

## § 32.10

### § 32.10 Deductions process.

(a) Debts must be collected in one lump sum where possible. If the employee does not agree to a lump sum that exceeds 15 percent of disposable pay, the debt must be collected in installment deductions at officially established pay intervals in the amount established under:

(1) A voluntary repayment agreement;

(2) An involuntary repayment schedule where no hearing is requested; or

(3) The schedule established under the written hearing decision.

(b) Installment deductions must be made over a period not greater than the anticipated period of employment, except as provided under paragraph (d) of this section. If possible, the installment payment must be sufficient in size and frequency to liquidate the debt in, at most, three years. Installment payments of less than \$25 may be accepted only in the most unusual circumstances.

(c) Deductions must begin:

(1) After the employee has entered a voluntary repayment schedule;

(2) If a waiver is requested under § 32.4(b), after the employee has been denied a waiver by the Secretary; or

(3) If a hearing is requested under § 32.5, after a written decision.

(d) If the employee retires or resigns or his or her employment ends before collection of the debt is completed, the amount necessary to liquidate the debt must be offset from subsequent payments of any nature (for example, final salary payment and/or lump sum annual leave payment) due the employee on the date of separation. If the debt cannot be liquidated by offset from any such final payment due the employee on the date of separation, the debt must be liquidated by administrative offset pursuant to 31 U.S.C. 3716 from later payments of any kind due the employee, where appropriate. After the Secretary has complied with the procedures in this part, the Secretary may refer the debt to a paying agency for collection by offset under 5 CFR 550.1108.

(e) Interest, penalties and administrative costs on debts collected under this part must be assessed, in accord-

## 34 CFR Subtitle A (7-1-02 Edition)

ance with the provisions of 4 CFR 102.13.

(f) An employee's payment, whether voluntary or involuntary, of all or any portion of an alleged debt collected pursuant to this part may not be construed as a waiver of any rights which the employee may have under this part or any other provision of law, except as otherwise provided by law.

(g) Amounts paid or deducted pursuant to this part by an employee for a debt that is waived or otherwise found not owing to the United States or which the Secretary is ordered to refund must be promptly refunded to the employee.

(Authority: 5 U.S.C. 5514; 31 U.S.C. 3716)

## PART 33—PROGRAM FRAUD CIVIL REMEDIES ACT

Sec.

33.1 Basis and purpose.

33.2 Definitions.

33.3 Basis for civil penalties and assessments.

33.4 Investigation.

33.5 Review by the reviewing official.

33.6 Prerequisites for issuing a complaint.

33.7 Complaint.

33.8 Service of complaint.

33.9 Answer.

33.10 Default upon failure to file an answer.

33.11 Referral of complaint and answer to the ALJ.

33.12 Notice of hearing.

33.13 Parties to the hearing.

33.14 Separation of functions.

33.15 Ex parte contacts.

33.16 Disqualification of reviewing official or ALJ.

33.17 Rights of parties.

33.18 Authority of the ALJ.

33.19 Prehearing conferences.

33.20 Disclosure of documents.

33.21 Discovery.

33.22 Exchange of witness lists, statements and exhibits.

33.23 Subpoenas for attendance at hearing.

33.24 Protective order.

33.25 Fees.

33.26 Form, filing and service of papers.

33.27 Computation of time.

33.28 Motions.

33.29 Sanctions.

33.30 The hearing and burden of proof.

33.31 Determining the amount of penalties and assessments.

33.32 Location of hearing.

33.33 Witnesses.

33.34 Evidence.

33.35 The record.