.S.C. 3717(e)(2) not to exceed 6 percent a year, on the amount due on a debt that is delinquent more than 90 days. This charge shall accrue from the date of delinquency. If an employee files a timely proposal for a repayment agreement, request for waiver, or a request for a hearing, interest, penalties, and administrative costs will be suspended during the time the Commission is considering such request(s).

§ 1650.113 Non-waiver of rights by payments.

An employee's payment of all or any portion of a debt collected by salary offset will not be construed as a waiver of any right the employee may have under 5 U.S.C. 5514 or any other provision of contract or law, unless there are statutory or contractual provisions to the contrary.

§ 1650.114 Refunds.

Amounts paid, or deducted by salary offset, by an employee for a debt that is waived or otherwise not found owing to the United States will be refunded promptly to the employee. Refunds do not bear interest unless required by law or contract.

Subpart B—Procedures for the Collection of Debts by Federal Tax Refund Offset

§ 1650.201 Purpose.

This subpart establishes procedures for EEOC to refer past-due legally enforceable debts to the Department of the Treasury (Treasury) for offset against the income tax refunds of persons owing

debts to EEOC pursuant to 31 U.S.C. 3720A and 31 CFR 285.2. The general standards and procedures governing the collection, compromise, termination, and referral to the Department of Justice of claims for money and property that are prescribed in the regulations issued jointly by the Secretary of the Treasury and the Attorney General of the United States, the Federal Claims Collection Standards (31 CFR parts 900–904), apply to the administrative collection activities of the EEOC.

§ 1650.202 Past-due legally enforceable debt.

A past due, legally enforceable debt is a debt:

(a) That accrued within ten years of referral to Treasury;

(b) That is at least \$25.00; and

(c) That the agency has made reasonable efforts to collect by:

(1) Submitting the debt to Treasury, Financial Management Service, for collection by Administrative Offset and complying with 31 U.S.C. 3716(a) and related regulations, to the extent that collection by administrative offset is not prohibited by statute;

(2) Notifying, or making a reasonable attempt to notify, the debtor that the debt is past-due, and unless repaid within 60 days after the date of the notice, will be referred to Treasury for tax refund offset;

(3) Giving the debtor at least 60 days from the date of notification to present evidence that all or part of the debt is not past-due or legally enforceable, considering any evidence presented by such debtor, and determining that an amount of such debt is past-due and legally enforceable; and

(4) Providing the debtor with an opportunity to make a written agreement to repay the amount of the debt.

§ 1650.203 Notification of intent to collect.

EEOC's notification of intent to collect by tax refund offset shall provide:

(a) The amount of the debt;

(b) That unless the debt is repaid within 60 days from the date of EEOC's notification of intent, EEOC intends to collect the debt by requesting Treasury to offset an amount equal to the amount of the debt and all accumulating interest and other charges against any overpayment of tax after liabilities subject to 26 U.S.C. 6402(a) and (c) have been satisfied;

(c) A mailing address for forwarding any written correspondence and a contact and a telephone number for any questions;

(d) That the debtor may make a written agreement with EEOC to repay the amount of the debt; and

(e) That the debtor may present evidence within 60 days to EEOC that all or part of the debt is not past due or legally enforceable by:

(1) Sending a written request for a review of the evidence to the address provided in the notification;

(2) Stating in the request for review the amount disputed and the reasons why the debtor believes that the debt is not past-due or is not legally enforceable; and

(3) Including in the request for review any documents that the debtor wishes to be considered, or stating that the additional information will be submitted within the remainder of the 60 day period.

§ 1650.204 Reasonable attempt to notify.

In order to constitute a reasonable attempt to notify the debtor, EEOC may use the last known address on record with the EEOC. In addition, the EEOC may attempt to obtain a more current address from notices returned by the United States Postal Service, or by using the Treasury's Internal Revenue Service (IRS) address inquiry. If the debtor cannot be notified by EEOC through these procedures, the debt will be sent to Treasury for collection.

§ 1650.205 Consideration of evidence submitted as a result of notification of intent.

(a) *Consideration of evidence.* If, as a result of the notification of intent, EEOC receives notice that the debtor will submit additional evidence or receives additional evidence from the debtor within the prescribed time period, collection will be stayed until EEOC:

(1) Considers the evidence presented by the debtor;

(2) Determines whether all or a portion of the debt is still past-due and legally enforceable; and

(3) Notifies the debtor of its determination.

Failure to submit the evidence within 60 days from the date of notification of intent will result in a referral of the debt to Treasury.

(b) *Notification to the debtor.*

Following its review of the evidence, EEOC will issue a written decision notifying the debtor whether EEOC has sustained, amended, or canceled its determination that the debt is past-due and legally enforceable. The notice will advise the debtor of any further action to be taken, such as any modification of the debt amount and/or referral of the debt to Treasury, and explain the supporting rationale for the decision.

§ 1650.206 Notification to Treasury.

(a) When referring a debt to Treasury, EEOC will certify that the debt meets all

of the requirements in § 1650.202 and will provide the name, taxpayer identifying number (as defined in 26 U.S.C. 6109) of the debtor, the amount of the debt, the date on which the debt became past-due, and the designation of EEOC as the agency referring the debt.

