



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 13

[FRL-9910-14-OCFO]

Administrative Wage Garnishment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to amend EPA's claims collection standards to implement the administrative wage garnishment provisions of the Debt Collection Improvement Act of 1982, as amended by the Debt Collection Improvement Act of 1996 (DCIA). The direct final rule will allow the EPA to garnish non-Federal wages to collect delinquent non-tax debts owed the United States without first obtaining a court order.

DATES: This direct final rule is effective [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE **FEDERAL REGISTER**] without further notice unless EPA receives adverse comments by [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE **FEDERAL REGISTER**]. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments by one of the following methods:

1. Email: jones.anita@epa.gov.
2. Fax: (202) 565-2585.

3. Mail: OCFO-2014-0001; FRL-9910-14-OCFO FPPS c/o Anita Jones,
OCFO/OFM/FPPS, Mailcode 2733R, Environmental Protection Agency, 1300
Pennsylvania Ave., NW., Washington, DC 20460.

Instructions: EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through email. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or Cd-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

FOR FURTHER INFORMATION CONTACT: FPPS c/o Anita Jones, OCFO/OFM/FPPS, Mailcode 2733R, Environmental Protection Agency, 1300 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564-4969; fax number: (202) 565-2585; email address: jones.anita@epa.gov.

SUPPLEMENTARY INFORMATION

Applicability: This direct final rule applies to delinquent non-tax debt owed to the United States.

Background

This direct final rule implements the administrative wage garnishment provisions in section 31001(o) of the Debt Collection Improvement Act of the 1996 (DCIA), Public Law 104-

134, 110 Stat. 1321-358, codified as 31 U.S.C. 3720D. Under the administrative wage garnishment provisions of the DCIA, Federal agencies may garnish administratively up to 15 percent of the disposable pay 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 non-Federal wages. 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 Bureau of Fiscal Services, a bureau of the Department of the Treasury (Treasury), is responsible for promulgating the regulations implementing this and other debt collection tools established by the DCIA. The Bureau of Fiscal Services published its final rule at 63 FR 25136, May 6 1998, (Treasury Final Rule) and published technical amendments at 64 FR 22906, 22908, April 28, 1999 and 66 FR 51867, 51868, October 11, 2001. The Treasury Final Rule, as amended, is published in 31 CFR 285.11. Pursuant to 31 CFR 285.11 (f), Federal agencies must either prescribe their own conforming regulations for the conduct of AWG hearings consistent with the substantive and procedural requirements set forth in the Treasury Final Rule or adopt Treasury's AWG regulation, 31 CFR 285.11, without change by reference.

Basic Provisions

In accordance with the requirements of the DCIA and the implementing regulations at 31 CFR 285.11, the EPA is adopting the provisions of 31 CFR 285.11 concerning administrative wage garnishment, including the hearing procedures described in 31 CFR 285.11(f).

Regulatory Analysis

Executive Order 12866: Regulatory Planning and Review

This action is not a “significant regulatory action” as defined in Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. Burden is defined at 5 CFR 1320.3(b). This regulation applies to individuals, as well as employers of such individuals, with delinquent debt owed to the United States. A small number of employers of individuals with delinquent debt will be subject to this regulation and to its certification requirements in this direct final rule, the requirements do not impose an information collection burden. The employers of delinquent debtors must certify certain information about the debtor such as the debtor’s employment status and earnings. The information is contained in the employer’s payroll records. Therefore, the burden of completing the certification would not be significant.

Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis for any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today’s rule on small entities, small entity is defined as: (1) a small business as defined by the Small Business Administration’s (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a

city, county town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

This rule applies only to individuals, as well as employers of such individuals, with delinquent debts owed to the United States. The requirements will not have a significant economic impact on these entities. Employers of delinquent debtors must certify certain information about the debtor such as the debtor's employment status and earnings. This information is contained in the employer's payroll records. Therefore, it will not take a significant amount of time or result in a significant cost for an employer to complete the certification form. Even if an employer is served withholdings orders on several employees over the course of a year, the cost imposed on the employer to complete the certifications would not have a significant economic impact on the entity. Employers are not required to vary their normal pay cycles in order to comply with a withholding order issued pursuant to this direct final rule.

