

Rules and Regulations

Federal Register

Vol. 79, No. 98

Wednesday, May 21, 2014

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 179

RIN 3206-AM89

Administrative Wage Garnishment

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is adopting as final its proposed regulation to implement the administrative wage garnishment (AWG) provisions of the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996 (DCIA). The regulation will allow OPM to garnish the disposable pay of an individual to collect delinquent non-tax debts owed to the United States without first obtaining a court order. The regulation sets forth procedures for use by OPM in collecting debts owed to the Federal Government. The Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982 and the DCIA, requires agencies to issue regulations on their debt collection procedures. The regulation includes procedures for collection of debts through AWG.

DATES: Effective July 21, 2014.

FOR FURTHER INFORMATION CONTACT: Robert Wurster, (202) 606-5220.

SUPPLEMENTARY INFORMATION: OPM's implementation of AWG would maximize collections of delinquent debts while minimizing the costs of debt collections. By adding a new Subpart D to 5 CFR part 179, OPM may collect non-tax debts owed to it from non-Federal wages pursuant to 31 U.S.C. 3720D and 31 CFR 285.11.

Background

OPM received no comments for the proposed rule. The commenting period

was from January 6 to March 7, 2014. The DCIA directed the Secretary of the Treasury to issue implementing regulations (see 31 U.S.C. 3720D(h)) with respect to AWG. On May 6, 1998 (63 FR 25136), the Department of Treasury (Treasury) published a final rule implementing the statutory AWG requirements at 31 CFR 285.11. Paragraph (f) of 31 CFR 285.11 provides that “[a]gencies shall prescribe regulations for the conduct of administrative wage garnishment hearings consistent with this section or shall adopt this section without change by reference.” Among other things, the DCIA centralized administrative collection of Federal non-tax debts with Treasury and gave Treasury responsibility for setting administrative debt collection requirements, including those for AWG. This final rule would amend OPM's regulations at 5 CFR part 179, Subpart D, to adopt 31 CFR 285.11 in its entirety. Specifically, the final rule would establish a new provision that would contain a cross-reference to 31 CFR 285.11.

This regulation implements the administrative wage garnishment provision in section 31001(o) of DCIA, Public Law 104-134, 110 Stat. 1321-358, codified at 31 U.S.C. 3720D, and the Treasury AWG regulations at 31 CFR 285.11. Under the AWG provisions of the DCIA, Federal agencies may garnish administratively up to 15 percent of the wages of a debtor to satisfy a delinquent non-tax debt owed to the United States. Prior to the enactment of the DCIA, Federal agencies were required to obtain a court judgment before garnishing the wages of non-Federal employees. Section 31001(o) of the DCIA preempts State laws that prohibit wage garnishment or otherwise govern wage garnishment procedures.

As authorized by the DCIA, a Federal agency collecting a delinquent non-tax debt may garnish a delinquent debtor's wages in accordance with regulations promulgated by the Secretary of the Treasury. The Treasury Department's Bureau of the Fiscal Service is responsible for promulgating the regulations implementing this and other debt collection tools established by the DCIA.

Purpose: This part prescribes the standards and procedures for the Agency to collect money from a debtor's wages by means of AWG to satisfy

delinquent non-tax debts owed to the United States.

Authority: OPM adopts and incorporates all of the provisions of 31 CFR 285.11 concerning AWG, including the hearing procedures described in 31 CFR 285.11(f), as promulgated by Treasury to allow Federal agencies to collect money from an individual whose wages are not paid by the Federal Government. Such collections will be accomplished by means of AWG authorized by 31 U.S.C. 3720D.

Scope: This part applies to all OPM offices that administer programs that give rise to delinquent non-tax debts owed to the United States and to all officers or employees of the Agency authorized to collect such debts.

Procedures: In accordance with the substantive and procedural requirements of 31 U.S.C. 3720D and 31 CFR 285.11, this final rule would establish the following rules and procedures:

1. Providing a debtor with written notice at least 30 days before OPM, or Treasury on OPM's behalf, initiates garnishment proceedings, informing the debtor of the nature and amount of the debt, the intention of the Agency to collect the debt through deductions from the debtor's disposable pay, and an explanation of the debtor's rights regarding the proposed action.

2. Providing the debtor with an opportunity to inspect and copy OPM records relating to the debt, to enter into a repayment agreement with the Agency, and to receive a hearing concerning the existence or amount of the debt, and the terms of a repayment schedule.

3. Conducting a hearing prior to the issuance of a withholding order, if the debtor submits a timely request. When a debtor's request for a hearing is not received within the time period specified, OPM will not delay issuance of a withholding order prior to conducting the hearing.

List of Subjects in 5 CFR Part 179

Administrative practices and procedures, Claims, Debts, Garnishment of wages, Hearings and appeal procedures, Salaries.

U.S. Office of Personnel Management.
Katherine Archuleta,
Director.

For the reasons set forth above, the Office of Personnel Management amends 5 CFR part 179 as follows:

PART 179—CLAIMS COLLECTIONS STANDARDS

■ 1. The authority citation for part 179 continues to read as follows:

Authority: 5 U.S.C. 1103; Reorganization Plan No. 2 of 1978; 5 U.S.C. 5514; 5 CFR part 550 subpart K; 31 U.S.C. 3701, 31 U.S.C. 3711; 31 U.S.C. 3716; 31 U.S.C. 3720A; 31 U.S.C. 3720B; 31 U.S.C. 3720C; 31 U.S.C. 3720D.

