

INITIAL STATEMENT OF REASONS

- a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 20-400.1

Specific Purpose:

This section is being amended to delete the word “voluntary.” Language is being added to specify that the submission of food stamp debts to the Treasury Offset Program (TOP) is mandatory.

Factual Basis:

These amendments are necessary to comply with 7 CFR 273.18(n) which requires states to submit all recipient claims that are 180 days delinquent.

Sections 20-401(f)(3) and (4) and (i)(1)

Specific Purpose:

These sections are being amended to change the name of the Federal Tax Refund Offset Program to the Treasury Offset Program and to add the acronym. Additional benefits which have become eligible for intercept are also being added.

Factual Basis:

These amendments are necessary to comply with 31 U.S.C. 3716(c)(3) as amended by the Debt Collection Improvement Act (DCIA) of 1996. These amendments centralized the collection of federal debts using TOP. The federal tax refund offset program was merged into TOP in January 1999. Under the DCIA, many non-tax federal payments are eligible for intercept. In the Aktar v. Anderson 58 Cal.App.4th 1166 a preliminary order stated that administrative error overissuances could not be collected by involuntary means. On January 22, 1997 the Court of Appeals of the State of California issued a decision which lifted the ban in accordance with Public Law 104-193 (7 U.S.C. 2022(b)(1)).

Section 20-402.2

Specific Purpose:

This section is being amended to delete language regarding an annual submission of eligible cases to tax intercept and delete the word “participating.”

Factual Basis:

This amendment is necessary to comply with 7 CFR 273.18(n)(1) which specifies that as a state agency CDSS must submit all debts delinquent for 180 days to TOP. This amendment is also necessary to implement changes to the State's Welfare Intercept System (WIS) which was redesigned to allow for weekly updates to the database. The redesign was implemented in June 2001. Changing to a continuous system allowed for improved accuracy in the program. The word "participating" is being deleted since it is not necessary to specifically address the participating counties since it is mandatory for all counties to participate.

Section 20-403.24

Specific Purpose:

This section is being amended to delete language regarding a yearly deadline to remove individuals.

Factual Basis:

This amendment is necessary to comply with 7 CFR 273.18(n)(4)(ii) which states the requirements for when a debt must be removed from TOP. This amendment is also necessary to implement changes to the State's WIS which was redesigned to allow for weekly updates to the database. The redesign was implemented in June 2001. Changing to a continuous system allowed for improved accuracy in the program.

Sections 20-404.15, .2, and .3 et seq.

Specific Purpose:

These sections are being amended to update form requirements to correspond with the redesigned database and the statement regarding submission of cases by a specific date each year must be removed.

Factual Basis:

This amendment is necessary to comply with 7 CFR 273.18(n)(4)(i) which requires CDSS to follow FNS and Treasury procedures when the debt is in TOP. This amendment is also necessary to implement changes to the State's WIS which was redesigned to allow for weekly updates to the database. The redesign was implemented in June 2001. Changing to a continuous system allowed for improved accuracy in the program.

Section 20-405.1

Specific Purpose:

This section is being amended to specify that the certification needs to be completed by the county on a continual basis, not a one time occurrence.

Factual Basis:

This amendment is necessary to comply with 7 CFR 273.18(n)(1)(ii) which requires certification that debts are 180 days delinquent and legally enforceable. This amendment is also necessary to implement changes to the State's WIS which was redesigned to allow for weekly updates to the database. The redesign was implemented in June 2001. With the new ability to continually submit accounts for tax intercept it has become necessary for the county to certify the accuracy of this information.

Sections 20-406 Title, .1, .11, .3, and .4

Specific Purpose:

These sections are being amended to add "pre-offset" to the term "warning notices" for clarity. Section 20-406.1 is being further amended to delete reference to mailing pre-offset warning notices annually and to replace it with the requirement that the clients submitted to IRS are given 60-day notices. New language is being added to require that an annual pre-offset warning notice is to be mailed in September for all accounts submitted to the Franchise Tax Board.

Factual Basis:

This amendment to Section 20-406.1 is necessary to comply with 7 CFR 273.18(n)(2) which states the requirements for debtor notification. The amendment is also necessary because the capability for the TOP to intercept various non-tax federal payments issued on a monthly basis, in addition to federal tax returns, has made it necessary to notify clients at the time they are submitted for tax intercept. This will allow clients the proper amount of time to dispute the overpayment.

Handbook Section 20-406.5

Specific Purpose:

This handbook section is being amended to replace "federal tax refund" with "intercepted amount."

Factual Basis:

This amendment is necessary to comply with 7 CFR 273.18 which specifies the debtor's responsibility for payment of any collection or processing fees charged by the Federal government to intercept their payment.

Section 20-409.1 et seq.

Specific Purpose:

This section is being amended to reflect a name change in the federal portion of the CalWORKs/Food Stamp intercept program.

Factual Basis:

The Federal Tax Refund Offset Program no longer exists; it was combined with other federal intercept programs utilized by the Department of the Treasury Financial Management Services to form TOP.

b) Identification of Documents Upon Which Department Is Relying

7 CFR 273.18

7 USC 2022

31 USC 3716

Aktar v. Anderson 58 Cal.App.4th 1166

c) Local Mandate Statement

These regulations impose a mandate on local agencies but not on school districts. There are no reimbursable state-mandated costs because these regulations make only technical and clarifying changes.

d) Statement of Alternatives Considered

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

e) Statement of Significant Adverse Economic Impact On Business

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.