Unfunded Mandates Reform Act (UMRA)

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531-1538 for State, local, or tribal governments or the private sector. The action implements a mandate specifically and explicitly set forth by the Congress in the Debt Collection Improvement Act of 1996 (DCIA), Public Law 104-134, without exercise of any policy discretion by EPA.

Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, Executive Order 13132 does not apply to this action.

Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). Administrative wage garnishment only applies to circumstances where individuals, as well as employers of such individuals, with delinquent debts owed to the United States which do not have a substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. Thus, Executive Order 13175 does not apply to this action.

Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5-501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law No. 104-113, 12(d) (15 U.S.C 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable voluntary consensus standards. This action does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provisions directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA lacks the discretionary authority to address environmental justice in this proposed rulemaking. This rule implements the provisions in section 31001(o) of the Debt Collection Improvement Act of 1996 (DCIA) and only addresses administrative wage garnishment for delinquent non-tax debt.

Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A Major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2). This rule will be effective [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN FEDERAL REGISTER].

List of Subjects in 40 CFR Part 13

Environmental protection, Administrative practice and procedure, Claims, Debt Collection, Government employees, Garnishment of wages, Hearing and appeal procedures, Salaries, Wages.

Dated: June 23, 2014.

Jeanne Conklin,

Acting Director Office of Financial Management.

For the reasons stated in the preamble, the Environmental Protection Agency amends 40 CFR Part 13 as follows:

PART 13—CLAIMS COLLECTION STANDARDS

1. The authority citation to part 13 is revised to read as follows:

Authority: 5 U.S.C. 552a, 5512, and 5514; 31 U.S.C. 3701; 31 U.S.C. 3711 *et seq.* and 3720A; 31 U.S.C. 3720D; 31 CFR 285.11; 31 CFR parts 900-904.

2. Part 13 is amended by adding Subpart I to read as follows:

Subpart I - Administrative Wage Garnishment

§13.41 Administrative wage garnishment.

(a) Environmental Protection Agency is authorized to collect debts from an individual debtor's wages by means of administrative wage garnishment in accordance with the requirements of 31 U.S.C. 3720D and 31 CFR 285.11. This part adopts the provisions of 31 CFR 285.11 concerning administrative wage garnishment, including the hearing procedures described in 31 CFR 285.11(f). Environmental Protection Agency may use administrative wage garnishment to collect a delinquent Environmental Protection Agency debt unless the debtor is making timely payments under an agreement to pay the debt in installments (see §13.18 of this part). If the Environmental Protection Agency intends to use administrative wage garnishment, at least thirty (30) days prior to initiating an administrative wage garnishment, the Environmental Protection Agency will send notice to the debtor as set forth in 31 CFR 285.11(e).

Alternatively, for Environmental Protection Agency debts referred to the Department of the Treasury (Treasury) for cross-servicing pursuant to 31 U.S.C. 3711(g)(1), the Environmental Protection Agency may authorize Treasury to send the required notice informing the debtor that administrative wage garnishment will be initiated and how the debtor may request a hearing as described in 31 CFR 285.11(f). If a debtor makes a timely request for a hearing, administrative wage garnishment will not begin until a hearing is held and a decision is sent to the debtor. See 31 CFR 285.11(f)(4). Even if a debtor's hearing request is not timely, the Environmental

Protection Agency may suspend collection by administrative wage garnishment in accordance with the provisions of 31 CFR 285.11(f)(5). All travel expenses incurred by the debtor in connection with an in-person hearing will be borne by the debtor.

(b) This section does not apply to Federal employee salary offset, the process by which the Environmental Protection Agency collects debts from the salaries of Federal employees (see §13.21 of this part).

[FR Doc. 2014-15578 Filed 07/01/2014 at 8:45 am; Publication Date: 07/02/2014]