(b) After EEOC's initial notification and referral of a debt to Treasury for offset against a debtor's Federal income tax refund, EEOC will promptly notify Treasury of any changes in the notification, if EEOC:

(1) Determines that an error has been made with respect to the information contained in the notification;

(2) Receives a payment or credits a payment to the account of the debtor named in the notification that reduces the amount of the debt referred to Treasury for offset; or

(3) Refunds all or part of the offset amount to the debtor.

(c) When EEOC requests Treasury to increase the amount of a debt owed by a debtor named in EEOC's original notification to Treasury, EEOC will certify that the additional amount meets all of the requirements in § 1650.202.

(d) If the amount of a debt is reduced after referral by EEOC and offset by the Treasury, EEOC will refund to the debtor any excess amount and will promptly notify the Treasury of any refund made by EEOC.

§ 1650.207 Administrative charges.

All administrative charges incurred in connection with the referral of a debt to the Treasury and all costs of collection of the debt will be assessed on the debt and thus increase the amount of the offset.

Subpart C—Procedures for Collection of Debts by Administrative Offset

§ 1650.301 Purpose and regulatory procedures for the collection of debts by administrative offset.

The Commission hereby adopts by cross-reference the administrative offset regulation issued by the Department of the Treasury at 31 CFR 285.5. The general standards and procedures governing the collection, compromise, termination, and referral to the Department of Justice of claims for money and property that are prescribed in the regulations issued jointly by the Secretary of the Treasury and the Attorney General of the United States, the Federal Claims Collection Standards (31 CFR Parts 900–904), apply to the administrative collection activities of the EEOC. The authority to collect debts by administrative offset is delegated to the CFO.

Subpart D—Procedures for the Collection of Debts by Administrative Wage Garnishment

§ 1650.401 Purpose and regulatory procedures for the collection of debts by administrative wage garnishment.

The Commission hereby adopts by cross-reference the administrative wage garnishment regulation issued by the Department of the Treasury at 31 CFR 285.11. The general standards and procedures governing the collection, compromise, termination, and referral to the Department of Justice of claims for money and property that are prescribed in the regulations issued jointly by the Secretary of the Treasury and the Attorney General of the United States, the Federal Claims Collection Standards (31 CFR Parts 900–904), apply to the administrative collection activities of the EEOC. The authority to collect debts by administrative wage garnishment is delegated to the CFO.

[FR Doc. E8–19203 Filed 8–19–08; 8:45 am]

BILLING CODE 6570–01–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DoD.
ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General of the Navy (Admiralty and Maritime Law) has determined that USS MAKIN ISLAND (LHD 8) is a vessel of the Navy which, due to its special construction and purpose, cannot fully

comply with certain provisions of the 72 COLREGS without interfering with its special functions as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

DATES: This rule is effective August 20, 2008 and is applicable beginning 7 August 2008.

FOR FURTHER INFORMATION CONTACT:

Commander Robb M. Hyde, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE., Suite 3000, Washington Navy Yard, DC 20374–5066, telephone (202) 685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706.

This amendment provides notice that the Deputy Assistant Judge Advocate General of the Navy (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS MAKIN ISLAND (LHD 8) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS: Rule 21(a), pertaining to the location of the masthead lights over the fore and aft centerline of the ship; Annex I, section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship; and the horizontal distance between the forward and after masthead lights; Annex I, paragraph 2(f)(i), pertaining to the placement of the masthead light or lights above and clear of all other lights and obstructions; Annex I, section 2(g), pertaining to the distance of the sidelights above the hull; and Annex I, section 3(b), pertaining to the positioning of the sidelights in relationship to the forward masthead light. The Deputy Assistant Judge Advocate General of the Navy

(Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

■ For the reasons set forth in the preamble, amend part 706 of title 32 of the Code of Federal Regulations as follows:

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

■ 1. The authority citation for 32 CFR Part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

■ 2. Section 706.2 is amended as follows:

■ A. In Table Two by adding, in numerical order, the following entry for USS MAKIN ISLAND (LHD 8);

■ B. In Table Four by adding paragraph Six, in numerical order, the following entry for USS MAKIN ISLAND (LHD 8); and

■ C. In Table Five by adding, in numerical order, the following entry for USS MAKIN ISLAND (LHD 8):

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE TWO

Vessel	No.	Masthead lights, distance to stbd of keel in meters; Rule 21(a)	Forward anchor light, distance below flight dk in meters; § 2(K), Annex I ⁶	Forward anchor light, number of; Rule 30(a)(i)	AFT anchor light, distance below flight dk in meters; Rule 21(e), Rule 30(a)(ii) ⁶	AFT anchor light, number of; Rule 30(a)(ii)	Side lights, distance below flight dk in meters; § 2(g), Annex I	Side lights, distance forward of forward masthead light in meters; § 3(b), Annex I	Side lights, distance inboard of ship's sides in meters; § 3(b), Annex I
USS MAKIN ISLAND	LHD 8	8.97	3.08	89.52
		*	*	*	*	*	*	*	*

⁶ On the following ships the arc of visibility of the after masthead light required by Rule 23(a)(ii) and Annex I, section 2(f) may be obstructed from the right ahead on certain naval ships as follows: USS MAKIN ISLAND (LHD 8)—5°17'.