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39 CFR Ch. I (7-1-06 Edition)

process. Service of process in conformity with Rule 4(i) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix) is not waived for any suit or action wherein the Postal Service, its officers, or employees are parties. Any Order, issued in bankruptcy, for the withholding of sums from pay due an employee and which is directed to the Postal Service for handling outside the voluntary allotment procedure, is legal process subject to the provisions of these regulations.

§ 491.2 Manner of service.

Service of process on the Authorized Agent or his designee may be made in person or by certified or registered mail, with return receipt requested, at the address of the Authorized Agent. Service may also be made on the Authorized Agent by means of any private delivery service pursuant to its authority for the private carriage of letters under an exception to the Private Express Statutes, 39 U.S.C. 601-606, provided that the private delivery organization issues a receipt bearing the name and address of both the addressee and sender, as well as the date of delivery and the signature of the receiving agent. No garnishment is effectively served until it is received by the Authorized Agent or his designee regardless of the chosen mode of delivery. Process addressed to, delivered to, or in any manner given to any employee, other than the Authorized Agent or his designee, may, at the sole discretion of the employee, be returned to the issuing court marked "Not Effectively Served." A copy of or reference to these regulations may be included. Employees are not authorized to redirect or forward garnishment process to the Authorized Agent. In the event that the address of the Authorized Agent is changed, mail may be forwarded from his last published address to his new official address until such time as these regulations are amended to reflect the new address.

§ 491.3 Sufficient legal form.

No document purporting to garnish employee wages shall be deemed sufficient unless it can be determined from the face of the document that it is legal process in the nature of garnish-

ment; that it is issued by a court of competent jurisdiction or an authorized official pursuant to an order of such a court or pursuant to federal, state or local law, evidenced by a signature of the issuing person; and that it contains the name of the garnished party, with his or her social security number, orders the employing agency to withhold from pay a specific amount of money, specifically describes the judgment of debt or administrative action complete with statutory citation and contains specific advice as to where to send the funds as they are periodically withheld including the complete Zip Code (Zip + 4). When there is a suggestion that the employee is under the jurisdiction of a bankruptcy proceeding, the creditor must provide documentary evidence to prove that his legal process is not in violation of the bankruptcy court's jurisdiction before the creditor's garnishment may be processed. Documents deficient in any of these respects may be returned to the issuing court or authorized official inscribed "Insufficient as to legal form."

§ 491.4 Identification of employees.

Garnishments must be accompanied by sufficient information to permit prompt identification of the employee and the payments involved. Garnishment of an employee whose name and social security number is similar to but not identical with the name and social security number on the garnishment will not be processed. An exact match of both name and social security number is required in order to permit processing; otherwise, the garnishment will be returned marked "Insufficient identifying information." Garnishments which are insufficient in regard to identifying information will not be held pending receipt of further information and must be served again when the proper information is obtained.

§ 491.5 Costs.

The Postal Service's administrative costs in executing the garnishment action shall be added to each garnishment and the costs recovered shall be retained as offsetting collections. The Postal Service reserves the right to re-determine the administrative cost of

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any garnishment if, in administering any garnishment, extra costs beyond those normally encountered are incurred, and add the extra cost to each garnishment. The extra costs recovered shall be retained as offsetting collections.

§ 491.6 Response to process.

(a) Within fifteen days after receipt of process that is sufficient for legal form and contains sufficient information to identify the employee, the Authorized Agent shall send written notice that garnishment process has been served, together with a copy thereof, to the affected employee at his or her duty station or last known address. The Authorized Agent shall respond, in writing, to the garnishment or interrogatories within thirty days of receipt of process. The Authorized Agent may respond within a longer period of time as may be prescribed by applicable state law. Neither the Authorized Agent nor any employee shall be required to respond in person to any garnishment served according to the provisions of 5 U.S.C. 5520a and the regulations in this section. A sufficient response to legal process shall consist of any action of the Postal Service consistent with these regulations. The action shall be considered to be given under penalty of perjury and shall constitute a legally sufficient answer to any garnishment. The Postal Service may, in its sole discretion, answer or otherwise respond to documents purporting to be legal process which are insufficient as to the manner of service, insufficient as to the identification of the employee, insufficient as to legal form or insufficient for any other reason.

(b) The requirements of paragraph (a) of this section are illustrated by the following example:

Example: Each periodic check with the accompanying Financial Institution Statement shall be considered to be a legally sufficient answer. Where legal process has been processed but no money was deducted, (for the reason of insufficient pay, prior garnishment in force, etc.) the mailing label or other written response shall be a sufficient answer. Where the Postal Service sends a check or mailing label, no further action will be required (such as a cumulative report or notarized statement.) Documents which are

defective with respect to service, lack of legal sufficiency, failure to properly identify the employee, or other reason, do not require a response or an answer but if the Postal Service chooses to act in any way, such as to return the document, that act shall be a sufficient answer.

§ 491.7 Release of information.

(a) No employee whose duties include responding to interrogatories to garnishments shall release information in response to a garnishment until it is determined that sufficient information, as required in § 491.4, has been received in writing as part of the garnishment legal process. The Authorized Agent may, at his or her sole discretion, accept or initiate telephone or telefax inquiries concerning garnishments. No other employee may release any information about employees except in conformity with the Privacy Act of 1974, 5 U.S.C. 552a, and the regulations in 39 CFR Part 266, "Privacy of Information."

(b) The Authorized Agent's response to legal process is sufficient if it contains only that information not otherwise protected from release by any federal statute including the Privacy Act. Neither the Postal Service nor the Postal Rate Commission shall be required to provide formal answers to interrogatories received prior to the receipt of legal process. Employment verification may be obtained by accessing the Postal Service's employment verification system by dialing 1-(800) 276-9850.

§ 491.8 Execution of process.

(a) All legal process in the nature of garnishment shall be date and time stamped by the Authorized Agent when received for the purpose of determining the order of receipt of process which is sufficient as to legal form and contains sufficient information for identification of the employee, the Authorized Agent's date and time stamp shall be conclusive evidence. Child support and alimony garnishments will be accorded priority over commercial garnishments under 5 U.S.C. 5520a as provided in 5 U.S.C. 5520a(h)(2). Garnishments shall be executed provided that the pay cycle is open for input or, if closed, will be held until the next cycle. In no event shall the Postal Service be required to