

**Pt. 1027**

**16 CFR Ch. II (1-1-04 Edition)**

name and address of the witness and general subject matter of his/her testimony and by filing a supplement to this pretrial order. Thereafter, additional witnesses may be added only after application to the Presiding Officer, for good cause shown.

7.2 Rebuttal witnesses not listed in the exhibits to this order may be called only if the necessity of their testimony could not reasonably be foreseen ten (10) days prior to trial. If it appears to counsel at any time before trial that such rebuttal witnesses will be called, notice will immediately be given to opposing counsel and the Presiding Officer.

7.3 The probable length of hearing is \_\_\_ days. The hearing will commence on the \_\_\_ day of \_\_\_\_\_, 19\_\_, at \_\_ o'clock \_\_ m. at \_\_\_\_\_.

7.4 Prehearing briefs will be filed not later than 5:00 p.m. on \_\_\_\_\_. (Insert date not later than ten (10) days prior to the hearing.) All anticipated legal questions, including those relating to the admissibility of evidence, must be covered by prehearing briefs.

This prehearing order has been formulated after a conference at which counsel for the respective parties appeared. Reasonable opportunity has been afforded counsel for corrections or additions prior to signing. It will control the course of the hearing, and it may not be amended except by consent of the parties and the Presiding Officer, or by order of the Presiding Officer to prevent manifest injustice.

\_\_\_\_\_  
Presiding Officer.  
Dated: \_\_\_\_\_  
Approved as to Form and Substance  
Date: \_\_\_\_\_

\_\_\_\_\_  
Complaint Counsel.

\_\_\_\_\_  
Attorney for Respondent(s)

\_\_\_\_\_  
\*Attorney for Intervenor(s)

\*NOTE: Where intervenors appear pursuant to §1025.17 of these Rules, the prehearing order may be suitably modified; the initial page may be modified to reflect the intervention.

**PART 1027—SALARY OFFSET**

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AUTHORITY: 5 U.S.C. 5514, E.O. 11809 (redesignated E.O. 12107), and 5 CFR part 550, subpart K.

SOURCE: 55 FR 34904, Aug. 27, 1990, unless otherwise noted.

**§ 1027.1 Purpose and scope.**

(a) This regulation provides procedures for the collection by administrative offset of a Federal employee's salary without his/her consent to satisfy certain debts owed to the Federal government. These regulations apply to all Federal employees who owe debts to the Consumer Product Safety Commission (CPSC) and to current employees of CPSC who owe debts to other Federal agencies. This regulation does not apply when the employee consents to recovery from his/her current pay account.

(b) This regulation does not apply to debts or claims arising under:

- (1) The Internal Revenue Code of 1954, as amended, 26 U.S.C. 1 *et seq.*;
- (2) The Social Security Act, 42 U.S.C. 301 *et seq.*;
- (3) The tariff laws of the United States; or
- (4) Any case where a collection of a debt by salary offset is explicitly provided for or prohibited by another statute.

(c) This regulation does not apply to any adjustment to pay arising out of an employee's selection of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay if the amount to be recovered was accumulated over four pay periods or less.

(d) This regulation does not preclude the compromise, suspension, or termination of collection action where appropriate under the standards implementing the Federal Claims Collection Act, 31 U.S.C. 3711 *et seq.*, and 4 CFR parts 101 through 105.

(e) This regulation does not preclude an employee from requesting waiver of an overpayment under 5 U.S.C. 5584, 10 U.S.C. 2774, or 32 U.S.C. 716, or in any way questioning the amount or validity of the debt by submitting a subsequent claim to the General Accounting

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Office. This regulation does not preclude an employee from requesting a waiver pursuant to other statutory provisions applicable to the particular debt being collected.

(f) Matters not addressed in these regulations should be reviewed in accordance with the Federal Claims Collection Standards at 4 CFR 101.1 *et seq.*

### § 1027.2 Definitions.

For the purposes of this part the following definitions will apply:

*Agency* means an executive agency as defined at 5 U.S.C. 105, including the U.S. Postal Service and the U.S. Postal Rate Commission; a military department as defined at 5 U.S.C. 102; an agency or court in the judicial branch; an agency of the legislative branch, including the U.S. Senate and House of Representatives; and other independent establishments that are entities of the Federal government.

*Certification* means a written debt claim received from a creditor agency which requests the paying agency to offset the salary of an employee.

*CPSC* or *Commission* means the Consumer Product Safety Commission.

*Creditor agency* means an agency of the Federal Government to which the debt is owed.

*Debt* means an amount owed by a Federal employee to the United States from sources which include loans insured or guaranteed by the United States and all other amounts due the United States from fees, leases, rents, royalties, services, sales of real or personal property, overpayments, penalties, damages, interests, fines, forfeitures (except those arising under the Uniform Code of Military Justice), and all other similar sources.

*Disposable pay* means the amount that remains from an employee's Federal pay after required deductions for social security, Federal, State or local income tax, health insurance premiums, retirement contributions, life insurance premiums, Federal employment taxes, and any other deductions that are required to be withheld by law.

*Executive Director* means the Executive Director of the Consumer Product Safety Commission, who is the person designated by the Chairman to deter-

mine whether an employee is indebted to the United States and to take action to collect such debts.

*Hearing official* means an individual responsible for conducting a hearing with respect to the existence or amount of a debt claimed, or the repayment schedule of a debt, and who renders a decision on the basis of such hearing. A hearing official may not be under the supervision or control of the Chairman of the Commission.

*Paying agency* means the agency that employs the individual who owes the debt and authorizes the payments of his/her current pay.

*Salary offset* means an administrative offset to collect a debt pursuant to 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/her consent.

### § 1027.3 Applicability.

(a) These regulations are to be followed when:

(1) The Commission is owed a debt by an individual who is a current employee of the CPSC; or

(2) The Commission is owed a debt by an individual currently employed by another Federal agency; or

(3) The Commission employs an individual who owes a debt to another Federal agency.

### § 1027.4 Notice requirements before offset.

(a) Salary offset shall not be made against an employee's pay unless the employee is provided with written notice signed by the Executive Director of the debt at least 30 days before salary offset commences.

(b) The written notice shall contain:

(1) A statement that the debt is owed and an explanation of its nature and amount;

(2) The agency's intention to collect the debt by deducting from the employee's current disposable pay account;

(3) The amount, frequency, proposed beginning date, and duration of the intended deduction(s);

(4) An explanation of interest, penalties, and administrative charges, including a statement that such charges