■ 2. Add subpart D to read as follows:

Subpart D—Administrative Wage Garnishment

Sec.

179.401 Administrative wage garnishment.

Authority: 15 U.S.C. 46; 31 U.S.C. 3720D; 31 CFR 285.11(f).

§ 179.401 Administrative wage garnishment.

General. OPM may use administrative wage garnishment to collect debts in accordance with the requirements of 31 U.S.C. 3720D and 31 CFR 285.11, including debts it refers to the Bureau of the Fiscal Service, Department of the Treasury, for cross-servicing pursuant to 31 U.S.C. 3711. This part adopts and incorporates all of the provisions of 31 CFR 285.11 concerning administrative wage garnishment, including the hearing procedures described in 31 CFR 285.11(f). This section does not apply to collection of debt by Federal salary offset, under 5 U.S.C. 5514, the process by which OPM collects debts from the salaries of Federal employees.

[FR Doc. 2014–11624 Filed 5–20–14; 8:45 am]

BILLING CODE 6325–23–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Part 5

[Docket No. DHS–2011–0033]

Privacy Act of 1974: Implementation of Exemptions; Department of Homeland Security/National Protection and Programs Directorate—002 Chemical Facility Anti-Terrorism Standards Personnel Surety Program System of Records

AGENCY: Privacy Office, DHS.

ACTION: Final rule.

SUMMARY: The Department of Homeland Security is issuing a final rule to amend its regulations to exempt portions of a newly established system of records titled, “Department of Homeland Security/National Protection and

Programs Directorate—002 Chemical Facility Anti-Terrorism Standards Personnel Surety Program System of Records” from certain provisions of the Privacy Act. Specifically, the Department exempts portions of the “Department of Homeland Security/ National Protection and Programs Directorate—002 Chemical Facility Anti-Terrorism Standards Personnel Surety Program System of Records” from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

DATES: *Effective Date:* This final rule is effective May 21, 2014.

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Emily Andrew (703) 235–2182, Senior Privacy Officer, National Protection and Programs Directorate, Department of Homeland Security, Washington, DC 20528. For privacy issues please contact: Karen L. Neuman (202) 343–1717, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

Background

The Department of Homeland Security (DHS) National Protection and Programs Directorate (NPPD) published a notice of proposed rulemaking in the **Federal Register**, 76 FR 34616, on June 14, 2011, proposing to exempt portions of the system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements. The system of records is the DHS/NPPD—002 Chemical Facility Anti-Terrorism Standards Personnel Surety Program System of Records. The DHS/NPPD—002 Chemical Facility Anti-Terrorism Standards Personnel Surety Program system of records notice (SORN) was published concurrently in the **Federal Register**, 76 FR 34732, June 14, 2011, and comments were invited on both the notice of proposed rulemaking (NPRM) and SORN.

Public Comments

DHS received three comments on the NPRM and one comment on the SORN. Comments on the NPRM and the SORN are outlined below, followed by the Department’s responses.

DHS also received a comment in the public docket for the SORN (Document DHS–2011–0032–0003), which addressed the Chemical Facility Anti-Terrorism Standards (CFATS) Personnel Surety Program Information Collection Request (Docket DHS–2009–0026) and other aspects of the Personnel Surety

Program, but did not address the SORN, the NPRM, or privacy issues. DHS reviewed that comment, and responded to it in a **Federal Register** notice, 78 FR 17680, March 22, 2013.

NPRM

Comment: One commenter suggested that the Department did not make “a good faith effort to provide the public with specific reasons or requirements” to justify Privacy Act exemptions. For this reason the commenter opposed DHS’s proposed exemptions.

Response: The Department believes that it provided adequate justification to support the Privacy Act exemptions described in the NPRM. These exemptions are needed to protect the information (i.e., categories of records) listed in the SORN from disclosure to subjects or others related to the vetting activities described in the SORN. Specifically, the exemptions are required to preclude subjects of the CFATS Personnel Surety Program’s vetting activities from frustrating these vetting activities; to avoid disclosure of vetting activity techniques; to protect the identities and physical safety of confidential informants and law enforcement personnel; to ensure the Department’s ability to obtain information from third parties and other sources; to protect the privacy of third parties; to safeguard classified information; to safeguard records; and for other reasons discussed in the NPRM. Disclosure of information about persons vetted under the CFATS Personnel Surety Program to those persons could also permit them to avoid detection or apprehension. The exemptions proposed here are standard law enforcement and national security exemptions exercised by a large number of Federal law enforcement and intelligence agencies.

Comment: A commenter is pleased that third-party individuals may be designated to act on behalf of facilities as “Submitters” under the CFATS Personnel Surety Program, and seeks clarification on how this will be accomplished. Specifically, the commenter sought clarification from DHS on two points: (a) “any security or information protection requirements that may be required to serve as a ‘Submitter’ in light of the potential Privacy Act exemption DHS currently seeks and may receive”; and (b) the mechanics of “[h]ow, specifically, authorized third parties will serve as a facility’s agent for elements of TSDB compliance[.]”

Response: The Department does not currently envision any additional or new security or information protection